

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 10th SEPTEMBER

COMMUNICATIONS BY THE PRESIDING OFFICER.....	9
1.1 The Bailiff:.....	9
1.2 The Bailiff:.....	9
1.3 The Bailiff:.....	9
APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS.....	10
2 Deputy J.G. Reed of St. Ouen:.....	10
2.1 Deputy C.F. Labey of Grouville:	10
PETITIONS.....	10
3 Deputy J.A.N. Le Fondré of St. Lawrence:	10
QUESTIONS.....	11
4 Written questions.....	11
4.1 SENATOR S.C. FERGUSON OF THE CHIEF MINISTER REGARDING LEGISLATION FOR PROTOCOL 3 OF TREATY OF ACCESSION TO EU:	11
4.2 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING J.T. COMPLYING WITH CONDITIONS FOR LOAN FOR GIGABIT JERSEY FIBRE NETWORK:	21
4.3 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING FUNDING FOR TESTING OF WATER SUPPLY:	23
4.4 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING TOTAL COST OF LISTING PROPERTY ON RBSAAHI IN JERSEY:	23
4.5 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PRESCRIBING BY CONSULTANTS OF ABIRATERONE:	24
4.6 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE J.E.C. AND LAYING OF NEW LAND CABLES:	25

4.7 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING CLASSIFICATION OF RAGWORT AND ACTION TAKEN TO REMOVE IT:	26
4.8 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING TRAFFIC DISRUPTION CAUSED BY ROADWORKS:.....	27
4.9 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HOUSING REGARDING LE SQUEZ HOUSING ESTATE DENSITY AND ROADS:	28
4.10 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING TRAFFIC MANAGEMENT NEAR LA ROUTE DU FORT:.....	29
4.11 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING COST OF COSMETIC SURGERY:	30
4.12 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING POLICY ON APPLICATIONS FOR INDEFINITE LEAVE TO REMAIN IN THE ISLAND:.....	32
4.13 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING POLICY FOR INVESTIGATING COMPLAINTS AGAINST POLICE OFFICERS:	33
4.14 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING INSTIGATION OF OPERATION INVICTA:	35
4.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING NUMBER OF COMPLAINTS AGAINST THE POLICE IN LAST 3 YEARS:	37
4.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING P.E.C.R.S. CONTRIBUTIONS AND LEAVING BEFORE RETIREMENT AGE:	38
4.17 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING RESPONSIBILITY OF ACTING IN PLACE OF THE SUPERIOR NUMBER:	40
4.18 DEPUTY T.M. PITMAN OF ST. HELIER OF CHIEF MINISTER REGARDING PROGRESS ON REPLACEMENT CHAIRMAN OF HISTORIC ABUSE INQUIRY:	41
4.19 DEPUTY T.M. PITMAN OF ST. HELIER OF MINISTER FOR SOCIAL SECURITY.....	41
REGARDING PROPOSALS REGARDING MEMBERS OF THE PUBLIC LEAVING EMPLOYMENT WITHOUT GOOD REASON:	42

4.20 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING FUNDING STREAM FOR ESPLANADE DEVELOPMENT:	43
4.21 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING NUMBER OF TEMPORARY CONSULTANTS:	43
4.22 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING DEFINITION OF AGGRESSIVE TAX AVOIDANCE:	44
4.23 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING USE OF NET IMMIGRATION AND PROPOSALS FOR LONG TERM CARE:	45
4.24 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING PROGRESS ON JERSEY VERSION OF T.U.P.E. REGULATIONS:	45
5 Oral Questions	46
5.1 Deputy T.M. Pitman of St. Helier of the Minister for Education, Sport and Culture regarding an update of an incident involving the prank discharge of a starting pistol in a school gym:	46
Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):	46
5.1.1 Deputy T.M. Pitman:	46
5.1.2 Deputy T.M. Pitman:	47
5.2 Deputy R.G. Le Hérisier of St. Saviour of the Minister for Home Affairs regarding the possible conflict of interest of the newly appointed Chairman of the Police Authority:.	48
Senator B.I. Le Marquand (The Minister for Home Affairs):	48
5.2.1 Deputy R.G. Le Hérisier:	48
5.2.2 Deputy G.P. Southern of St. Helier:	48
5.2.3 Deputy M. Tadier of St. Brelade:.....	49
5.2.4 Deputy M. Tadier:.....	49
5.2.5 Deputy T.M. Pitman:	49
5.2.6 Deputy R.G. Le Hérisier:	50
5.3 Deputy J.A. Hilton of St. Helier of the Minister for Planning and Environment regarding discussions with the Channel Islands Co-operative Society regarding the planning application for Pitt Street/Dumaresq Street:	50
Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):	50
5.3.1 Deputy J.A. Hilton:	50
5.3.2 Deputy J.A. Hilton:	51
5.3.3 Deputy J.H. Young of St. Brelade:	51
5.3.4 Deputy J.A. Hilton:	51
5.4 Deputy M. Tadier of the Minister for Treasury and Resources regarding Tax Information Exchange Agreement requests from the French tax authorities:	51
Senator P.F.C. Ozouf (The Minister for Treasury and Resources):	52
5.4.1 Deputy M. Tadier:.....	52
5.4.2 Deputy S. Power of St. Brelade:	52
5.4.3 Deputy G.P. Southern:	53
5.4.4 Deputy G.P. Southern:	53
5.4.5 Connétable of St. John:	54

5.4.6 Deputy J.M. Maçon of St. Saviour:	54
5.4.7 Deputy M. Tadier:.....	54
5.5 Deputy G.P. Southern of the Minister for Social Security regarding the number of Household Medical Accounts in the Income Support System:	55
Senator F. du H. Le Gresley (The Minister for Social Security):	55
5.5.1 Deputy G.P. Southern:	56
5.5.2 Deputy R.G. Le Hérisier:	56
5.5.3 Deputy R.G. Le Hérisier:	57
5.5.4 Deputy J.A. Martin of St. Helier:.....	57
5.5.5 Deputy J.A. Martin:	57
5.5.6 Deputy M. Tadier:.....	57
5.5.7 Deputy M. Tadier:.....	58
5.5.8 Deputy G.P. Southern:	58
5.5.9 Deputy G.P. Southern:	58
5.6 Connétable A.S. Crowcroft of St. Helier of the Chairman of the Privileges and Procedures Committee regarding a review of the Carswell Report recommendations: ..	59
Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):	59
5.6.1 The Connétable of St. Helier:	59
5.6.2 Deputy T.M. Pitman:	59
5.6.3 Deputy T.M. Pitman:	60
5.6.4 Deputy R.G. Le Hérisier:	60
5.6.5 The Connétable of St. Helier:	60
5.7 Deputy G.C.L. Baudains of St. Clement of the Minister for Transport and Technical Services regarding works undertaken at Snow Hill car park:.....	60
Deputy K.C. Lewis (The Minister for Transport and Technical Services):	61
5.7.1 Deputy G.C.L. Baudains:.....	61
5.7.2 Deputy R.G. Le Hérisier:	61
5.7.3 Connétable P.J. Rondel of St. John:.....	61
5.7.4 Deputy G.C.L. Baudains:.....	62
5.8 Deputy J.H. Young of the Minister for Planning and Environment regarding delays in signing a Planning Obligation agreement associated with the development at Plémont Holiday Village:.....	62
Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment):	62
5.8.1 Deputy J.H. Young:	63
5.8.2 Deputy J.H. Young:	63
5.9 The Connétable of St. John of the Minister for Health and Social Services regarding the prescription of the drug Cabazitaxel in recent months:	63
Deputy A.E. Pryke of Trinity (The Minister for Health and Social Services):	63
5.9.1 The Connétable of St. John:.....	64
5.9.2 The Connétable of St. John:.....	64
5.10 Deputy J.H. Young of the Minister for Housing regarding the local need for sheltered housing:.....	64
Deputy A.K.F. Green of St. Helier (The Minister for Housing):	64
5.10.1 Deputy J.H. Young:.....	65
5.10.2 The Deputy of St. Ouen:	65
5.10.3 The Deputy of Grouville:	65
5.10.4 Deputy G.P. Southern:	65
5.10.5 Deputy G.P. Southern:	66
5.10.6 Deputy J.H. Young:.....	66

5.11 Deputy J.A. Hilton of the Minister for Health and Social Services regarding discussions with clinicians from the hospital and medical community on the continuing use of the Liverpool Care Pathway:	66
The Deputy of Trinity (The Minister for Health and Social Services):	66
5.11.1 Deputy J.A. Hilton:	66
5.11.2 Senator S.C. Ferguson:	67
5.11.3 Connétable D.W. Mezbourian of St. Lawrence:	67
5.11.4 Deputy J.A. Hilton:	67
5.12 Deputy T.M. Pitman of The Chief Minister regarding the intervention of the UK Justice Minister regarding Jersey's placement on the French tax 'black list':	68
Senator I.J. Gorst (The Chief Minister):	68
5.12.1 Deputy T.M. Pitman:	68
5.12.2 Deputy J.A. Hilton:	68
5.12.3 Senator L.J. Farnham:	69
5.12.4 Deputy G.P. Southern:	69
5.12.5 Deputy M. Tadier:	69
5.12.6 Deputy M. Tadier:	69
5.12.7 Deputy T.M. Pitman:	70
5.12.8 Deputy T.M. Pitman:	70
5.13 The Connétable of St. Helier of the Minister for Treasury and Resources regarding the distribution of this year's telephone directory by J.T. (Jersey Telecom):	70
Senator P.F.C. Ozouf (The Minister for Treasury and Resource):	71
5.13.1 The Connétable of St. Helier:	71
5.13.2 Deputy G.C.L. Baudains:	71
5.13.3 The Connétable of St. Helier:	71
5.14 Deputy G.P. Southern of the Minister for Social Security regarding statutory maternity leave provisions:	72
Senator F. du H. Le Gresley (The Minister for Social Security):	72
5.14.1 Deputy G.P. Southern:	72
5.14.2 Deputy J.A. Hilton:	73
5.14.3 Deputy J.A. Hilton:	73
5.14.4 Deputy G.P. Southern:	73
5.14.5 Deputy G.P. Southern:	73
5.15 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the resurfacing of Rue à Don:	74
Deputy K.C. Lewis (The Minister for Transport and Technical Services):	74
5.15.1 Deputy G.C.L. Baudains:	74
5.15.2 The Deputy of Grouville:	74
5.15.3 The Connétable of St. John:	74
5.15.4 The Deputy of Grouville:	75
5.15.5 Deputy G.C.L. Baudains:	75
5.16. The Deputy of Grouville:	75
Senator F. du H. Le Gresley (The Minister for Social Security):	75
5.17 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding sites for a possible rebuild of Les Quennevais School:	76
The Deputy of St. John (The Minister for Education, Sport and Culture):	76
5.17.1 Deputy M. Tadier:	76
5.17.2 Deputy J.H. Young:	76
5.17.3 Deputy J.H. Young:	77
5.17.4 Connétable S.W. Pallett of St. Brelade:	77

5.17.5	Deputy M. Tadier:	77
5.17.6	Deputy M. Tadier:	77
6.	Questions to Ministers without notice - The Minister for Social Security	78
6.1	Deputy T.M. Pitman:	78
	Senator F. du H. Le Gresley (The Minister for Social Security):	79
6.1.1	Deputy T.M. Pitman:	79
6.2	Deputy J.A. Hilton:	79
6.2.1	Deputy J.A. Hilton:	79
6.3	Deputy R.G. Le Hérisier:	80
6.3.1	Deputy R.G. Le Hérisier:	80
6.4	Deputy G.P. Southern:	80
6.4.1	Deputy G.P. Southern:	81
6.5	Senator L.J. Farnham:	81
6.6	The Connétable of St. John:	81
6.6.1	The Connétable of St. John:	82
6.7	Deputy M. Tadier:	82
6.7.1	Deputy M. Tadier:	82
7.	Questions to Ministers without notice - The Chief Minister	83
7.1	Deputy T. M. Pitman:	83
	Senator I.J. Gorst (The Chief Minister):	83
7.1.1	Deputy T.M. Pitman:	83
7.1.2	Deputy T.M. Pitman:	83
7.2	Senator L.J. Farnham:	83
7.3	Deputy S.J. Pinel of St. Clement:	84
7.4	Deputy M. Tadier:	84
7.4.1	Deputy M. Tadier:	84
7.5	Senator S.C. Ferguson:	85
7.5.1	Senator S.C. Ferguson:	85
7.6	Deputy J.M. Maçon:	85
7.6.1	Deputy J.M. Maçon:	86
7.7	Deputy G.P. Southern:	86
7.7.1	Deputy G.P. Southern:	87
PUBLIC BUSINESS		87
8.	Discussion on Additional Matters	87
8.1	Planning Appeals Revised System (P.87/2013) amendment	87
8.1.1	Deputy R.C. Duhamel:	88
8.1.2	Deputy G.P. Southern:	88
8.1.3	Deputy G.P. Southern:	89
8.1.4	Deputy J.H. Young:	89
8.2	Organ Donors' Register (P.89/2013)	90
8.2.1	Deputy R.G. Le Hérisier:	90
8.3	Composition and election of the States Assembly: reform – proposal 2 (P.94/2013) – amendment	91
8.3.1	Deputy T.M. Pitman:	91
8.3.2	Senator P.F.C. Ozouf:	91
8.3.5	Senator L.J. Farnham:	92

8.3.6 Deputy G.P. Southern:	92
8.3.7 Senator P.F.C. Ozouf:	92
LUNCHEON ADJOURNMENT PROPOSED	93
The Bailiff:	93
LUNCHEON ADJOURNMENT.....	93
PUBLIC BUSINESS - RESUMPTION	93
9. Draft States of Jersey (Minister for External Relations) (Jersey) Regulations 201-	
 (P.67/2013).....	93
9.1 Senator I.J. Gorst (The Chief Minister):	93
9.1.1 Senator S.C. Ferguson:	95
9.1.2 The Connétable of St. John:.....	96
9.1.3 The Deputy of St. Ouen:	97
9.1.4 Deputy T.A. Vallois of St. Saviour:.....	98
9.1.5 Deputy J.H. Young:	98
9.1.6 Deputy J.A. Martin:	99
9.1.7 Senator P.F.C. Ozouf:	100
9.1.8 Connétable J.M. Refault of St. Peter:	102
9.1.9 Deputy G.P. Southern:	103
9.1.10 Deputy T.M. Pitman:.....	103
9.1.11 Deputy G.C.L. Baudains:	105
9.1.12 Deputy M. Tadier:	105
9.1.13 Connétable J. Gallichan of St. Mary:	106
9.1.14 Deputy J.M. Le Bailly of St. Mary:.....	106
9.1.15 Deputy J.A.N. Le Fondré:	107
9.1.16 Senator I.J. Gorst:.....	107
10. Draft Loi (201) (Amendement) sur la Voirie (P.70/2013)	113
10.1 Connétable J.S. Gallichan of Trinity (Chairman, Comité des Connétables):	114
10.1.1 Senator A. Breckon:	115
10.1.2 Deputy G.C.L. Baudains:	115
10.1.3 Deputy J.H. Young:.....	115
10.1.4 Deputy R.G. Le Hérissier:.....	115
10.1.5 The Connétable of Trinity:.....	115
11. Draft Public Finances (Amendment No. 4) (Jersey) Law 201- (P.73/2013).....	117
11.1 Senator P.F.C. Ozouf:	117
11.1.2 Senator S.C. Ferguson:.....	118
11.1.3 Deputy R.G. Le Hérissier	120
11.1.4 Deputy J.A.N. Le Fondré:	120
11.1.5 The Deputy of St. Ouen:	121
11.1.6 The Connétable of St. John:	122
11.2 Senator P.F.C. Ozouf:	125
11.2.1 Senator L.J. Farnham:	125
11.2.2 The Deputy of St. Ouen:	125
11.2.3 Deputy J.A.N. Le Fondré:	126
11.2.4 Deputy J.H. Young:.....	126
11.3 Senator P.F.C. Ozouf:	128

11.3.1 Deputy J.H. Young:..... 130
11.3.2 Deputy T.A. Vallois: 131
11.3.3 Deputy G.P. Southern: 132
11.3.4 Deputy G.C.L. Baudains: 132
11.3.5 Deputy J.A.N. Le Fondré: 132
11.3.5 Senator B. I. Le Marquand: 133

ADJOURNMENT..... 134

[09:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1.1 The Bailiff:

Now we are in a position to decide on Deputy Higgins. I apologise for the slip-up earlier, so all those in favour of marking him excused, kindly show; those against. I think the majority is with marking you excused.

1.2 The Bailiff:

May I welcome Members back to the Assembly after the summer recess. I hope that everyone is suitably refreshed and ready for what is to come, and that welcome of course extends particularly to His Excellency. [Approbation]

1.3 The Bailiff:

But Members will of course be only too well aware that since our last sitting in July, we have lost one of our Members. I refer of course to the Connétable of Grouville, Mr. Dan Murphy. Although he had been absent from the sittings of the Assembly for a while because of illness, I think it came as a considerable shock to all of us when he passed away on 25th July. Dan Murphy was born in Jersey on the first day of the Occupation and the midwife was apparently so concerned that he might be registered as a German national that she bicycled into town from La Rocque in order to register his birth immediately. In due course after leaving school, he followed a career in banking and then as a financial consultant. He was elected as Connétable of Grouville in 2003, following the retirement through ill-health of Mr. Frank Amy, and he clearly had the confidence of his parish, because he was re-elected as Connétable 3 times thereafter. He loved his parish and worked hard in its service. He was very proud of the parish in Bloom achievements, particularly in 2007 when the parish won national awards. He was also a strong supporter of the twinning arrangements with Portbail, and the respect in which he was held is shown by the fact that the Mayor of that town and several of his officials travelled all the way to Jersey in order to attend the Connétable's funeral. His interests of course extended far beyond his parish. In the States, he made good use of his financial expertise. He sat on the Public Accounts Committee for some 3 years and on the Corporate Services Scrutiny Panel for some 7 and a half years up until his death. He also chaired the Tidal Power Steering Group, which reported in 2008. He was a strong advocate of the possibilities of tidal power and I have no doubt that his report will assist in due course in moving forward on issues of renewable energy. In 2012 he was elected to represent the States in the British-Irish Parliamentary Assembly, having been an associate member since 2006, and he represented the Island at a number of conferences. It is clear that he impressed his colleagues in the Parliamentary Assembly and did Jersey proud. Following his death, I received a letter from the British Co-Chair of the British-Irish Assembly stating how he was, and I quote: "A valued Member of the Assembly" and how they would miss his contributions to their debates and activities. In the States, he was not one who spoke unnecessarily often, but when he did speak, he was capable of doing so in a very passionate and persuasive manner, and I am sure Members will recall the very moving and eloquent address which he gave on the occasion of Liberation Day back in 2012 last year. Very often former Members who die have been retired from the States for many years and have not therefore overlapped with current Members. That of course is not the case here, as we have lost one of our current Members. Everyone will have their own recollections of him as a friend and as a colleague, but I am sure we would all agree that we have lost a respected Member of the Assembly who served his parish and his Island with devotion and with distinction. The respect and affection in which he was held by so many was shown by the packed church at his funeral. So on behalf of Members I express our condolences to his wife, Dawn, his daughter, Cara, and I ask

Members to rise with me for a few moments in his memory. **[Silence]** That completes matters under A.

[09:45]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

The Bailiff:

We come next to F, Appointment of Ministers, Committees and Panels and in particular of the appointment of Members to the Jersey Police Authority. The Greffier has kindly produced an explanatory note which should be attached to the Order Paper which explains that the States need to appoint 2 members of this authority and the Minister for Home Affairs has apparently written to States Members, so nominations are invited from the floor.

The Bailiff:

I invite nominations.

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

Yes, Sir. It gives me great pleasure to propose Senator Ferguson.

The Bailiff:

Is that nominated seconded? **[Seconded]** Any other nominations?

2.1 Deputy C.F. Labey of Grouville:

Yes, Sir. I would like to propose Deputy of Martin of St. Helier.

The Bailiff:

Deputy Martin, yes. Is that nomination seconded? **[Seconded]** Any other nominations? Very well. As there are 2 vacancies to fill, I declare that Senator Ferguson and Deputy Martin are to be the States representatives on the authority. **[Approbation]**

Senator B.I. Le Marquand:

Could I just briefly rise to congratulate them both and to wish them all the very best in their new role and to look forward to working with them in that new role.

PETITIONS

The Bailiff:

Very well. No matters, so on to H, Petitions. Deputy Le Fondré, I believe you have a petition.

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

Yes, Sir. Thank you. Very briefly, I am honoured to have been asked to present this petition on behalf of the Jersey Mutual Insurance Society, which is asking the States to agree to make changes to the fundamental rules of the society, and I speak, Sir, as not only a Member but someone who is extensively involved in the past in their accounts and their audit. The fundamental rules are set out in legislation and changes to that legislation have always been made in the past following a petition to the States, although these changes now do update that position in a number of instances. As Members will have seen, I have also lodged a proposition, as required by Standing Orders, as I understand it, asking the States to grant the petition. Standing Orders provide that the petition must be referred to the relevant Minister for a report and I am advised by the Greffier that that is now the Chief Minister who has responsibility for such matters, and accordingly, I therefore ask that the

petition and associated proposition be referred to the Chief Minister and trust that can be dealt with as expeditiously as possible.

The Bailiff:

Very well, then the petition is lodged and will be referred to the Chief Minister. Thank you, Deputy.

QUESTIONS

4 Written questions

4.1 SENATOR S.C. FERGUSON OF THE CHIEF MINISTER REGARDING LEGISLATION FOR PROTOCOL 3 OF TREATY OF ACCESSION TO EU:

Question

Following the agreement of Protocol 3 of the Treaty of Accession to the European Economic Community (EEC), how much of the associated subsequently legislation brought to the Assembly was required under EU Directives, what was required as a result of our relationship with the UK and what was independent of both the EU and the UK?

Furthermore, how much of the EU derived legislation enacted in Jersey originated from the United Nations?

Answer

Jersey is not a member of the European Union ('EU') but some legislation will apply to the Island insofar that it is binding under Protocol 3 to the United Kingdom Treaty of Accession to the European Economic Community. Broadly, Protocol 3 relates to the free movement of goods by virtue of Jersey and the other Crown Dependencies being part of the customs territory of the EU. The common customs tariff, levies and agricultural import measures thus apply to trade between the Islands and non-EU third countries. However, in short, other EU legislation which does not concern free trade in goods, customs measures and quantitative restrictions (or equivalent measure thereto) does not generally apply.

The European Communities (Jersey) Law 1973 ('the 1973 Law') gives effect in Jersey to European instruments that are, by virtue of Protocol 3, of direct application. A list of instruments noted as amending the 1973 Law are included at annex A. A summary of legislation where European Communities Directives and Regulations are noted as having been enacted is provided at annex B.

The European Communities (Implementation) (Jersey) Law 1996 ('the 1996 Law') provides the enabling power to create offences that make enforcement of that legislation possible. A list of instruments which are noted as having been implemented under the 1996 Law is included at annex C.

For all those purposes where Jersey is considered outside of the EU, however, the Island may choose to voluntarily adopt EU legislation or implement domestic legislation that is similar or equivalent in order to facilitate economic relations and meet relevant EU standards as a means of good practice and international recognition. The 1996 Law also enables the States to give effect by Regulation to such legislation.

A list of United Kingdom Acts extended to Jersey by Order in Council is also included at annex D.

In respect of EU legislation enacted in Jersey which originates from the United Nations ('UN'), it should be noted that most EU 'Restrictive Measures' are made for the purpose of implementing UN sanction measures.

Annex A: Legislation noted as amending the European Communities (Jersey) Law 1973

European Communities (Amendment) (Jersey) Law 1980
European Communities (Spanish and Portuguese Accession) (Jersey) Regulations 1985
European Communities (Amendment No. 2) (Jersey) Law 1987
European Communities (European Union and European Economic Area) (Jersey) Regulations 1994
European Communities (Accessions) (Jersey) Regulations 1996
European Communities (Treaty of Amsterdam) (Jersey) Regulations 1999
Customs and Excise (Jersey) Law 1999
European Communities (Treaty of Athens) (Jersey) Regulations 2004
European Communities (Accessions) (Jersey) Regulations 2006

Annex B: Legislation noted as implementing instruments of the European Communities

Artificial Insemination of Domestic Animals (Bovine Semen) (Jersey) Order 2008
Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000
Community Customs (Wine and Spirits) (Amendment No. 2) (Jersey) Order 2003
Community Customs (Wine and Spirits) (Jersey) Order 2000
Community Provisions (Ship and Port Facility – Security) (Jersey) Regulations 2004
Companies (Takeovers and Mergers Panel) (Jersey) Law 2009
Consumer Protection (Safety of Cosmetic Products) (Jersey) Order 1991
European Communities Legislation (Implementation) (Bovine Semen) (Jersey) Regulations 2008
European Communities (Wine) (Jersey) Regulations 1995
European Communities (Wine) (Jersey) Regulations 1989
European Communities (Wine) (Jersey) Regulations 1986

European Communities (Wine) (Jersey) Regulations 1983
European Communities (Wine) (Jersey) Regulations 1980
European Communities (Wine) (Jersey) Regulations 1977
European Communities (Wine) (Jersey) Regulations 1975
Data Protection (Jersey) Law 2005
Diseases of Animals (Importation of Miscellaneous Goods and Animals) (Jersey) Order 2012
Diseases of Animals (Bees) (Jersey) Order 2013
Diseases of Animals (Bees) (Jersey) Order 2003
Diseases of Animals (Foot and Mouth – Restrictions No. 8) (Jersey) Order 2007
Diseases of Animals (Welfare in Transit) (Jersey) Order 2001
Financial Services (Amendment of Schedule 2 to Law) (No. 3) (Jersey) Order 2009
Food Safety (Labeling) (Jersey) Order 2005
Medicines (Advertising) (Jersey) Order 2000
Medicines (Applications for Licences for Products for Human Use) (Jersey) Order 1997
Medicines (Applications for Manufacturer's and Wholesale Dealer's Licenses) (Jersey) Order 1997
Medicines (Standard Provisions for Licenses and Certificates) (Jersey) Order 1997
Money Laundering (Jersey) Order 1999
Motor Traffic (Public Service Vehicles (Conditions of Fitness)) (Jersey) Order 2003
Motor Vehicle Registration (General Provisions) (Jersey) Order 1993
Motor Vehicle Registration (General Provisions) (Amendment No. 9) (Jersey) Order 2001
Motor Vehicles (Construction and Use) (Amendment No. 16) (Jersey) Order 1985
Non-Commercial Movement of Pet Animals (Jersey) Regulations 2006
Petroleum Substances (Jersey) Regulations 2012
Public Service Vehicles (Conditions of Fitness)(Amendment No. 2) (Jersey) Order

1992
Restriction on Smoking (Warning Notices) (Jersey) Regulations 2011
Road Traffic (Disabled Persons) (Parking) (Jersey) Order 2002
Road Traffic (Lighting) (Jersey) Order 1998
Shipping (Employment of Young People) Order 2007
Shipping (Survey and Certification) (NO. 2) (Jersey) Order 2005
Shipping (Survey and Certification) (Jersey) Order 2005
Shipping (Training, Certification and Manning) (Jersey) Order 2004
Taxation (Agreements with European Union Member States) (Jersey) Regulations 2005
Trade Marks (Jersey) Law 2000
Waste Management (Jersey) Law 2005
Wireless Telegraphy (Control of Interference from Household Appliances, Portable Tools etc.) (Amendment) Regulations 1985
Wireless Telegraphy (Control of Interference from Fluorescent Lighting Apparatus) (Amendment) Regulations 1985
Wireless Telegraphy (Control of Interference from Fluorescent Lighting Apparatus) (Amendment) Regulations 1978

Annex C: Legislation noted as being enacted under the European Communities Legislation (Implementation) (Jersey) Law 1996

Community Provisions (Animal Feeding) (Jersey) Regulations 2005
Community Provisions (Restrictive Measures – Belarus) (Jersey) Order 2011
Community Provisions (Restrictive Measures – Burma/Myanmar) (Jersey) Order 2008
Community Provisions (Restrictive Measures – Côte d’Ivoire) (Jersey) Order 2011
Community Provisions (Restrictive Measures – Egypt) (Jersey) Order 2011
Community Provisions (Maintaining a Freeze of Funds in Relation to Mr Milosevic and Associated Persons) (Jersey) Order 2000
Community Provisions (Mortality in Oysters) (Jersey) Regulations 2010

Pet Travel Scheme (Jersey) Regulations 2011
Community Provisions (Prohibiting the Sale and Supply of Petroleum and Certain Petroleum Products to the Federal Republic of Yugoslavia) (Jersey) Regulations 1999
Community Provisions (Restrictive Measures – Syria) (Jersey) Order 2012
Community Provisions (Restrictive Measures – Tunisia) (Jersey) Order 2011
Community Provisions (Restrictive Measures – Somalia) (Jersey) Order 2011
Community Provisions (Restrictive Measures – Guinea-Bissau) (Jersey) Order 2012
Community Provisions (Restrictive Measures – Eritrea) (Jersey) Order 2012
Community Provisions (Provisions Relating to the Introduction of the Euro) (Jersey) Regulations 1998
Community Provisions (Restrictive Measures – Libya) (Jersey) Order 2011
Community Provisions (Restrictive Measures – Guinea) (Jersey) Order 2010
Community Provisions (Restrictive Measures – Sudan and South Sudan) (Jersey) Order 2011
Community Provisions (Restrictive Measures – Iran) (Jersey) Order 2012
Community Provisions (Restrictive Measures – Democratic Republic of the Congo) (Jersey) Order 2011
Community Provisions (Restrictive Measures – Lebanon) (Jersey) Order 2007
Community Provisions (Restrictive Measures – North Korea) (Jersey) Order 2007
Community Provisions (Ship and Port Facility – Security) (Jersey) Regulations 2004
Community Provisions (Restrictive Measures – Zimbabwe) (No.6) (Jersey) Order 2007
Community Provisions (Wire Transfers) (Jersey) Regulations 2007
Community Provisions (Control of Exports of Dual-Use Items and Technology) (Application) (Jersey) Regulations 2002
Fish Health (Jersey) Regulations 1999
Community Provisions Dual-Use Items (Export Control) (Jersey) Regulations 2002
European Communities Legislation (Bluetongue) (Jersey) Regulations 2008
Community Provisions (Bovine Embryos) (Jersey) Regulations 2010

Community Provisions (Bovine Embryos) (Fees) (Jersey) Order 2011
European Communities Legislation (Implementation) (Cattle Identification) (Jersey) Regulations 2002

Annex D: UK Acts extended to Jersey by Order in Council

Aviation
Air Navigation (Jersey) Order 2008
Air Navigation (General) (Jersey) Regulations 1972
Airports Act 1986 (Jersey) Order 2000 Aviation Security (Jersey) Order 1993
Airports Act 1986 (Jersey) Order 2000 Aviation Security (Jersey) Order 1993
Aviation Security (Jersey) Order 1993
Carriage By Air (Jersey) Order 1967
Carriage By Air (Sterling Equivalent) Order 1999
Carriage By Air Acts (Application of Provisions) (Jersey) Order 1967
Civil Aviation (Investigation of Air Accidents and Incidents) (Jersey) Order 2000
Civil Aviation (Licensing) Act 1960 (Channel Islands) Order 1961
Civil Aviation (Licensing) Regulations 1964
Civil Aviation (Supplementary Provisions) (Jersey) Law 1955
Civil Aviation Act 1980 (Jersey) Order 1984
Civil Aviation Act 1982 (Jersey) Order 1990
Civil Aviation Act 1982 (Jersey) (Amendment) Order 1998
Civil Aviation Authority Regulations 1972

Civil Law
Evidence (Proceedings in Other Jurisdictions) (Jersey) Order 1983

Commerce and Employment
Protection of Trading Interests Act 1980 (Jersey) Order 1983

Weights and Measures (Jersey) Order 1969
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Communications and Broadcasting
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Broadcasting Act 1990 (Jersey) Order 1991

Broadcasting Act 1990 (Jersey) (No.2) Order 1991
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Broadcasting (Interests in Licensed Services) (Jersey) Order 1992

Broadcasting (Jersey) Order 1999

Broadcasting Act 1981 (Channel Islands) Order 1987
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Broadcasting Act 1996 (British Broadcasting Corporation-Transmission Network) (Jersey) Order 1997

Broadcasting (Jersey) Order 2003

Broadcasting and Communications (Jersey) Order 2004

Communications (Television Licensing) (Amendment) Regulations 2010
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Telecommunication Services (Jersey) Order 1972
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Post Office (Banking Services) Act 1976

Premium Savings Bonds Regulations 1972
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Savings Certificates Regulations 1972

Telephone (Channel Islands) Order 1952
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Telephone (Channel Islands) Regulations 1968
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Wireless Telegraphy (Jersey) Order 2003

Wireless Telegraphy (Jersey) Order 2006

Wireless Telegraphy (Licence Charges) Regulations 2011
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Wireless Telegraphy (Mobile Communication Services on Board Ships) (Exemption) Regulations 2011

Courts and Legal Services

Appels à sa Majesté en conseil 1835

Criminal Justice Act 1987 (Jersey) Order 1989

Ecclesiastical

Channel Islands (Church Legislation) Measure 1931

Channel Islands (Church Legislation) Measure 1931 (Amendment) Measure 1957
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Clergy Pensions (Channel Islands) Order 1963
Clergy Pensions (Channel Islands) Order 1968
Clergy Pensions (Channel Islands) Order 1978
Districts Ecclésiastique de “All Saints”
Districts Ecclésiastique de “All Saints” et de St. André : Modifications Order
Districts Ecclésiastique de Gouray
Districts Ecclésiastique de St. André
Ecclesiastical Offices (Age Limit) (Channel Islands) Order 2000
Methodist Church Act 1976 (Jersey) Order 1986
Nouveaux Districts Ecclésiastique de “All Saints” et de “Saint Andrew”
Synodical Government (Channel Islands) Order 1970
United Reformed Church Acts 1972 and 1981 (Jersey) Order 1998
Women Priests (Channel Islands) Order 1999

Family
Children and Young Persons (Designation of Jersey Order) Order 1972

Financial Services
Arbitration (International Investment Disputes) (Jersey) Order 1979
Friendly and Industrial and Provident Societies (Channel Islands) Order 1968
Friendly Societies (Channel Islands) Order 1975
Friendly Societies Act 1984 (Jersey) Order 1987
Industrial and Provident Societies (Channel Islands) Order 1965
Industrial and Provident Societies Act 1975
Trustee Savings Banks Act 1981 (Channel Islands) Order 1983
Trustee Savings Banks Act 1985 (Channel Islands) Order 1985
Trusts (Jersey) Law 1984

Fishing
Foreign Fishing Boats (Stowage of Gear) Order 1970
Mackerel Licensing (Manx and Channel Islands Boats) Order 1978
Mackerel Licensing (Manx and Channel Islands Boats) (Variation) Order 1982

Pêcheries: Bateaux-Pêcheurs Français Order in Council 1869
Sea Fish (Conservation) (Channel Islands Boats) Order 1978
Sea Fish (Conservation) (Channel Islands) Order 1981
Sea Fish (Conservation) (Channel Islands) (Amendment) Order 2001
Sea Fisheries Act 1868 Order in Council 1869
Sea Fisheries (Channel Islands) Order 1973
Sea Fisheries (Channel Islands Boats) Order 1973

General Law
<i>Territorial Sea Act 1987 (Jersey) Order 1997</i>
<i>Territorial Sea Act 1987 (Jersey) (Amendment) Order 2002</i>
Transfer of Functions (Miscellaneous) Order 2001

Government
Règlements Provisoires
Amendes en vertu des règlements triennaux

International
Antarctic (Jersey) Regulations 1997
Antarctic Act 1994 (Jersey) Order 1995
Arms Control and Disarmament (Inspections) Act 1991 (Jersey) Order 1991
Biological Weapons Act 1974 (Jersey) Order 1974
Chemical Weapons Act 1996 (Jersey) Order 1998
Deep Sea Mining (Temporary Provisions) Act 1981 (Jersey) Order 1997
Democratic Republic of the Congo (United Nations Sanctions) (Channel Islands) Order 2003
Extradition (Genocide) Order 1970
Geneva Conventions Act (Jersey) Order 1966
Geneva Conventions Act (Jersey) Order 1999
Geneva Conventions Act (Jersey) Order 2012
Genocide (Jersey) Law 1969
Genocide Act 1969 (Isle of Man and Jersey) Order 1974
Intelligence Services Act 1994 (Channel Islands) Order 1994
Internationally Protected Persons Act 1978 (Jersey) Order 1979

Iraq (United Nations Sanctions) (Channel Islands) Order 2003
Landmines Act 1998 (Jersey) Order 2001
Nuclear Installations (Jersey) Order 1980
Nuclear Installations (Jersey) (Variation) Order 1987
Nuclear Material (Offences) Act 1983 (Jersey) Order 1991
Nuclear Safeguards (Jersey) Order 2004
Outer Space Act 1986 (Jersey) Order 1990
Suppression of Terrorism Act 1978 (Jersey) Order 1978
Taking of Hostages (Jersey) Order 1982
United Nations Act 1946
Al-Qa'ida and Taliban (United Nations Measures) (Channel Islands) Order 2002
Democratic Republic of the Congo (United Nations Sanctions) (Channel Islands) Order 2005
Iraq (United Nations Sanctions) (Channel Islands) Order 2000
Iraq (United Nations Sanctions) (Channel Islands) (Amendment) Order 2004
Lebanon and Syria (United Nations Measures) (Channel Islands) Order 2006
Liberia (United Nations Sanctions) (Channel Islands) Order 2004
Liberia (United Nations Sanctions) (Channel Islands) (Amendment) Order 2004
Libya (United Nations Prohibition of Flights) Order 1992
Somalia (United Nations Sanctions) (Channel Islands) Order 2002
Sudan (United Nations Measures) (Channel Islands) Order 2005
Terrorism (United Nations Measures) (Channel Islands) Order 2001
United Nations Arms Embargoes (Somalia, Liberia and Rwanda) (Channel Islands) Order 1996
United Nations (Personnel) (Jersey) Order 1998

Marine
Jersey (Navigator Hyperbolic System) Order 1987
Marine &C., Broadcasting (Offences) (Jersey) Order 1967
Maritime Security (Jersey) Order 1996
Merchant Shipping (Categorisation of Registries of Relevant British Possessions) Order 2003
Merchant Shipping (Oil Pollution Compensation Limits) Order 2003
Merchant Shipping (Oil Pollution) (Jersey) Order 1997
Merchant Shipping Act 1937 Order in Council 1939

Medical and Health
Food and Environment Protection Act 1985 (Jersey) (Amendment) Order 1997
Food and Environment Protection Act 1985 (Jersey) Order 1987

Nationality
Asylum and Immigration Act 1996 (Jersey) Order 1998
Immigration (Jersey) Order 1993
Immigration and Asylum Act 1999 (Jersey) Order 2003
The Immigration (Jersey) Order 2012
The Immigration and Asylum (Jersey) Order 2012

Policing and Public Protection
The Police Act 1997 (Criminal Records) (Jersey) Order 2010
The Police Act 1997 (Criminal Records and Registration) (Jersey) Regulations 2010
The Police Act 1997 (Criminal Records and Registration) (Jersey) (Amendment) Regulations 2012
The Police Act 1997(Criminal Records) (Jersey) (Amendment) Order 2012
Transfer of Prisoners (Restricted Transfers) (Channel Islands and Isle of Man) Order 1998

Water and Fuel
Fuel and Electricity (Control) Act 1973 (Jersey) Order 1973

4.2 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING J.T. COMPLYING WITH CONDITIONS FOR LOAN FOR GIGABIT JERSEY FIBRE NETWORK:

Question

What procedures, if any, are in place to ensure that J.T. are complying with the conditions specified by the Minister for Treasury and Resources when making the £19 million loan for the Gigabit Jersey fibre network?

Answer

Prior to answering this question, for clarity, it should be noted that there is no £19m loan to JT but rather a £10m Infrastructure Investment from the Currency Fund and an agreement to a reduced dividend from JT of £9m split across a three year period.

When agreeing to provide financial support for Gigabit Jersey (Decision Reference: MD-TR-2011-0139¹) the Minister for Treasury & Resources clearly laid out eight conditions that had to be complied with when it approved funding and it is an obligation on JT to ensure full compliance with these conditions.

The eight conditions, as contained in the Ministerial Decision, were as follows:

- JT to submit a revised Business Plan to Treasury by 31.3.2012 in order to monitor the Gigabit latest project costs. It should reflect all anticipated cost savings and revised pricing and should not be prepared on a conservative basis.
- JT to agree to co-operate with the JCRA to ensure the fibre network is accessible to other operators on a fair, equivalent and auditable basis.
- JT to provide quarterly valuations for the draw downs and confirm that the £19 million capital provided will only be used for the purpose of the Gigabit project.
- JT to agree to work with Economic Development Department on Digital Jersey to maximise the economic benefit to Jersey.
- JT to review the Business Plan with its shareholder (100% owned - States of Jersey) twice a year, at or near to the time of the AGM and the presentation of the half year financial results.
- JT to agree to not change its basis for depreciating the capitalised asset unless it receives such a recommendation from its auditors and after having informed the Minister of such a recommendation.
- JT to agree to establish a number of apprenticeships, bursaries and job placements for under 24 year olds in support of the States' objective to get local people into work.
- JT to notify the Minister of any significant changes to the Business Plan.

The eight obligations can broadly be split into two categories: 1) five conditions relating to submissions and meetings with the Treasury to monitor performance and delivery of the business plan; and 2) three conditions not purely related to the Treasury role as shareholder but instead focussed on ensuring that the opportunity to the Island from investing in Gigabit was exploited to the greatest extent possible.

Of the first category, there are quarterly reports submitted to the Treasury and a more full assessment and discussion of performance and business plan at the mid-year and annual general meetings.

Of the second category, these are items on which JT is continually working and include the likes of engagement with the JCRA to ensure that the network is accessible to other operators and assisting Digital Jersey as it works to maximise economic benefit to Jersey.

The Treasury has been advised that good progress has been made in resolving the initial rollout difficulties. The Treasury is now satisfied with the performance of JT and continues to work closely with the company to ensure this continues to be the case, particularly as account is taken of changes of the challenges and opportunities that arise during the course of the rollout.

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<http://www.gov.je/GOVERNMENT/PLANNINGPERFORMANCE/Pages/MinisterialDecisions.aspx?docid=86107aec026dbbf44a1062f8ac345f9e> MDs

4.3 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING FUNDING FOR TESTING OF WATER SUPPLY:

Question

Given the Island does not have a potable water supply that can be accessed by all, will the Minister provide funding for those households whose water supply needs regular testing for bacteria, trace elements and where ground water is found to be contaminated and, if not, would she explain why?

Answer

The provision of drinking water is not the responsibility of the Health and Social Services Department, and the department does not meet the costs of testing water for people who are not on mains water supply.

The property owner is responsible for arranging for tests on their own supplies of potable* water. These are carried out by the States Analyst. Where adverse results are found the supply users are referred to the Public Health Department where advice is available on remedying.

If a tenanted property has an unwholesome supply, the Public Health department will ensure that necessary measures are taken to remedy the situation. Where ground water is contaminated and the water system is temporarily unable to cope, a temporary supply from bottled water or a bowser is recommended.

Where gross contamination has occurred, arrangements for both temporary and long-term measures have been arranged at the polluter's expense. The cost of regular testing of a borehole supply is offset by the non payment of water rates, and should be a part of routine maintenance.

** Potable water refers to drinking water.*

4.4 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING TOTAL COST OF LISTING PROPERTY ON RBSAAHI IN JERSEY:

Question

Would the Minister give the total cost associated with the listing of property on the Register for Buildings and Sites of Architectural, Archaeological and Historical Importance in Jersey across all Parishes (for example Boundary Stones, Culverts, Monuments, war memorials, cemeteries, Don de Gruchy land and Parish properties) as it would appear that this requires considerable manpower resources to progress?

Answer

Under the terms of the Convention for the Protection of the Architectural Heritage of Europe (the Granada Convention), the provisions of which were extended to Jersey in 1988, there is an obligation to maintain an inventory of the Island's architectural heritage in order that it might be statutorily protected.

This is enabled by the Planning and Building (Jersey) Law 2002 which states that the Minister shall include on a List those buildings and places of special architectural, historical and archaeological interest. On this basis, the addition of structures of unique historical interest to this List is an entirely appropriate use of the Department of the Environment's resources in fulfilling the Island's obligation and satisfying the Minister's responsibilities under law.

A review of the entire historic environment protection regime was commenced under the former Minister's administration. This was to involve a comprehensive resurvey and review of the designation of all of the Island's existing and potential heritage assets.

Phase 1 of the historic environment resurvey involved a resurvey of all existing heritage assets involving some 3,500 buildings which was completed between 2010 and 2012. Phase 2 of the resurvey, which focussed on the surveying of potential heritage assets that had not been previously assessed, was undertaken during 2012. It has been extended, in 2013, to include a review of the Island's historic post boxes, following proposals by Jersey Post to remove a significant proportion of these roadside features.

The resurvey work has been undertaken over four financial years, with Phase 1 costing approximately £180,000 and Phase 2 costing approximately £50,000. These costs have been met from within existing Department of the Environment resources that would otherwise be spent on grant assistance and/or consultant support for activities across the Policy, Projects and Historic Environment portfolio.

The identification, review and assessment of heritage assets is an integral and key element of a service level agreement between the Department of the Environment and the Jersey Heritage Trust. The value of the service level agreement, for 2013, which is published in full on the websites of both the States of Jersey and Jersey Heritage, is £69,000. Provision for this amount is budgeted for from within the Department of the Environment budget.

In addition to the specific costs involved in the identification, survey and assessment of heritage assets, the Department of the Environment is required, by law, to follow a prescribed process for the designation of heritage assets. This requires administration and management: the department has procured some temporary support in 2012 to assist with this work at a cost of approximately £27,000.

Management time spent on this project is dependent upon the level of representation made in respect of proposals to List buildings and places as this will necessarily involve the consideration of representations. The costs of this are, therefore, variable, but are met from within existing resources. An estimate of the cost of management time for the Historic Environment Review currently would be approximately £30,000 per annum.

4.5 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING PRESCRIBING BY CONSULTANTS OF ABIRATERONE:

Question

Can the Minister give the number of occasions over the last 24 months that recommendations from urology consultants have prescribed the drug Abiraterone to patients and how many times it has been prescribed by oncologists to patients with prostate cancer, giving details of numbers approved

and those declined, and of those declined the reason for so doing, and whether the patients' general practitioners were consulted in reaching the decision, and if not why not?

Answer

Abiraterone was first licensed in September 2011 and was prescribed for the first patient in Jersey in January 2012 and has been routinely available for consultants to prescribe to patients with prostate cancer since June 2012. It would not be appropriate to disclose the precise number as, being so small, this would risk identifying the individuals concerned.

Prior to June 2012 there were individual requests from consultants to prescribe for small number of patients. all of which were approved.

No patient has been declined treatment with abiraterone.

In Jersey, abiraterone is not prescribed by urology consultants as all prescriptions are issue by oncology consultants.

The decision to make abiraterone routinely available followed publication of National Institute of Clinical Excellence (NICE) guidance in June 2012, which recommended that abiraterone, within its licensed indication, was a cost-effective use of health service resources. This decision was taken by the Health and Social Services Department Drugs and Therapeutics Committee.

GPs are kept informed by the cancer specialists regarding treatment choices for their patients but they are not routinely involved in the decision as to which drug treatment should be used as they are not specialists in this area of medicine.

4.6 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE J.E.C. AND LAYING OF NEW LAND CABLES:

Question

Given that the J.E.C. (Jersey Electricity Company Limited) laid a new cable from the east of the Island as part of the French link just a decade or so ago and such cables are not only less liable to damage than their under-sea counterparts but also have an expected lifespan of fifty or more years, how does the Minister, as the shareholder representative, justify the disruption and expense involved in the laying of a new land cable?

Does the present cable have insufficient capacity and, if so, was this a lack of judgement by the J.E.C.?

Would the Minister further advise of the cost of the new cable and whether the laying includes any telecommunication element and, if so, give assurances that electricity customers will not be subsidising that element?

Answer

The new cable is being laid to provide considerably improved resilience and diversity to the operation and fault management of the overall network.

The present cable does has sufficient capacity, but the new cable is being laid to increase resilience and is required to connect the new submarine cable between Jersey and France, which is now even more essential following the permanent failure in 2012 of the original submarine cable installed in 1984. This new cable has been in planning for eight years and is part of a long-term strategy and network design.

The cost of the new land cable is about £5 million which forms part of the overall £70 million submarine cable project.

The circuit does contain a telecom cable, which is required for the control and management of the power cable and its connecting network. Customers are not providing a subsidy element towards the telecoms cable in this project.

4.7 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING CLASSIFICATION OF RAGWORT AND ACTION TAKEN TO REMOVE IT:

Question

Would the Minister –

- (a) inform members whether his Department is aware of many examples of Ragwort currently exist in the Island (some on States owned land) and, if so give details; and,
- (b) given that Ragwort and 4 other weeds are defined as ‘injurious weeds’ under the Weed (Jersey) Law 1961 and that the Minister can, if deemed appropriate, serve a notice on a landowner requiring the removal of such weeds, would he advise whether his Department is taking action against landowners in this regard and, if not, whether the Weeds (Jersey) Law 1961 is being upheld?

Answer

- (a) The Department of the Environment maintains a database of areas that have been infected with Ragwort. This enables officers to monitor the sites and advise landowners on future control to prevent the weed’s spread. Ragwort occurs mainly within St Ouen’s Bay, and along the north and south-west coast.

The Department are responsible for over 3000 vergées of public land. Some of this land around Les Mielles, Les Blanchés Banques in St Ouen’s Bay, Noirmont, Gorselands and the North Coast provides ideal conditions for Ragwort.

The Department is committed to reducing the growth of Ragwort on its own land by using a variety of control measures. These include pulling, cutting, grazing and spraying herbicide. To do this work in a cost effective manner, the Department uses TTS tractors, the TTS Ranger Team and the Probation Service. This year, over 700 man hours were used in the control of Ragwort on States land.

This year, the Department used herbicides (mainly through spot treatment) to control the Ragwort in St Ouen’s Bay. This has been effective in greatly reduced flowering and seed dispersal. Some of the weed has already died off and spraying with herbicide will be repeated next year until the amount of Ragwort has been brought under control.

Ragwort remains an important species that is of benefit to the broader environment. Thus the objective is to reach manageable levels rather than total eradication.

- (b) The Department is committed to upholding the Weeds (Jersey) Law 1961 and has produced a weeds policy to ensure maximum effect given the reduced Departmental resource.

The Weeds (Jersey) Law 1961 is designed to prevent the spread of listed 'injurious weeds'. These include Curled Dock, Broad-leaved Dock, Spear Thistle, Creeping or Field Thistle and Ragwort. The Law allows the Minister to take action to prevent the spread of these weeds.

The Department responds to all complaints of injurious weeds. Officers will conduct a site visit and, depending on the severity and location of the infestation, enforcement action will be taken. This action will either be advisory or by the issuing of an enforcement notice. Notwithstanding, any complaint of any injurious weed on grazing land and land adjacent to grazing land will automatically be actioned.

Following all site visits, an advisory leaflet recommending best control methods, including techniques available for organic land, is sent to all landowners.

The Department receives an average of 25 complaints each year, of which around 19 are dealt with through enforcement action.

4.8 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING TRAFFIC DISRUPTION CAUSED BY ROADWORKS:

Question

Given the amount of traffic disruption caused by roadworks in recent months, would the Minister provide a list of those roads either closed or subject to traffic flow restriction as a result of roadworks so far this year, together with a brief description of the reason (e.g. J.E.C. cable laying)?

Answer

Unfortunately the Department is unable to provide the Deputy with an exhaustive list of the individual 'streetworks' that have taken place in 2013 on TTS administered main roads, due to the large numbers involved. However, we are able to give the Deputy an accurate summation of the number and type of activities taking place.

So far in 2013 there have been 1668 separate streetwork activities in the Island of which 1113 (67%) were on main roads (which make up 37% of the road network by length). There are approximately 2500 streetwork activities per year in the Island ranging from very significant projects that require many months of TTS planning involvement to those that can be evaluated and approved in a short period. There are also emergency works when the Department receives no notice but which require reactive involvement.

Of the streetwork activities approved by TTS this year 72% were carried out during 'non-peak times' (i.e. before 7am, between 9am and 4pm or 2.30pm on school routes, or after 6pm), significantly reducing their impact on the travelling public. Only when there is absolutely no alternative or the impact can be shown to be limited does TTS permit streetworks during peak time hours. Approximately 8% of streetworks on main roads involve a road closure.

The type of streetworks occurring in 2013 on main roads can be broken down as follows:

<u>Promoter</u>	<u>Number</u>	<u>Type of streetwork activity</u>
Private Promoters	127	Road side works, lifting operations, tree felling etc.
C&W	10	Infrastructure upgrades, network extensions, repairs, property connections, metering programmes etc.
Jersey Electricity	153	
Jersey Gas	65	
Jersey Telecom	202	
Jersey Water	187	
Newtel	2	
TTS Drainage Section	32	
TTS Highways Section	306	Resurfacing, safety improvements, signal upgrades, patch repairs, line marking etc.

On-going streetwork projects of strategic importance to the Island include:

- TTS Highway Section's resurfacing and upgrade of its 'Class 1 & 2' road network (incl. Gloucester St, La Rue a Don).
- TTS Drainage Section's surface water separation works (e.g. Philip St Shaft).
- Jersey Electricity's new land side 90KV Circuit ('The Normandie 3 Interconnector') from Grouville Bay to South Hill.
- Jersey Telecom's Island wide fibre optic network roll out ('The Gigabit Isles project').

To ensure that these, and the many other smaller projects, can be delivered (alongside an increasing number of road based events) requires TTS to co-ordinate and programme in such a way as to utilise the full calendar year. Notwithstanding this TTS does (at both a policy and practical level) attempt to protect the needs of seasonal business, but in so doing it must also take into account road network constraints, such as making use of the school holidays to carry out high impact works on major school travel routes, for example the resurfacing of Gloucester Street.

Note: Further information about historic and upcoming streetworks can be found on TTS' recently launched 'Traffic Information' web pages:

<http://www.gov.je/Travel/Roads/Pages/ClosuresDelays.aspx>

4.9 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HOUSING REGARDING LE SQUEZ HOUSING ESTATE DENSITY AND ROADS:

Question

Given that during the debate on the reinstatement of the No 18 bus on 20th March 2013, the Minister intimated that it would cost 'over £1 million' to re-open the road through Le Marais to run the No 18 bus through the estate and that on the understanding that the road was not required, the

Department had 'made other plans', would the Minister explain why the last Planning Application for Le Squez Estate was in 2011 and, according to the Minister's answer to question 7552 on 16th April 2013, the cost of Estate modifications to date was £14,574.43?

Would the Minister also confirm that the density of Le Squez has risen from 42 dwellings per hectare to 53 and, if so, provide details of the consultation surrounding these changes?

Answer

In my response to Deputy Baudains' question 7552 on the 16th April 2013, I listed changes which had been made to the Master Plan and set out the cost incurred in making modifications to the plans. Those costs were related primarily to the Architects time and expenses and not actual building costs. The estimated cost of £1m for the reinstatement of the bus route was simply an estimate of the combined cost of further redesign, constructing the road and the lost development value which would result from having to reduce the number of homes to accommodate it.

The Master Plan is a framework document within which each separate phase of the Le Squez project is detailed, with each being subject to separate application for planning approval. Each phase therefore is subject to the normal planning consultation process. The Master Plan itself is not the subject of a specific application for planning permission; however, it is an important document for setting the context of each phase and for overall cohesion and as such will be available during the consultation on each development phase.

In respect of density the current Master Plan indicates a potential density of 53 dph. However, achieving that level of density is contingent on the submission and approval of the necessary planning applications. In that regard I expect the planning application for Phase 3 of the scheme to be submitted by the end of this year.

4.10 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING TRAFFIC MANAGEMENT NEAR LA ROUTE DU FORT:

Question

With regard to the Minister's decision to prevent vehicles turning left into St. Clement's Road from La Route du Fort, would he confirm that this was at the request of St. Luke's school and will he agree that as traffic will now use alternative routes such as Dicq Road, Elizabeth Street and Beach Road (all of which pass much closer to the school) the end result achieves nothing?

Did the Minister not consider a better option would have been to ask the children to use Dunnell Road and, if necessary, supply a pedestrian crossing there?

Would the Minister further confirm that his officers conducted a traffic count at this junction and could he advise whether this was undertaken in term-time and whether the number of children (and their approximate ages) was counted at the same time and, if not, why not?

Finally, would the Minister be willing to provide a breakdown of how many children normally use the Route du Fort junction, compared with those who use Dicq Road and Beach Road, and advise whether or not they are accompanied by adults?

Answer

St Luke's School recently prepared a school travel plan and one of the issues that was raised by the pupils was the difficulty in crossing St Clement Road, south of Route du Fort. School travel plans are something we promote to encourage active travel for young people and form part of the Sustainable Transport Policy approved by the States in December 2010. Chapter 5 of that document also states that improved pedestrian facilities should be provided in the town area.

In response to the issue, the highways and traffic engineers in Transport and Technical Services investigated the various alternatives (including Dunnell Road). The option of providing a pedestrian stage across the southern leg of the junction was the option recommended to me as being the most appropriate means by which improved facilities could be provided in the area. The left turn from Route du Fort into St Clement Rd has been prohibited to facilitate the pedestrian crossing on the southern leg, without reducing the overall capacity of the junction. The number of vehicles previously turning left was very low (approx. 8 per hour) and therefore the increase in traffic movements on the 5 alternative roads will be negligible.

Traffic surveys, including pedestrian counts, were carried out as part of the investigatory work undertaken by my officers. It was not considered appropriate, necessary, or practicable, to record the ages of pedestrians using the junction. All volume surveys carried out for the purposes of permanent changes to the road network are carried out in term time.

The Department is unable to provide the information requested in the last question, but can provide a spread sheet of all pedestrians surveyed using the junction if required.

4.11 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING COST OF COSMETIC SURGERY:

Question

Over the last 10 years has the hospital carried out any cosmetic surgery within the health system?

If so, would the Minister provide a breakdown of the procedures undertaken annually?

Who paid for this surgery: the patient, the taxpayer or both?

If the costs were met by the taxpayer, would she provide details of the annual cost to the tax payer over the past 10 years?

Answer

1. Yes. Health and Social Services has undertaken cosmetic surgery. The Department uses a visiting consultant 6 times a year.
Patients who are eligible to have their procedure funded by the taxpayer have to meet eligibility criteria set out in the National Institute of Clinical Excellence (NICE) guidelines.
2. Procedures that are determined to be clinically essential and, therefore, funded by the taxpayer are:
 - Breast reconstruction for post cancer treatment
 - Surgery for congenital deformities
 - Facial reanimation. This is carried out mostly on children with the major surgery undertaken in the UK and post operative care or minor surgery carried out on Island

- Skin graft surgery, for example radical skin cancer surgery or trauma
- Bilateral breast reduction
- Abdominoplasty
- Gynaecomastia surgery

3. Clinically necessary public procedures are funded by the taxpayer. Private procedures are funded by individual patients.

4. Taxpayer Funded Cosmetic Surgery

Year	Cost £
2002	39,680
2003	40,960
2004	19,200
2005	32,000
2006	28,160
2007	33,280
2008	33,280
2009	35,840
2010	39,680
2011	35,840
2012	49,920
TOTAL	387,840

Notes

All costs are average costs per procedure, shown at a 2012 price base.

On average, price = cost.

4.12 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING POLICY ON APPLICATIONS FOR INDEFINITE LEAVE TO REMAIN IN THE ISLAND:

Question

Will the Minister advise members –

- (a) the current policy applied by the Immigration Department in respect of applications by spouses of Jersey citizens/residents for indefinite leave to remain in the Island, distinguishing between EU and Non-EU applicants;
- (b) the previous policy that was applied in this situation and when it was changed to the current policy;
- (c) in what ways the current and previous rules differs/differed from those applied in the United Kingdom;
- (d) the legal basis for these current and former rules?

Answer

The Lieutenant-Governor gives Directions to Immigration Officers, in the same way as the Home Secretary does in the United Kingdom, as to the practice to be followed in the administration of the Immigration Acts for regulating the entry into and the stay in the Bailiwick of Jersey of persons of non-European Economic Area nationality.

Subject to meeting the requirements of these Directions, non-EEA national spouses or civil partners of persons present and settled (British citizens or persons free from any restriction as to their employment and the period in which they can stay in Jersey), may apply for visas to enter with a view to settlement. This is also known as indefinite leave to remain (“ILR”).

- (a) The current requirements for ILR as a spouse or civil partner are that:
 - the applicant has completed a period of 2 years as the spouse or civil partner of a person present and settled in Jersey;
 - the applicant is still the spouse or civil partner of the person he or she was admitted join;
 - the marriage or civil partnership is subsisting;
 - each of the parties intends to live permanently with the other;
 - there is adequate accommodation without recourse to public funds in accommodation which they own or occupy exclusively;
 - the parties will be able to maintain themselves and any dependants adequately without recourse to public funds;
 - the applicant has sufficient knowledge of the English language and life in the UK and Islands (persons under the age of 18 or aged 65 are exempt from this requirement);
 - the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders (Jersey) Law 2001.

There is also currently scope for immediate settlement, without having to complete the 2 year probationary period, where spouses and civil partners have been living together overseas for at least 4 years and meet the requirements listed above.

European nationals, in other words persons who are nationals of countries in the European Economic Area (“EEA”) and Switzerland, are not required, under immigration legislation, to obtain indefinite leave to remain or to confirm their right of residence. However, when they have lived in Jersey for a continuous period of 5 years they may apply for a document certifying their permanent residence.

“Settled status” under immigration legislation is separate and distinct to the residential and employment statuses conferred by the Control of Housing and Work (Jersey) Law 2012.

- (b) The qualifying criteria were last amended in November 2010 and May 2011.

In 2010 an English language requirement was introduced for applicants to demonstrate a command of the English language at level A1 of the Common European Framework of Reference.

In May 2011 a criminality threshold was introduced to settlement applications, requiring applicants to be clear of unspent convictions, prior to indefinite leave being granted.

- (c) Prior to July 2012 the family settlement rules in Jersey were the same as in the United Kingdom. However, after 9 July 2012, spouses and civil partners of non-EEA nationality entering the United Kingdom now have to complete a period of 5 years before they may apply for settlement.

There have been other changes to the family settlement route in the United Kingdom, notably:

- a minimum income threshold of £18,600 for those who wish to sponsor spouses or civil partners;
- the scope for immediate settlement for spouses and civil partners who have been living together overseas for at least 4 years has been abolished.

Whilst consideration is currently being given to modifying the Directions of the Lieutenant-Governor in Jersey, the High Court in the United Kingdom recently delivered a judgment on a legal challenge to the minimum income threshold. The Home Office is considering the implications of the judgment and a pause has been applied on the decision-making on applications when the minimum income threshold has not been met.

Immigration decisions in the United Kingdom are also now exempt from the Rehabilitation of Offenders Act. As a result, references to unspent convictions, as a requirement to make a successful application for indefinite leave to remain has been removed. In light of this, the Minister for Home Affairs has made a request to the Law Draftsman (Ministerial Decision HA-2013-0040 refers) for law drafting to exclude immigration and nationality decision making from the Rehabilitation of Offenders (Jersey) Law 2001.

- (d) The statutory basis for the Directions of the Lieutenant-Governor can be found in Section 1(4A) of the Immigration Act 1971, which is extended to the Bailiwick of Jersey by the Immigration (Jersey) Order 1993.

4.13 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING POLICY FOR INVESTIGATING COMPLAINTS AGAINST POLICE OFFICERS:

Question

Will the Minister set out the policy for investigating complaints against police officers and in particular the rules regarding the rank of the investigating officer in relation to the rank of the

officer under investigation and explain any legal reason why these rules would not be followed citing the legal references?

Answer

The Minister's current policy in relation to the investigation of complaints against police officers, other than the Chief Officer and the Deputy Chief Officer, is that such complaints should be dealt with in accordance with the existing provisions, which are the Police (Complaints and Discipline) (Jersey) Law 1999 and the Police (Complaints and Discipline Procedure) (Jersey) Order 2000.

Under the terms of Article 7(6)(b) of the said Law, where a complaint is not suitable for or cannot be dealt with by informal resolution, the Chief Officer shall appoint a police officer to investigate the complaint who is:-

- (a) of at least the rank of Inspector
- (b) of at least the rank of the member of the Force against whom the complaint is made.

The normal practice, where the complaint is made against a police officer of the rank of Chief Inspector or Superintendent, is for the investigating officer to come from another Police Force.

Both the terms of the said Law and the said Order are actively under review and advice on these has now been received from an outside expert.

The Minister's policy in relation to complaints against the Chief Officer or the Deputy Chief Officer is as follows:-

- (1) That there should be a preliminary assessment in order to determine whether there is a sufficient basis to warrant a full investigation by a very senior officer from an outside police force.
- (2) In determining whether there is such a sufficient basis, the Minister will normally seek information both from the complainant and from the most senior local officer who has no connection with the complaint.
- (3) For a sufficient basis to exist, the Minister would need to be satisfied:-
 - (a) that there was a reasonable basis for the complaint;
 - (b) that there was prima facie evidence to support the complaint; and
 - (c) that, if the complaint were proved, that it would be sufficiently serious to warrant disciplinary action against the Chief Officer or Deputy Chief Officer.
- (4) A formal investigation would need to be conducted by an outside police officer of at least the rank of the Chief Officer or Deputy Chief Officer against whom the complaint has been made.
- (5) It follows from the above that a formal investigation would be conducted by an outside officer of equivalent superiority but that preliminary information may need to be sought from a more junior officer if the complaint is against the Chief Officer of Police or against both the Chief Officer and the Deputy Chief Officer.

The procedure set out above is also under review and the Minister intends to bring Regulations to the States in order to determine the appropriate procedure for dealing with complaints against the Chief Officer or Deputy Chief Officer.

4.14 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING INSTIGATION OF OPERATION INVICTA:

Question

Further to conflicting responses given to date, will the Minister, after conferring with H.M. Attorney General and the Chief and Deputy Chief Officers of the States of Jersey Police, give a definitive answer as to who was responsible for instigating 'Operation Invicta' and pursuing the disciplinary action against the three officers who were involved in the bugging of the car in France in the Curtis Warren case?

Will he also set out a time line showing, to the extent that he is aware of it, the actions of all three parties listed above and any others who were involved in the decision to instigate and pursue disciplinary action against these officers so that the role of each party at each point in time can be precisely determined?

Answer

On 9 and 10 February 2011, the Privy Council heard the appeal of Curtis Francis Warren and others v Her Majesty's Attorney General of the Bailiwick of Jersey. During that hearing, the Privy Council made reference to very serious misconduct by the three officers involved in the bugging of the car in the case and talked of a sustained, deliberate and cynical act of law-breaking.

On the basis of a briefing from the Law Officers' Department and in anticipation of possible serious criticism being made by the Privy Council of the actions by those officers of the States of Jersey Police, it was decided by the Chief Officer of the States of Jersey Police that there should be a general operational review of the policies and procedures that had been adopted by the States of Jersey Police officers in relation to the surveillance methods used when investigating the activities of Curtis Warren and others. The Hampshire Constabulary was commissioned in February 2011 by the Chief Officer of the States of Jersey Police, to conduct that review.

In April 2011, as a result of the findings of that general review, the Hampshire Constabulary was asked by the Chief Officer of the States of Jersey Police, to carry out an investigation of potential criminal charges or disciplinary issues. The eventual outcome of this investigation was a recommendation for disciplinary proceedings. Legal advice was obtained by the Deputy Chief Officer and consultation made with the Jersey Police Complaints Authority as a result of which the Deputy Chief Officer of the States of Jersey Police brought disciplinary action against the three officers.

The misconduct hearing in January 2013 was conducted by Mr Mike Barton (Chief Constable of Durham Constabulary). Given Mr Bowron's earlier knowledge of the case and discussions with the Law Officers' Department, it was not appropriate for Mr Bowron to adjudicate. The outcome of the hearing on 10 January 2013 was that the officers involved were acquitted of the misconduct charges.

Timeline

Warren and others arrested between **21 and 23 July 2007**

Abuse of Process Hearing (Sir Richard Tucker) **10 - 13 March 2008**. Defence application rejected **20 March 2008**.

The application for the product of illegally placed device to be excluded from the evidence at trial was refused on **28 April 2008**.

Jersey Court of Appeal (appeal against Abuse of Process result) **11 – 12 August 2008**.

Warren and others convicted at Assize trial on **7 October 2009**.

Sentencing of Warren and others on **3 December 2009**.

30 November 2010. Draft statement by Defence for Privy Council hearing raises potential disciplinary issues for States of Jersey Police officers.

4 January 2011. Current Chief Officer, States of Jersey Police, takes up his post in Jersey.

6 January 2011. Law Officers' Department receives a final copy of the agreed statement of facts for the Privy Council hearing – it concedes that States of Jersey Police officers acted unlawfully.

13 January 2011. Meeting between Attorney General, Solicitor General, Director of the Criminal Division of the Law Officers' Department, Chief Officer States of Jersey Police and DCO States of Jersey Police. The meeting briefed the new Chief Officer on the full background to the case and the potential for criticism in the Privy Council of the conduct of the officers.

26 January 2011. Chief Officer, States of Jersey Police, briefed HMIC re criticism and need for independent review.

8 February 2011. Letter from the Chief Officer, States of Jersey Police, with Terms of Reference, to Chief Constable Marshall, Hampshire Constabulary to commission operational review.

9 – 10 February 2011. Privy Council hearing at the Supreme Court. Judgment delivered by Lord Dyson on **28 March 2011**.

4 April 2011. Assessment conducted by Hampshire Constabulary. Identified matters of misconduct and potential criminality.

8 April 2011. Letter from Chief Officer, States of Jersey Police, to Chief Constable Hampshire, confirming extension of Terms of Reference to include criminal / misconduct investigation.

15 September 2011. Hampshire (Invicta) report received.

September 2011. Report sent by Law Officers' Department to an outside expert criminal lawyer for advice on the possibility of any criminal proceedings.

16 September 2011. Copy of Hampshire report provided to an outside expert on police disciplinary matters and the Jersey Police Complaints Authority.

7 December 2011. Case conference in Exeter involving the Attorney General, Law Officers' Department and Hampshire Officers with the outside expert criminal lawyer.

16 December 2011. The outside expert criminal lawyer advises the Attorney General that there is insufficient evidence for any criminal proceedings. The involvement of the Law Officers' Department ended at this point.

16 December 2011. States of Jersey Police arrange case conference with the outside expert on police disciplinary matters.

26 January 2012. Case conference between States of Jersey Police and outside expert on police disciplinary matters.

30 January 2012. Case conference between States of Jersey Police and Jersey Police Complaints Authority.

30 January 2012. DCO States of Jersey Police decides to bring misconduct proceedings against officers.

31 January 2012. Officers and the Police Association are notified of the misconduct proceedings.

1 February 2012. Arranged for Chief Constable Martin Richards (Sussex) to chair misconduct hearing.

7 February 2012. States of Jersey Police telephone the outside expert on police disciplinary matters re draft charges.

10 February 2012. Carey Olsen agrees to take the case for the misconduct offences.

21 February 2012. Case conference States of Jersey Police and Carey Olsen – advice on charges.

22 March 2012. Three States of Jersey Police Officers are charged with misconduct offences.

Hearing due to commence on **9 July 2012** is adjourned until 3 September 2012 at request of Defence.

Hearing due to commence **3 September 2012** is adjourned until 4 December 2012 at request of Defence.

Hearing due to commence **4 December 2012** in front of Chief Constable Barton (Durham) at Pomme d'Or Hotel.

4 – 10 January 2013. Misconduct hearing at Pomme d'Or Hotel heard by Chief Constable Barton.

10 January 2013. Hearing concluded. Officers acquitted of misconduct charges.

4.15 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING NUMBER OF COMPLAINTS AGAINST THE POLICE IN LAST 3 YEARS:

Question

Will the Minister explain how many complaints, if any, he has received in the last three years from former police officers alleging that the Chief and Deputy Chief Officer of the States of Jersey Police have perverted the course of justice and explain –

- (a) in how many cases he has called in an external police force to investigate the complaint;
- (b) in how many cases he has conducted an investigation into the allegations; and

- (c) the criteria and procedures he has used or followed to determine whether such allegations merit an investigation?

Answer

As I advised Deputy Higgins when he asked similar questions on 4 June and 2 July 2013, it is not generally appropriate for me to speak publicly about any complaints that may or may not have been made against any police officer, including the Chief and Deputy Chief Officer of the States of Jersey Police.

To repeat the answer that I gave on 2 July 2013, in the event of a criminal allegation such as perverting or attempting to pervert the course of justice being made against the Chief Officer and Deputy Chief Officer of the States of Jersey Police, the Attorney General would advise as to whether or not a criminal investigation were merited. If the Attorney General were to advise that there should be a criminal investigation then I would expect the investigation to be conducted by a senior officer from another force.

4.16 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING P.E.C.R.S. CONTRIBUTIONS AND LEAVING BEFORE RETIREMENT AGE:

Question

Will the Chief Minister:

- (a) set out the options with respect to pension rights and/or contributions that are given to members of the Public Employees Contributory Pension Retirement Scheme (PECRS) if they leave the employment of the States or a body affiliated to the Scheme before reaching the age of retirement and explain the legal references supporting these options;
- (b) explain in detail any and all circumstances in which these options would not be available to a member who leaves before reaching the age of retirement and explain in each case the reasons why the option would not be available and legal justification/provisions for it not being available?

Answer

The PECS has 4 separate sets of Regulations: 1967 Regulations; Former Hospital Scheme (FHS); Existing Members Regulations; New Members Regulations.

1967 Regulations and FHS

Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989 – Regulation 7 – Transfers in and out

1967 Regulations – Regulation 11 – Deferred pension

1967 Regulations – Regulation 12 – Refund of contributions in certain cases

FHS - Regulation 8 – Deferred pension, refund of contributions or transfer value

Employees who leave the employment of the States or a body affiliated to the Scheme before reaching the age of retirement under the 1967 or FHS Regulations have the following options:

A refund of their (the employee's contributions) with 3% per annum interest (less 10% being the tax levied by the Comptroller of Income Tax in regard to tax relief which may have been enjoyed when the contributions were paid).

OR

Subject to 10 years' reckonable service and over age 50 (45 in the case of women and 'uniformed' members) a deferred pension (and, for women under FHS Regulations, a deferred cash sum) payable at normal retiring age.

OR

A transfer value payable to a new employer' pension scheme or to a personal pension scheme (subject to Comptroller of Income Tax legislation). The transfer or deferred pension must be requested within 12 months of ceasing to be an employee otherwise the member is only entitled to a refund of the member's own contributions to the Scheme.

Existing Members Regulations and New Members Regulations

PECRS – Existing Members - Regulation 8 – deferred pension, refund of contributions or transfer value.

PECRS – New Members – Regulation 8 – deferred pension, refund of contributions or transfer value.

Employees who leave the employment of the States or a body affiliated to the Scheme before reaching the age of retirement under the Existing Members Regulations or the New Members Regulations have following options:

For those who last entered the Scheme before 1 August 2000 or those who entered on or after that date but have not yet completed 2 years' qualifying service: refund of contributions with 3% interest (less 10% being the tax levied by the Comptroller of Income Tax in regard to tax relief which may have been enjoyed when the contributions were paid). The refund must be requested within 3 months of the member ceasing to be an employee otherwise the member is only entitled to a deferred pension or a transfer.

OR

Subject to 2 years' qualifying service at any age: a deferred pension payable at age 60 or normal retiring age, if earlier.

OR

For those employed on or after 1 January 2006, subject to 2 years' qualifying service at any age: a deferred pension payable at normal retiring age or up to 5 years prior to normal retiring age in which case the pension is subject to an actuarial reduction. For active employees the actuarial reduction is 2.4% per year for each year the pension is taken early, and for deferred members the actuarial reduction is calculated at 'nil cost' to the Scheme by the Scheme Actuary.

OR

A transfer value payable to a new employer' pension scheme or to a personal pension scheme

(subject to Comptroller of Income Tax legislation). The transfer must be requested within 12 months of ceasing to be an employee otherwise the member is only entitled to a refund of the member's own contributions to the Scheme.

Answer (b)

There is no reason why the various options available under the relevant set of Regulations (applicable to that member) would not be available if the member leaves before reaching the age of retirement.

4.17 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING RESPONSIBILITY OF ACTING IN PLACE OF THE SUPERIOR NUMBER:

Question

Given that H.M. Attorney General has previously stated that it is the Superior Number which has responsibility to act in the instance of a Jurat being found to be unfit to fulfil that role, will he clarify who a member of the public may contact as having higher responsibility for maintaining appropriate standards of honesty, integrity or behaviour, should the Superior Number have failed to act in such an instance?

Answer

Article 9(1) of the Royal Court (Jersey) Law 1948 provides:

A Jurat shall cease to hold office on the day upon which he or she attains the age of 72 years:

Provided that a Jurat who, for a continuous period of 12 months fails, without good reason, to discharge the duties of the Jurat's office, or who, in the opinion of the Court, is permanently unable, through physical or mental incapacity, or for any other reason, efficiently to carry out the duties of the office, may be called upon by the Court to resign and, unless the Jurat, within a reasonable time, presents to the Bailiff, for transmission to Her Majesty in Council, a petition praying that Her Majesty in Council may be pleased to permit the Jurat to resign his or her office, the Jurat shall be removable by Order of Her Majesty in Council on the petition of the Superior Number of the Royal Court.

Accordingly, a Jurat may only be removed from office by an Order of Her Majesty in Council.

Her Majesty in Council, acting through Her Ministers in the United Kingdom retains constitutionally the ability to intervene in insular affairs in wholly exceptional circumstances affecting good government. The Secretary of State responsible for the Crown Dependencies Unit in the Ministry of Justice in the United Kingdom is responsible for insular affairs.

The circumstances in which there may be a constitutional basis to intervene in insular affairs would be:

".....in the event of a fundamental breakdown in public order or of the rule of law, endemic corruption in the government or the judiciary or other extreme circumstance....."

A single instance of the Superior Number not exercising a jurisdiction under Article 9 (1) which a member of the public thinks should have been exercised would not be such a circumstance.

4.18 DEPUTY T.M. PITMAN OF ST. HELIER OF CHIEF MINISTER REGARDING PROGRESS ON REPLACEMENT CHAIRMAN OF HISTORIC ABUSE INQUIRY:

Question

Given that the newly appointed Chair to oversee the independent inquiry into Historic Child Abuse has had to withdraw due to ill health, will the Chief Minister clarify what progress, if any, has been made in finding a replacement?

What impact, if any, has this had on the proposed timetable for the inquiry?

Answer

The following information has been provided by the Greffier of the States, who was charged to undertake the recruitment process. As Chief Minister I have no involvement in this.

The Greffier has indicated that following the unfortunate sudden illness of Mrs Sally Bradley QC, work is being carried out to find a suitable replacement to chair the Committee of Inquiry into historical child abuse in Jersey.

An outline of the timetable for recruitment for the chairman is as follows:

- 22nd August 2013: First round of informal meetings in London with potential candidates
- 11th September 2013: Second round of informal meetings in London
- Early October 2013: A small number of suitable shortlisted candidates will be invited to a formal discussion and interview in Jersey with the full selection panel.
- By mid to late October 2013: Announcement of the name of the proposed chairman once agreement has been reached on the terms of the engagement.

As soon as a chairman has been identified the selection panel will work with that person to identify two suitable people to serve as committee members. A number of potentially suitable people for these positions had already been identified when Mrs Bradley suffered a stroke and it is therefore anticipated that it will be possible to work relatively swiftly with the new chairman to interview and select committee members although realistically it will be late October or early November before the selection is complete.

The appointment of the chairman and members must be ratified by the States and the proposition has a 4 week lodging period. It will therefore be late November or early December before the ratification by the States can take place.

In initial discussions with potential chairmen it is being made clear that they must be free to begin work on the inquiry in early 2014 and it therefore seems likely that the committee will begin its work by February 2014 at the latest.

4.19 DEPUTY T.M. PITMAN OF ST. HELIER OF MINISTER FOR SOCIAL SECURITY

REGARDING PROPOSALS REGARDING MEMBERS OF THE PUBLIC LEAVING EMPLOYMENT WITHOUT GOOD REASON:

Question

Will the Minister provide a full description of his reported proposals regarding instances of members of the public leaving employment 'without good reason' and clarify how such criteria has been decided upon; who will monitor this and how people will be able to challenge decisions if they feel this has been unfairly applied?

Answer

The proposals included in P.101 and its accompanying report were designed in the context of a high level of unemployment in the Island, and follow the decision of the States to significantly increase the funding available to help locally-qualified people find work. Given the ongoing economic situation, and the level of support my Department makes available to unemployed residents, it is not right for anybody to take the decision to leave employment without good cause and to then expect to be supported by tax-funded benefits.

The principle behind the proposed regulations is clear: that people in receipt of Income Support, or planning on claiming Income Support in the future, should be required to make decisions that are financially responsible. Income Support was designed as a 'safety net' for people who are living on a low income through no fault of their own, and I believe that the decision to leave paid employment to rely on benefits is one that few people would describe as financially responsible. We have always encouraged anybody considering giving up work to seek advice before making the decision to rely on Income Support, the proposed changes will create a financial penalty for the small minority that choose not to take that advice.

Those people who are able to demonstrate good cause for leaving employment will not face financial penalties. Officers will distinguish between people who leave work or are dismissed due to their own poor conduct and those who are made redundant, or who are forced to leave work through no fault of their own. There will always be sound reasons why a person could decide to leave paid employment, such as being physically unable to continue in a certain line of work, or being required to care for a young child or sick relative. In circumstances such as these, people will face no financial penalty and may benefit from dedicated support to pursue alternative employment.

If the proposition is adopted by the States, I will be approving detailed guidelines for officers to use when making these decisions. These guidelines are currently being drafted and will be discussed with the Jersey Advisory and Conciliation Service (JACS) before they are finalised. Throughout the development of the proposed regulations officers from my Department have also benefited from close contact with the UK's Department of Work and Pensions. The DWP has extensive experience in determining whether a person has good cause for leaving work under their own comparable benefit system.

As with all decisions made under the Income Support legislation, customers who are assessed as having left work without good cause may request that the decision is reconsidered by a second officer. If they are still dissatisfied with this second decision, they have the right of appeal to an independent tribunal.

4.20 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING FUNDING STREAM FOR ESPLANADE DEVELOPMENT:

Question

What is the planned funding stream for the Esplanade development and what support, if any, will the States of Jersey be providing?

How will the risk be carried and by whom?

Answer

The States of Jersey Development Company Limited (“SoJDC”) has advised the Minister that they have received outline funding approval for the first two office buildings from a local bank.

SoJDC operates within the mandate set down under P73/2010, its Articles of Association and a Memorandum of Understanding between it and the Company’s Shareholder representative, the Minister for Treasury and Resources. For example, the office developments will be demand led with construction only proceeding with pre-lets in place. This is in accordance with P73/2010 and the Memorandum of Understanding and a condition of the private construction finance.

As construction will not be commenced until pre-lets are in place, and at this time there will be no States guarantees to this funding, there is no risk to the States of Jersey.

4.21 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING NUMBER OF TEMPORARY CONSULTANTS:

Question

Would the Minister provide the following information in relation to a number of temporary consultants being employed on individual and block contracts to modernise, reform and update the health services -

- (a) how many temporary consultants are being employed;
- (b) how many are individually engaged and how many are working as part of a block contract to a single company;
- (c) what is their cost per contract;
- (d) what are the terms of employment and;
- (e) in what areas are they engaged?

Answer

Working to the States of Jersey definition of consultant, there are only 2 consultants deployed on individual contracts with external agencies to support modernisation and reform.

Specialist management support and consultancy in respect of reforming and modernising the Ambulance service, including ensuring an on-island succession plan for Chief Ambulance officer

- a) 1
- b) This is an individual contract with an external agency to provide a specialist Consultant on a temporary basis

- c) The Health and Social Services Department's contractual agreement with the agency in respect of the pay of the individual is at a total cost of £43,200 and provides for the Consultant's services for three days per week over a fixed period of 6 months.
- d) The Consultant is employed by the agency, not the Health and Social Services Department and, as such, Health and Social Services is not aware of the individual's terms of employment.
- e) Ambulance Department

The advice and support supplied by this consultant has facilitated the successful appointment of a local candidate to the post of Chief Ambulance Officer.

Pathology Modernisation Manager – consultant

- a) 1
- b) This is an individual contract with an external agency external agency to provide a specialist Consultant on a temporary basis
- c) The Health and Social Services Department's contractual agreement with the agency in respect of the pay of the individual is at a total cost of £98,700 and provides for the Consultant's services for a total of 141 days, over a fixed period of 9 months.
- d) The Consultant is employed by the agency not the Health and Social Services Department and, as such, Health and Social Services is not aware of the individual's terms of employment
- e) Pathology Department

The current agreed contract is subject to further extension which has been agreed with The States Employment Board.

4.22 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING DEFINITION OF AGGRESSIVE TAX AVOIDANCE:

Question

Given that in his response to my question of 15th July 2013, the Chief Minister pointed out the difficulties of defining what constituted 'aggressive' tax avoidance and suggested that that this might form part of the remit of Sound Business Committee, will he inform members whether he has asked the Committee to work on such a definition, and if so, when we can expect to see a working definition produced and if not, why not?

Will he further inform members of the constitution, membership and schedule of meetings of this body, and state whether and in what form its findings and actions will be reported to the States?

Answer

I can confirm that the Sound Business Practices Committee has been requested to consider what constitutes 'aggressive' tax avoidance as part of a proposed wider 'Code of Good Practice' for the industry. This will build on the good practice that many financial institutions are already adopting. When the Code has been finalised and agreed by the Committee it will be made publicly available. It is anticipated that this work will be completed by year end.

As previously advised on the 15th July, the Committee is made of up representatives from government, regulator and industry - specifically the Director of Financial Services, the Director General of JFSC and the Chief Executive of Jersey Finance. Its overall purpose is to identify

business practices in Jersey which may conflict with Jersey's aim to be an International Finance Centre which supports only legitimate business and recommend actions to address activities not in line with this aim. The Committee meets monthly or more often as required.

4.23 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING USE OF NET IMMIGRATION AND PROPOSALS FOR LONG TERM CARE:

Question

Will the Minister explain to members the reasons which underpin the choice of net immigration of 350 persons a year in the proposals for long term care?

Will he advise how the costs of the proposals are affected by annual immigration at 150, 250 and 500, prior to any debate on population control?

Answer

In September 2012 the Statistics Unit published a number of population projections based on the results of the 2011 census. (2012 Jersey Population Projections, States of Jersey Statistics Unit²). This included the scenario of net immigration of 350 persons per year. In advance of any other approved specific immigration target, this 350 assumption is being used as being consistent with the 2009 Strategic Plan. The detailed modelling undertaken in respect of long-term care costs has been built such that it can accommodate any alternative population scenario that may be chosen in future for strategic planning purposes.

The number of people aged over 65 in Jersey will increase under each of the population scenarios and in general terms, the number of people requiring care over the next 30 years is not strongly influenced by different population scenarios - the great majority of people who will require care before 2044 (when they are in their 70s, 80s and 90s) already live in Jersey. However the working age population is quite strongly dependent on the population scenario chosen.

- Increasing net immigration above 350 persons per year will increase the number of working age people and will **decrease** the LTC contribution rate required in 2044. For example, the LTC model suggests that net immigration of 700 persons per year would reduce the 2044 break-even LTC contribution rate from 2.7% to 2.5%.
- A net immigration level below 350 persons per year will lead to a decline in the number of working age people and this will **increase** the LTC contribution rate required in 2044. For example, the LTC model suggests that nil net immigration would increase the 2044 break-even LTC contribution rate from 2.7% to 3.0%.

4.24 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING PROGRESS ON JERSEY VERSION OF T.U.P.E. REGULATIONS:

Question

² <https://www.gov.je/Government/Pages/StatesReports.aspx?ReportID=857>

Will the Chief Minister inform members what progress, if any, he has made on a Jersey version of Transfer of Undertakings (Protection of Employment) Regulations (T.U.P.E.) and when he will bring such measures to the States?

Answer

I will refer the Deputy to my answers to him of the 5th March, 16th April and 30th April 2013 and his attendance at a States Employment Board (SEB) meeting in September 2012.

The working party led by the CEO, Ports of Jersey continues and positive progress was reported at its most recent meeting which took place on 29th August. When this work is completed it will be presented to the SEB and will form the basis of a Code of Practice for public sector bodies to follow. A draft Code of Practice will be made available by 1st December, 2013.

It is also the intent to refer the Code of Practice to the Employment Forum for their consideration and consultation to determine if it is an appropriate subject area to be considered as an Island-wide code of practice for all employers.

5 Oral Questions

The Bailiff:

So we then come to oral questions, and firstly a question which Deputy Trevor Pitman will ask of the Minister for Education, Sport and Culture. Deputy Pitman.

5.1 Deputy T.M. Pitman of St. Helier of the Minister for Education, Sport and Culture regarding an update of an incident involving the prank discharge of a starting pistol in a school gym:

Following the recent conviction of a teacher relating to an incident where a pupil suffered eye injuries resulting from an alleged prank discharge of a starting pistol in the school gym, will the Minister provide an update on the matter and advise whether the injured pupil's mother has been kept informed throughout?

Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):

Now that the legal proceedings have been completed by the police, an internal investigation is underway by the Education Department. The teacher is still suspended. This is now an operational matter that will be dealt with in accordance with H.R. (Human Resources) processes and procedures and my information is that the pupil's mother has been kept informed throughout.

5.1.1 Deputy T.M. Pitman:

A supplementary, Sir. I thank the Minister for that, and I would point out that I have always been a supporter of teachers. However, pupils, in my book, come first. I would just like to read from the message I received from the mother.

The Bailiff:

Are you asking a question, Deputy?

Deputy T.M. Pitman:

Yes, but I need to read this short comment out. It says: "Please help me. I am appalled to see on my son's timetable which he brought home today that he has got this teacher. My son is adamant that he will not attend, understandably so. How can this man be allowed to teach? I have contacted

E.S.C. (Education Sport and Culture) but no one will return my emails. Please help me.” Could the Minister explain how that fits in with what he has been told? I accept that he may have been not given the right information.

The Deputy of St. John:

First of all, dealing with the emails, as I understand it, the Director of Education has replied to both and all emails that he has received from the lady in question. It may be that at the point that the lady contacted the Deputy that that was not the case and I apologise if there are some short delays during the summer period where some people are on holiday, but my understanding is that certainly all who communicated have been responded to now. The first part of the question was to do with the fact that the teacher still appears on the curriculum and what the public need to understand is that these curricular are formulated some 4 to 6 months in advance, so that is the reason that the person’s name, the teacher’s name, is still on the curricular. I think I need to point out that the teacher is only suspended at this point and it would be wrong to pre-empt the results of an internal H.R. and procedural inquiry. I think that is really all I have to say on the matter. It is now very definitely an operational matter and obviously things may flow from the results of the internal inquiry.

The Bailiff:

Any further questions, Deputy Pitman?

Deputy T.M. Pitman:

Yes, please, Sir.

The Bailiff:

A final question.

5.1.2 Deputy T.M. Pitman:

Yes, absolutely. Probably the key thing here, we have seen obviously terrible incidents in America like Columbine, Sandy Hook now, and I do not want to relate that too much, but when you read - and it may be incorrect - that there was no actual policy for storing a starting pistol in a school, what assurances can the Minister give to parents that safety is taken seriously, as I know it is generally in schools, but the fact that this incident could happen, what assurances can the Minister now give that this cannot happen again?

The Deputy of St. John:

Firstly, there is in fact a policy in place regarding these kinds of starting pistols and that policy is in place for all schools. They are expected to adhere to national requirements for safe storage and handling of starting pistols, i.e. the guns have to be kept locked away in a secure location and only a limited number of designated staff have access to it. Whether or not the school adhered to this policy will obviously be part of the investigation. However, in response to the Deputy’s request as to what assurance I can give to the public, we are now in the process of withdrawing all such starting pistols from all schools in the Island and we have made the decision that it is not that important that schools have access to starting pistols for sporting purposes. There are other things that can be used to start races *et cetera* and we do not see the need for those starting pistols to be available in schools. So we are in the process of withdrawing them from all schools in the Island.

[10:00]

The Bailiff:

Very well. We come next to a question which Deputy Le Hérisier will ask of the Minister for Home Affairs.

5.2 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Home Affairs regarding the possible conflict of interest of the newly appointed Chairman of the Police Authority:

Given the appointee's chairmanship of Jersey Finance, would the Minister advise whether the issue of any conflict of interest in his appointment as the Chairman of the Police Authority was considered by the Appointments Commission and if so, why was it decided that the appointment should proceed?

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

The interview board included 2 members of the Appointment Commission. The issue of any possible conflict of interest that may have an impact upon the application for the role of Chairman for the Police Authority was raised in a direct question during the interview of each candidate. Neither the appointed Chairman nor any of the members of the interview board saw that there was an issue of conflict of interest and the interview board recommended his appointment to me. I also considered this issue before making the appointment and I do not see that there is any conflict of interest by reason of any other roles of the Chairman of the Police Authority.

5.2.1 Deputy R.G. Le Hérissier:

Thank you for that, I am afraid, disappointing answer. Could the Minister define what he means by conflict of interest, what test he applies, and secondly, would he not acknowledge, given the oft-expressed wish of Jersey Finance that Jersey's finance industry be seen as absolutely clean and that there be maximum co-operation with the judicial and police authorities in upholding that reputation, it is very odd that the Head of Jersey Finance should head up the very body who are allegedly to be peerless in their investigation of that industry?

Senator B.I. Le Marquand:

I am afraid, Sir, that Deputy Le Hérissier demonstrates that he does not understand the role of the Police Authority, so I will try to explain that as quickly as I can.

The Bailiff:

Concisely.

Senator B.I. Le Marquand:

As concisely as I can. The Police Authority does not set the Annual Business Plan. It does not set policies. Those are all the role of the Minister. The role of the Police Authority is simply to ensure that the Police Chief and officers are doing the things which have been set down in terms of policy by the Minister. So it is very difficult for me to see how the Chairman of the Police Authority at that level of not setting policy could have a conflict of interest. Furthermore, at individual case level, the Police Authority is not going to get involved in individual cases in general because of the principle of the independence of the police in terms of investigation of matters. So they are not going to be intervening or interfering in individual investigations in that kind of way. So I cannot see how because of the nature of the role - which is not a policy-setting role, but an implementation of policy already set - how there could be a difficulty.

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

In those policies is, one has to presume, that financial crime, aggressive avoidance and evasion are all issues on which the Police Authority will be deciding if the Chief of Police has fulfilled his remit, is it not? Given that the appointee just spent the past few years promoting Jersey Finance through Jersey Finance, could it not be seen as what is known in small jurisdictions as regulator capture in this particular case?

Senator B.I. Le Marquand:

The sole interest of the police is in relation to financial crime, not in relation to avoidance or evasion, except insofar as those constitute financial crime. As I said, setting of policy in relation to matters and prioritisation rests firmly with the Minister. It is simply the role of the authority to ensure that the Police Chief is doing that which the Minister has decided in terms of policy without interfering in individual cases.

5.2.3 Deputy M. Tadier of St. Brelade:

The question that needs to be asked when looking at the test for a conflict of interest based on what the Minister has just told us is that on the one hand, you have the Police Authority Chairman, who is looking at how the Minister sets policy, and on the other hand, the question needs to be asked: “Does he have an interest in his other role in how that policy would affect financial services, indeed, Jersey Finance?” The question I think has to be yes, and if that is the case, how can the Minister say with a straight face that this does not imply a conflict of interest?

Senator B.I. Le Marquand:

The regulatory body in relation to financial matters is the Jersey Financial Services Commission, not the States of Jersey Police, and so for the reasons I have already said, I simply cannot see any conflict whatsoever.

5.2.4 Deputy M. Tadier:

A supplementary: going beyond conflict, was any consideration given to the reputational damage of Jersey which is now from critics and also from impartial observers in the international community going to look at this as an example of regulator capture and think of Jersey as nothing but a tinpot *soi-disant* potato or banana republic on the basis that it cannot even find somebody who is perceived to be independent, and that it is just a brazen attempt from an out of touch and captured Government which cannot even see that when it is dangled in front of their faces?

Senator B.I. Le Marquand:

I repeat, the regulatory body is the Jersey Financial Services Commission, not the States of Jersey Police. The fact that there may be all sorts of tittle-tattle on the internet and elsewhere by critics of Jersey, some of which is completely irrational, some of which have some partial basis, is neither here nor there. The objective test in relation to this is that there is no conflict of interest.

The Bailiff:

A final question, Deputy Le Hérisier.

Deputy T.M. Pitman:

I did have my light on, Sir. I do not know if you saw me or not.

The Bailiff:

I do beg your pardon, Deputy, and I had you down. I am so sorry. Deputy Pitman, yes.

5.2.5 Deputy T.M. Pitman:

I could not put it as eloquently as Deputy Tadier, but my concerns are pretty much the same. Has the Minister not considered how this does to look to outside, because we have heard this concern raised in the past where we keep selecting from an ever-shrinking group of people. Conflict is not just about real conflict, it is also about perception and does he not consider that that is a matter worthy of true analysis, then perhaps the decision would have been different. That is not an attack on this gentleman, because I do not know him.

Senator B.I. Le Marquand:

What the difficulty is if people misunderstand the nature of the role of the Police Authority, they may come to wrong conclusions. Once they understand that the true nature of its role - and the Chairman is only one person on that, we have elected today 2 States Members, and will shortly hopefully be choosing 4 other members - then they will see that on any objective test that there is no issue.

The Bailiff:

A final question from Deputy Le Hérissier.

5.2.6 Deputy R.G. Le Hérissier:

I wonder if the Minister could talk about a situation where he will be, for example, setting the policy re the investigation of financial crime. Is he seriously telling us this House that the Police Authority will simply passively receive this policy and just assess whether or not it is being implemented even if, for example, he were to say ... quite contrary to the views of the Financial Services Commission, the Chief Minister and all the people who were saying Jersey Finance has impeccable integrity in the way it deals with malfeasance in the industry, is he seriously saying he might well order the police to be soft on financial crime and the Police Authority has to accept that, because they are just implementation observers?

Senator B.I. Le Marquand:

I think that would be gross incompetence on the part of the Minister, if I may say so, so it is not a terribly good example and that is not going to happen while I am Minister.

5.3 Deputy J.A. Hilton of St. Helier of the Minister for Planning and Environment regarding discussions with the Channel Islands Co-operative Society regarding the planning application for Pitt Street/Dumaresq Street:

Has the Minister or any member of his Planning Applications Panel met or spoken with the management team of the Channel Islands Co-operative Society to discuss their planning application for Pitt Street/Dumaresq Street without planning officers being present?

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

In order to answer this question, I have asked my Planning Applications Panel members to give me a written assurance as to whether they have or have not and the written assurances are as follows: Deputy Power: "No." Constable Le Sueur Gallichan did not send in a written reply, but he has spoken to me verbally this morning and he has assured me no. Constable Gallichan: "No. I was also not part of the panel that considered the application." Deputy Maçon: "No, I have not." Deputy Baudains: "I have not." Deputy Le Hérissier: "No, but I was invited and I declined." Deputy Bryans: "No." So it just leaves the Minister, and the Minister has spoken with the Chief Executive Officer of the Channel Islands Co-op and discussed a previous planning application in certain regards and that is it.

5.3.1 Deputy J.A. Hilton:

Can the Minister tell Members whether any member of the Planning Department, the planning officers, were present at that meeting?

Deputy R.C. Duhamel:

At the meeting that did take place, it was an invited meeting by the Chief Executive Officer to discuss the outcome of the Ministerial hearing in a particular regard, and that regard being the

particular chronology of the whole sorry state of affairs that has gone on for at least 18 years, and to put the Minister in a position where he understood better the financial implications of a previous application. As I say, at that meeting no officer was present because no officer was invited.

5.3.2 Deputy J.A. Hilton:

Will the Minister agree with me that under the code of conduct that he has broken the code of conduct, that at all times the Minister for Planning or members of his panel should be accompanied by a planning officer when discussing planning applications with applicants?

Deputy R.C. Duhamel:

No, the Minister does not agree with that at all. The Minister for Planning and Environment has signed up to a code of conduct for consideration and determination of planning applications and pre-application advice. Under that particular code of practice, under point 3, it does suggest: "3.1 If there is a direct or indirect financial interest or prejudicial interest or where the Minister has been lobbied or has been subject to personal approaches for personal interests he or she would not be comfortable in disclosing, the Minister should regard him or herself as conflicted on receipt of an application and should not determine the application to ensure public misconceptions of undue influence do not arise." The Deputy and Members of House will be aware that this Minister has not determined the application. The application has been determined or not determined, as the case may be, by the Planning Applications Panel, which is what the protocol asks me to do.

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

Would the Minister tell the Assembly when that meeting took place, whether there was a note kept of it and whether or not the subject of alternative developments was discussed?

Deputy R.C. Duhamel:

I did not keep a note. Perhaps the question should be asked of the Co-op, of the Chief Executive Officer, and it is my recollection that no alternatives were discussed.

5.3.4 Deputy J.A. Hilton:

On reflection, would the Minister not agree that it is inadvisable for either himself or any member of his Planning Applications Panel to meet any applicants prior to an application being submitted or considered?

Deputy R.C. Duhamel:

I think as a general point this Minister would, but I would also state that this application has been going on for some 18 years. It has been discussed by many Members in the House, Ministers, ex-Ministers and Members to boot, and indeed it has gone on for far too long, so that does expose many Members to offhand discussions or comment or whatever over this particular application. But I say in general the Deputy is absolutely right, and that is why the planning inspector, working with myself when I was an Assistant Minister, worked up the code of practice. That is why this Minister has signed up to the code of practice and that is why the Minister has followed the code of practice in this regard.

5.4 Deputy M. Tadier of the Minister for Treasury and Resources regarding Tax Information Exchange Agreement requests from the French tax authorities:

How many Tax Information Exchange Agreement requests, if any, have been received from French tax authorities since the agreement was set up and how many have we been able to comply with fully?

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

Under the confidentiality article of the Tax Information Exchange Agreement between Jersey and France, Article 8 states that: “All information provided and received by the competent authorities of the parties shall be kept confidential.” Details of the total number of requests received from France and answered by Jersey therefore cannot be disclosed by Jersey without the express permission of the French competent authority. The Deputy’s question has been passed on to the French competent authority and confirmation has been received that the request has been referred to the Bureau CF3.

[10:15]

Permission to disclose total numbers is therefore still awaited. What I can say is that France has published the number of requests made of Jersey and the numbers of replies received in Jersey in 2011 in an official report, and that official report states that the number of requests made by France in that year were 16 and the numbers of replies received by France were 16.

5.4.1 Deputy M. Tadier:

The Minister must have a different interpretation. From what he read out, it sounds quite clearly that the intention is the information contained within the requests, i.e. that which one would expect to be confidential relating to clients’ financial affairs in Jersey, should of course be kept between the 2 authorities. But I think the reading to any objective bystander - and I am sure even the Attorney General, were he to be present - it would be that the number of requests is by no means confidential and should be something that we should be given immediately upon request. Can the Minister clarify that, and also clarify why it has taken 2 weeks to get to this point and we have not progressed, given the critical nature in relation to Jersey’s placement on this blacklist and getting answers relating to that?

Senator P.F.C. Ozouf:

A number of questions there, so I will pull up the article, but I am advised by my officials that it is the number of requests that is required to get permission from the French authorities to disclose. That is the advice that I have, and in any event, it would be appropriate to at least confirm that that is the French understanding of the nature of the article before I would disclose anything in public, so I await the answer from the French competent authority to the question of the total number. I am more than happy to disclose that number, but that would be wise to do so with the permission of the French Republic representatives. In relation to the Deputy’s questions - and he has made a number of remarks, as other people have, on this matter - a great deal of work has been done since this proposed listing of Jersey on a non-co-operative listing has been made. The actual non-co-operative listing starts on 1st January, and indeed I am grateful for the Chief Minister’s Department and the Assistant Minister with responsibility for External Relations’ work in relation and my own officials that have been working very hard to ensure that we are not included in a list of non-co-operative jurisdictions by the French Republic as of 1st January next year.

5.4.2 Deputy S. Power of St. Brelade:

How confident does the Minister think he is with regard to the blacklisting being resolved in the calendar year of 2014 and has the Minister investigated the way the Tax Information Exchange Agreements are made and is he satisfied with that?

Senator P.F.C. Ozouf:

Indeed, yes, there are some T.I.E.A.s (Tax Information Exchange Agreements) where the competent authority is the Comptroller of Income Tax, there are others which it is the Minister. While I do not want to see any case names, I do not want to see any details of any of these, I

certainly discussed with the Treasurer of the States, with the extremely high-performing individual, the Deputy Comptroller of Income Tax, who handles these matters and I am confident in the manner in which Jersey has been - certainly my own department - handling these requests. Clearly there is an issue to resolve with the competent authority in France and I would say to the Deputy that all endeavours, the Chief Minister's Department, my own department, will be directed towards ensuring that we comply and the French believe that we also comply with the spirit and the understanding of this agreement. It is important that clearly there may be a misunderstanding, there is some sort of problem somewhere, but certainly from my own investigation of the way my department is handling it with them, I find them to be co-operative, helpful and indeed I have also noted the complimentary comments that we have received from many other jurisdictions about the speedy, timely and efficient handling of requests from a number of countries around the world. Clearly there is a problem and we want to resolve it as quickly as possible to our mutual satisfaction.

5.4.3 Deputy G.P. Southern:

Is it the case that tardiness in response to individual cases is the root of this blacklisting or is it rather tardiness in response to automatic exchange of information, progress on that front? For example, compared to the Isle of Man and Guernsey, we have still not signed up to the European Savings Tax Directive.

Senator P.F.C. Ozouf:

I do not know how quickly the Deputy is aware of announcements made by the Chief Minister's Department and Ministers, but we have confirmed a number of matters in recent months, first of all as far as automatic exchange of information. The Chief Minister has said that we will be part of the G5 initiative and we will be working with France. Indeed, France is a Vice-Chair of the overseeing group with the O.E.C.D. (Organisation for Economic Co-operation) that looks at Tax Information Exchange and other arrangements, so indeed we should be and are regarded as a leader in terms of the G5 initiative. I am afraid the Deputy, I know that he probably gets his information from other places, but I am afraid it is just simply not right to say that Jersey is in any way tardy or unco-operative. My own findings of my investigation of my department is that we are anything but. Indeed, the department is speedy, timely, appropriate and extremely helpful to most jurisdictions around the world. There is, as I repeat, an issue with France which we must deal with, but we must deal with it co-operatively and properly and best endeavours are made, and indeed, the Assistant to the Chief Minister I think has secured a meeting with both the Ambassador in London and indeed Paris in forthcoming weeks.

5.4.4 Deputy G.P. Southern:

A supplementary, if I may. Is it not the case a contributory factor is that the Isle of Man and Guernsey have fully signed up to the E.U. (European Union) E.S.T.D. (European Savings Tax Directive) and we are still applying withholding tax?

Senator P.F.C. Ozouf:

This is a completely unrelated issue. This matter is in relation to the specific operation apparently of the T.I.E.A., although unfortunately we do not know any information yet from the French authorities about exactly what their own subdivisions within their tax authority or other departments have to deal with. Indeed, it must be said that some countries are more efficient in their handling of arrangements than others, and indeed, where there is an opportunity to improve the information flow between the competent authority in Jersey and the tax authority in another country, we must do so. I am certainly satisfied from our own handling of the efficiency of the handling of requests. If we can improve arrangements in France, then we will do so. But that requires of course a dialogue on both sides.

5.4.5 Connétable of St. John:

Would the Minister agree that Members of this House going off-Island making statements to foreign newspapers and journalists running down the way Jersey runs its finance industry is not helpful and Members should consider the damage done to our Island is not in our best interests?

Senator P.F.C. Ozouf:

Yes.

5.4.6 Deputy J.M. Maçon of St. Saviour:

Can the Minister explain why when in previous written questions the Treasury has been able to give the number of how many T.I.E.A. requests have been given into the department and that information has been published, or can the Minister explain why France is singled-out to be different and explain why that is? Can you confirm that the process he is alluding now has to happen with France in order to get that information did not need to happen in all of these other countries when the information was requested, and explain why we are in that situation?

Senator P.F.C. Ozouf:

Individual T.I.E.A.s do have different arrangements in place. I recall that United States Tax Information Exchange Agreements have the same provisions, that the United States does not allow another jurisdiction to disclose the amount of requests that it makes unless it agrees, so I am in exactly the same position in answering questions. But we have passed the Deputy's request to France and I hope ... I certainly am aware of the number of requests. I have clearly indicated to the Assembly that while I have not seen the individual information, I am satisfied with the modalities and the arrangements that we are handling and that we want to resolve clearly a misunderstanding or some issue that needs to be dealt with France. But I repeat again, I am more than happy to release that information if France allows us to do so and I am content with the modalities of the arrangements that we have. Indeed, I have been impressed with the way the Deputy Comptroller's office handles these matters.

The Bailiff:

A final question, Deputy Tadier?

5.4.7 Deputy M. Tadier:

I will not deal with the comments of the Constable of St. John. I did feel that dinosaurs had died off during the Cretaceous period, but I will simply let history deal with who is correct when it comes between the differences of myself and the Constable of St. John. Could the Minister for Treasury confirm that we can expect to see between more than 5 but no less than 10, as one local source who had been speaking to finance and Ministerial officials to do with the number of T.I.E.A.s which the French were querying at the moment, and if that is the case, can he explain why that number might be bandied around to journalists, but the information is not being made available to Members when they are putting questions forward in an official capacity?

Senator P.F.C. Ozouf:

In relation to the first answer, I do not think it is helpful that inaccurate and unfair judgments are passed on the standards of our financial services industry by Members of this Assembly to French press, and so I do not think is an attribute that could be ...

Deputy M. Tadier:

A point of order: I did not ask that, and if that is the case, why does the Minister keep on giving false impressions to the international community when quite clearly I have been vindicated by

Jersey's presence on the blacklist, because clearly France do consider us a tax haven. Clearly money is kept here by French individuals, Sir.

The Bailiff:

This is question time, not submission time.

Deputy M. Tadier:

If the Minister will pick a fight, then he can expect a response. Money must be kept in Jersey by French companies ...

The Bailiff:

Deputy, sorry, this is question time.

Deputy M. Tadier:

... otherwise we would not have requests for that information.

The Bailiff:

If you could carry on with your answer, please.

Senator P.F.C. Ozouf:

I think the Deputy displays to the Assembly again his profound lack of understanding, lack of knowledge of the standards that apply to the financial services industry and I think it is a matter of regret when a Member of this Assembly does continue to repeat ...

The Bailiff:

Can you move on to answer his question?

Senator P.F.C. Ozouf:

I am answering the question, Sir, indeed that he said that the Connétable of St. John was a dinosaur, which I think was unfair. I cannot and will not speculate on the number of requests. I am confident that as far as my own department and officials are concerned, there has been no speculation of numbers and it would be entirely inappropriate to do so. What I will do, with the assistance of the Assistant to the Chief Minister, who I again thank for his assistance in helping resolve this matter, I will inform Members as appropriate of the permissions that we receive from France, both in terms of the outstanding requests and the resolution of that, and I express the hope that we will be able to resolve this issue to both parties' satisfaction in the earliest possible course.

The Bailiff:

Very well. We come next to a question which Deputy Southern will ask of the Minister for Social Security.

5.5 Deputy G.P. Southern of the Minister for Social Security regarding the number of Household Medical Accounts in the Income Support System:

Will the Minister state how many H.M.A.s (Household Medical Accounts) currently exist in the Income Support system and inform Members what progress, if any, he has made in conjunction with the Minister for Health and Social Services towards drafting policies to ensure access to primary healthcare provision for those on low incomes or those with chronic healthcare needs, and if none, why not?

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

At the end of 2012, a total of 1,099 Income Support claims were making use of a Household Medical Account. Members will recall that the Household Medical Account is not a benefit, but an administrative device to help low-income households spread the cost of G.P. (general practitioner) visits. The Income Support scheme includes a contribution towards G.P. costs for all adults and children: 35 per cent of all Income Support households also receive one or more additional medical components. These are personal care components, mobility components and clinical cost components, each of which provides targeted financial support to individuals with chronic healthcare needs. Special payments are also available to help with one-off primary care costs. Additional support with dental, optical and chiropody cost is available for those aged over 65 through the 65 Plus health scheme. Finally, prescription medicines are still provided free of charge. As most recently explained in a written question answered on 18th June this year: "Following the approval of P.82 of 2012, I am working with the Minister for Health and Social Services on an independent review of primary care, which will lead to the publication of a primary care strategy by September 2014. A key part of this strategy is reviewing access to primary healthcare for all Islanders, particularly those who are vulnerable and/or have low incomes. The 2 departments are progressing this review with primary care professionals."

5.5.1 Deputy G.P. Southern:

A supplementary, if I may. Could the Minister indicate how that number of 1,099 compares with previous years? Is it in fact a reduction and is he reducing the number of H.M.A.s that people can use to get sufficient help to deal with their primary healthcare?

Senator F. du H. Le Gresley:

Yes, it is a reduction. The figure for end of December 2011 was 1,429. It should be pointed out that most of the H.M.A.s that were set up when Income Support started were previously people on Health Insurance Exemption and they were automatically offered a Household Medical Account. Quite a considerable number of these people were elderly and have either died or are now in residential care, where there is a separate H.M.A. scheme.

[10:30]

Currently, there are 514 people in residential care who have an H.M.A. and those people who have not been using their Household Medical Account and have accrued a large balance were invited to close the account and the money was recredited or given to them. Some people requested that they retain their H.M.A. and this has been agreed.

5.5.2 Deputy R.G. Le Hérissier:

Would the Minister not acknowledge that the issue is with the H.M.A. group, but in fact it is also with middle Jersey, and that the whole way in which G.P. services are delivered, the financial basis upon which they are delivered is increasingly proving to be a highly defective system and sticking plasters are not going to work for much longer? Is he pressing the Minister for Health and Social Services to come up with more radical alternatives before the whole of the Island ends up getting its care in the Accident and Emergency Department?

Senator F. du H. Le Gresley:

I think Deputy Le Hérissier has had a good time in Johannesburg, judging by his performance this morning. The middle Jersey obviously would not qualify for income support so the Deputy is correct in that respect. We have to understand and I think this is perhaps misunderstood by some people, that all G.P. practices are private concerns. The States of Jersey merely refunds, through medical benefits, part of the cost of a consultation. It is a refund. If the person receiving the care visit does not claim that refund and sign the form we do not give the money. That is the system we have. We do need to do a lot more work. This is what the primary healthcare review is there to do.

We will be involving the professions from Jersey, the primary care body and we will make progress in the next 12 months.

5.5.3 Deputy R.G. Le Hérissier:

The Minister may have evaded the question. I wonder, could the Minister say whether he thinks a more radical solution is required than the sticking plaster solution and the fact that more and more people are deterred from visiting G.P.s?

Senator F. du H. Le Gresley:

The Deputy may well be right. A radical solution may be required but at the moment I have not got all the evidence so I cannot make those sorts of conclusions.

5.5.4 Deputy J.A. Martin of St. Helier:

The Minister has just stated that there is work ongoing and hopefully work ongoing with G.P.s but this has not been finalised and I think he said nowhere near finalised. Could the Minister state whether new applicants to Income Support now are offered an H.M.A., in fact, even told about an H.M.A. and if require an H.M.A., are dissuaded from having one? Basically, is the Minister trying to phase out H.M.A.s before he has got a complete other fix without speaking to all the G.P.s?

Senator F. du H. Le Gresley:

I think there were about 5 questions in there and I hope I get most of them. I think the Deputy was asking whether new applicants can apply for an H.M.A.? They can apply but obviously this would be in a situation where they have already a health condition which requires frequent visits to the G.P. and would have already been awarded clinical components. We do open new H.M.A.s but it is purely a device to save money. It is not new money. It is the components that are put aside to help with the cost of G.P. visits. I must apologise to the Deputy. She did ask a lot of other questions and I am not sure I can remember them all now I am standing up. Sorry.

5.5.5 Deputy J.A. Martin:

The supplementary to that, I do understand it is not new money. I understand it is taking out all the components added together for the person basically because of either sickness or they are unable to manage financially. This is the problem where some States Members think, and I do not know if the Minister will agree, does he think: "Well, we have given you the money. Stick it in a pot every week and when you need to go to the doctors, raid the pot", because it does not work like that in real life. Would the Minister not agree?

Senator F. du H. Le Gresley:

I think the Deputy misunderstands how an H.M.A. works. An H.M.A. works in that the G.P. bills the department for the visit. The person who goes to the G.P. does not receive a bill, does not pay any money. The G.P. bills the department direct and we take the money from the H.M.A. In some cases H.M.A.s get what we would call overdrawn and we therefore use special payments eventually to reduce that to nil.

5.5.6 Deputy M. Tadier:

During his time in office, has the Minister had a chance to look at the merits of making all G.P. visits free at the point of access and the costs and funding mechanisms available in order to deliver this?

Senator F. du H. Le Gresley:

The answer is no but, again, I reiterate we are dealing with private businesses here. To make all visits free would be a very big cost to the Health Insurance Fund and we would have to be very cautious about going down that route.

The Bailiff:

Would you like a supplementary Deputy Tadier?

5.5.7 Deputy M. Tadier:

The supplementary was simply to ask the Minister whether he would give that consideration, whether he would investigate mechanisms given that there are vast swathes of people in Jersey not going to the doctor when they should be and we are suffering as a society the costs of that, both personally and economically. Will the Minister look at funding mechanisms perhaps in conjunction with other Members so that we can look to the merits of that scheme?

Senator F. du H. Le Gresley:

Quite simply, that is what the primary healthcare review is doing.

5.5.8 Deputy G.P. Southern:

The Minister appears to be at risk of misleading the House. He has repeated several times that an H.M.A. is not new money; it is just a redistribution of money. It is not new money for the first 4 visits. That is what it is catered for but for more visits than that, for extreme need, it is new money and it is extra money going to help people pay for their primary health care needs. Does he not accept that there is increasing evidence that certainly those on low incomes, those on income support are finding it extremely difficult to meet their G.P. bills and that they are not going to the G.P., they are avoiding going to the G.P. when really they should be? There is evidence of that in the social survey 2011, 2012...

The Bailiff:

A concise question, if you would, Deputy.

Deputy G.P. Southern:

Does the Minister accept that something needs to be done before September 2014 to cater for this increasing need?

Senator F. du H. Le Gresley:

I can only repeat that the primary health care review was approved by this House on the basis of a Scrutiny Panel request that we would deal with the financial aspects of that and the full review to be completed by September. That is the process that is taking place. It would be irrational to start bringing in new schemes or making changes to the current system without that full review taking place.

5.5.9 Deputy G.P. Southern:

Just to clarify, "misleading the House", I do not want to accuse the Minister of doing that deliberately. Does he accept that there is new money in the system beyond 4 visits per year?

Senator F. du H. Le Gresley:

I do not quite understand why Deputy Southern is saying I am misleading the House. I have made it absolutely clear in my first answer that there are components which are awarded to somebody with a healthcare problem, something like 35 per cent of all claimants and those components, in particular the clinical cost components which are specifically for G.P. visits, are awarded and are

credited with the agreement of the claimant to the household medical account. I really do not think that is misleading the House. I think Deputy Southern is twisting my words.

5.6 Connétable A.S. Crowcroft of St. Helier of the Chairman of the Privileges and Procedures Committee regarding a review of the Carswell Report recommendations:

Would the Chairman advise whether the Privileges and Procedures Committee is intending to continue its investigation into whether certain recommendations of the Carswell *Report* should be implemented, and if not, why not?

Deputy J.M. Maçon (Chairman, Privileges and Procedures Committee):

In a short word, yes, although to be helpful, I will explain. My committee met for the first time on 22 July and we concluded that other matters on our agenda should be given priority in the short to medium term. Members will recall that P.P.C. (Privileges and Procedures Committee) has been charged with seeking alternatives for reform for the Assembly. In addition to this, P.P.C. had 3 sub-committees working on standing orders and internal procedures, public elections legislation and the machinery of government reform. These 3 subsequent constitutional reform propositions and the other reform propositions - all matters on P.P.C.'s agendas - have necessitated a degree of prioritisation. The committee's initial decision was to revisit the Carswell *Report* towards the end of its term and to consider making recommendations to P.P.C.'s successor committee in the latter part of 2014. If the committee's work programme allows this could potentially be moved forward but that is where we find ourselves at the moment. Thank you.

5.6.1 The Connétable of St. Helier:

That sounds not like a "yes" but a "no" to me. Given that 2 out of the 3 members of P.P.C. that were on the previous working group are on the new committee and given the excellent amount of work done by the Greffe in supporting the working group, what prevents P.P.C. now from casting its net wider to see whether there are Members of the States who want to help P.P.C. bring this piece of work to conclusion by the end of their term?

Deputy J.M. Maçon:

I met in discussion with my committee. We did decide how we wish to proceed. We have not thrown all the good work that has already occurred by that committee into the bin. It is still there. The thing is we obviously were quite conscious of the time pressures and scales that P.P.C. had to work under in order to deliver these other things. However, if the suggestion is that we should set up yet another sub-committee in order to tackle this work, it's something I can go back to my committee and ask them to consider, although I do not necessarily think that is the way we would proceed. But I can take it back to committee if that is how the Members would like us to proceed.

The Connétable of St. Helier:

I am grateful to the Chairman.

5.6.2 Deputy T.M. Pitman:

The question has to be asked, why did the previous P.P.C. Chairman not finish the job? But we will not go there. Could I ask the Chairman more directly? Previous P.P.C.s have consistently budged, wrung their hands, shuffled their feet and done nothing. We have seen Clothier come and go. We have seen Carswell come and go. Will this Chairman say that he and his new committee will be brave enough to finally bring proposals to the States to put an end to the neo-futilism of having a non-elected judge tell elected representatives what they can or cannot say or ask?

Deputy J.M. Maçon:

Thank you. While I am sure each Member will have their own individual opinions about the dual role of the Bailiff, all I can say is if the States Assembly wish to pursue this there is a lot of ground work to look at the detail about how the role should be apportioned, what the mechanisms should be there and that is a huge amount of work which is still required in order to be delivered. Therefore I am unable to inform the Deputy that this P.P.C. would be able to bring forward a proposition to change the way that we are currently constituted in regards to that matter. However, the intent of the committee was to try and get as much of the background work done and sorted so that any other P.P.C.s would be able to carry on with that work should that be deemed the way forward.

5.6.3 Deputy T.M. Pitman:

A leading advocate has pointed out their own situation is far worse than Sark yet they have obviously made some headway. Can I at least ask, does the Chairman appreciate the urgency that something is finally done with these reports coming and going and Assemblies coming and going, that something is brought forward?

Deputy J.M. Maçon:

I can only repeat what I have said. In order to provide an alternative to the current situation a huge body of research needs to be done, that any proposals need to be reviewed with other States Members and I cannot give the Assembly an assurance that we will be able to bring anything before this Assembly, before the next elections, because of the level of work that does need to be done in this regard, and to make the point that even if we were to bring it forward there is no guarantee that this Assembly would even accept it.

5.6.4 Deputy R.G. Le Hérissier:

Would the Chairman not accept that other jurisdictions have dealt with this issue in short order and that we are making heavy weather? He does have a full report in his hands and as he so perceptibly said on Sunday, the issue sadly is not the correctness of the proposal; it is often the politics of the proposal. Is it not his desire to put this before the Assembly so that at least he can say: "If you seek his monument, it is here"? We are making far too heavy weather of this. Would he not agree?

Deputy J.M. Maçon:

Where to start? I think that regardless of the merits of the case, I am dedicated to thinking that proper mechanisms and proper structures should be put in place.

[10:45]

That requires a great deal of work. I do not think it is quite as easy to suggest that it would be done in such quicker order as perhaps the Deputy is suggesting. Nevertheless my committee is intending to do more research and have a better background in order to provide something for Members. That work needs to be able to be carried out and to be done.

5.6.5 The Connétable of St. Helier:

I would just like to reiterate my offer to the Chairman that there are Members of the States willing to serve on a working group as indeed, P.P.C.'s current working groups involve Members of the States which are not on P.P.C. There are clearly Members, judging by question time, who would like to be involved in this important work and I look forward to hearing what his committee makes of his new offer.

5.7 Deputy G.C.L. Baudains of St. Clement of the Minister for Transport and Technical Services regarding works undertaken at Snow Hill car park:

With regard to the closing off of a section of Snow Hill car park, would the Minister advise whether, despite the area being fenced off for the whole of July, only approximately 2 days' work was undertaken in that time. If so, given the expense of plant machinery, such as a crane, spent considerable idle time on site, would the Minister confirm the tender was competitively priced?

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

A section of Snow Hill car park has been closed off as part of the St. Helier flood alleviation scheme currently being undertaken on the old Ann Court housing site. Once completed, this scheme will see a significant improvement in the prevention of surface water flooding at times of high rainfall in the area of St. Helier. The scheme requires extensions to the existing deep drainage tunnels which run below St. Helier and enter the cavern at Snow Hill. In order to complete the new tunnels a T.B.M. (Tunnel Boring Machine) will commence tunnelling at Ann Court and will break through and connect in the existing tunnels below Phillips Street. The tunnel boring machine will then traverse along the existing tunnels and will exit at Snow Hill. Records show that the Snow Hill compound was utilised for work activities for 9 days during May. For the remainder of May, plans were being formalised for the safe entrance to shaft 2 and tunnel network. This was achieved at the end of July following a slight delay due to heavy rainfall. The compound is now being fully utilised on a daily basis. The overall project was competitively tendered and awarded to J. Murphy and Sons Limited, a specialist tunnel contractor in June 2012. The contract was awarded on a lump sum fixed basis and accordingly any inactivity in any elements of the project is the responsibility of the contractor. Thank you.

5.7.1 Deputy G.C.L. Baudains:

An interesting waffling introduction that did not answer the question. Would the Minister not agree that excessive contingency and slack was obviously built into the tender to allow for expensive plant to be lying idle for so long? Also would the Minister advise what processes his officers used to employ that the tender that they accepted was not unreasonably padded out?

Deputy K.C. Lewis:

As stated, there was a lot of preliminary work going on. The shaft is 100 feet deep so it has to be secure. Any plant lying around, as the Deputy has put it, is the responsibility of the tenderer. There is also a lot of ventilation of the shaft needed operationally before anyone can go down there. It was competitively tendered.

5.7.2 Deputy R.G. Le Hérisier:

Thank you. Is the apparent and alleged inactivity at Snow Hill linked to the considerable time it is taking for the Ann Court end of the project to be completed? The Minister has alluded to problems that almost match those found in the construction of the Euro tunnel. I wonder if he could elaborate on what is happening at Ann Court?

The Bailiff:

No, he could not. That is well outside the question.

Deputy R.G. Le Hérisier:

Its impact upon Snow Hill.

The Bailiff:

It is still too far removed, Deputy.

5.7.3 Connétable P.J. Rondel of St. John:

Will the Minister agree that the way that the contract is being run is as per the contract? Also that with the weather conditions we had at the end of June, early July, it is inevitable there would be delays because of the water table and everything else, and the run-off into the old system?

Deputy K.C. Lewis:

Absolutely. The contract is running slightly behind but the contractor is confident that this time can be made up. I would reiterate, even though there is not a lot happening on the surface, there is a lot happening below in the tunnels. Men are working down there at a rate of knots.

5.7.4 Deputy G.C.L. Baudains:

The Minister keeps giving us a detailed description of the job, which I am not interested in because I am fully aware that what I am asking about is efficiency. If a tenderer can allow this amount of contingency in a job it does seem to me that we should not have accepted the tender in the first place. If I was running that job I would not have a crane sitting there for a month. I would send it away. Would the Minister agree that this tender is obviously padded out?

Deputy K.C. Lewis:

Not at all. Initially the crane is there. The shaft itself is 100 feet deep. For any activity below, the men have to be hoisted down in a special cradle and any equipment has to be lowered likewise so the crane is on standby.

Deputy G.C.L. Baudains:

The crane sat there without doing anything for almost a month. That is not efficient.

The Bailiff:

Is that a question, Deputy?

Deputy G.C.L. Baudains:

Yes, Sir. The Minister seems to be ...

The Bailiff:

Pose a question as opposed to make a statement.

Deputy G.C.L. Baudains:

Yes. The Minister is telling us again, the details of the job. He is not explaining why this inefficiency is allowed; if this inefficiency can be tolerated then clearly the tender was padded out.

The Bailiff:

I am sorry, that is another statement.

5.8 Deputy J.H. Young of the Minister for Planning and Environment regarding delays in signing a Planning Obligation agreement associated with the development at Plémont Holiday Village:

Will the Minister explain the reasons for the delay in signing the Planning Obligation Agreement following his decision to approve development at Plémont Holiday Village in November; advise how and by whom the agreement was drafted, whether its terms have been thoroughly reviewed; and whether he has personally reviewed it and is satisfied that the agreement completely fulfils the promises which were publically made by the applicant?

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

The Planning Obligation Agreement for this site was not delayed but I agree did take some time to negotiate. The site is a complex one with several strands to the agreement. The subjective element is well known to be controversial. The agreement was prepared in discussion with the applicant and officers in my Department acting with the benefit of all appropriate advice. Particular care was taken to ensure that all of my requirements were included within the terms of the agreement. I did personally review the agreement before it was signed on my behalf by the relevant director.

5.8.1 Deputy J.H. Young:

Why does the agreement then not include definite arrangements or terms for the transfer of land to a public interest body? The absence of such an arrangement, effectively releases the appellant from that commitment.

Deputy R.C. Duhamel:

I do not think it does. I think the obligations were there that the land shall not be ceded until the landscaping as set out in the approved plans has been completed to the satisfaction of the Minister. In order to do that, the pre-landscaping works and the demolition works have to be undertaken to the Minister's satisfaction.

5.8.2 Deputy J.H. Young:

Would the Minister confirm that the funds provided within the agreement for the costs of maintenance of the special landscape areas, would he explain why it is only £2,500 and why they have not been subject to cost of living increases for the full 25 years of these agreements?

Deputy R.C. Duhamel:

As far as I am aware, it is not £2,500. It is a sum that is twice that amount for the full 16.66 vergées. The reason that the contributions are not subject to cost of living arrangements was determined as to be a reasonable deal or obligation on the grounds that they are being paid, not in a one-off amount but on a continued basis for the full 25-year period. The landscaping, once it is completed, will mature and the rationale behind such a costing is that the cost of that maintenance will decrease as time goes on.

5.9 The Connétable of St. John of the Minister for Health and Social Services regarding the prescription of the drug Cabazitaxel in recent months:

Can the Minister give the number of occasions over the last 24 months that recommendations have been made for cancer patients to be given Cabazitaxel, giving details of the number approved and those declined? Of those declined, the reasons for so doing and whether the patient's general practitioner was consulted in reaching the decision, and if not, why not?

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

I am aware that there were a very small number of cases in the last 24 months where Cabazitaxel has been requested by clinicians for patients with advanced prostate cancer. It would not be appropriate to disclose the precise number as being so small this would risk identifying the individuals concerned. However, on each occasion the request for Cabazitaxel was declined. The decision not to make Cabazitaxel available was based on a detailed review by the N.I.C.E. (National Institute for Health and Care Excellence), which concluded that Cabazitaxel was not a cost-effective treatment when compared to an alternative treatment which also prolonged survival and which is also available in Jersey. This same decision was reached by the Scottish Medicines Consortium for the N.H.S. (National Health Service) in Scotland. G.P.s are being kept informed by cancer specialists regarding the treatment choices for their patients, however, G.P.s are not

specialists in cancer treatment and so would not routinely be directly involved in the decision as to which chemotherapy drug to use.

5.9.1 The Connétable of St. John:

Given that the General Hospital send their patients to the United Kingdom for cancer treatment, if a consultant in the United Kingdom makes a recommendation of a certain drug to that patients, why, on their return to the Island does the Minister's Department overrule that consultant's advice?

The Deputy of Trinity:

That is not the case. As a matter of policy, the Health and Social Services does not fund non-N.I.C.E. approved treatments. Where a consultant believes a patient should be considered as a special case for treatment not routinely available, the case can be submitted to the Health and Social Services Drugs and Therapeutics Committee for review.

5.9.2 The Connétable of St. John:

Are the patients when they are declined this medication they told that they can go to the committee for a review?

The Deputy of Trinity:

Yes, as I understand it, but it is a clinician's point of view too. This is for advanced prostate cancer and the side-effects can sometimes be quite debilitating so it is done on very many different criteria.

5.10 Deputy J.H. Young of the Minister for Housing regarding the local need for sheltered housing:

Does the Minister concur with the Planning Inspector's conclusions in the report published in August 2013 in respect of the refused application for sheltered housing in St. Ouen that there is no evidence of local need for sheltered housing available and if not, what action will he take to provide that information to the current Island Plan Review in respect of all Parish housing needs?

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

I am not in a position to dispute the Inspector's findings in relation to the need for sheltered housing in St. Ouen but having read his report, what is clear to me is that there is some confusion around the term sheltered housing. There is, without a doubt, a need for full sheltered housing but many applicants on Parish lists need what I would call more appropriate housing; housing with wet rooms, housing with easy access and housing close to the amenities rather than full sheltered housing. Having said that, I must stress that there is clear and strong evidence of the need for more social housing in our Island as a whole, based on the evidence that the statistics unit have provided and my own gateway. For example, we have over 763 households waiting to be housed in the top priority bands of the housing gateway.

[11:00]

In particular we have a need for more one and 2-bedroom units for the elderly and for younger families and these are needed urgently. Younger families and the elderly are clearly struggling to source suitable affordable accommodation. This will include people in need of sheltered or more appropriate housing. This is why the Council of Ministers have been working with the Minister for Planning and Environment on the Island Plan Review to ensure that we have plans in place to ensure that these needs are met. In doing this, it is vital in my mind that we support the Parishes as they seek to provide for their parishioners. As such I will work with any Parish and the Planning and Environment Minister on producing statistics for sheltered homes and appropriate homes for

over 55s specifically. However, I will not allow the Inspector's report to detract from the clear compelling overall evidence of need for homes across all tenures in this Island.

5.10.1 Deputy J.H. Young:

I thank the Minister for his very full answer and his commitment particularly to ensure that the Island Plan Review has that essential information, but could he confirm his own view, whether he is in favour of sheltered housing being provided for people within the local communities in which they spent their working lives?

Deputy A.K.F. Green:

Yes, I am in favour of both sheltered housing and, to be perfectly frank, we easily use the term sheltered housing but we have very little sheltered housing in Jersey. We have appropriate housing for the over 55s, accessible housing. Sheltered housing, to my mind, is more than just a gathering of 18, 19 units with elderly folk in it, but is a unit that provides food, other facilities, not nursing but laundry and that. I am totally in favour of sheltered housing and I am also in favour of appropriate housing for the elderly as well as the rest of our community.

5.10.2 The Deputy of St. Ouen:

I am grateful for the response of the Minister but would the Minister confirm whether he would be prepared to work with a Parish to address some of the issues raised regarding the demand of housing as included in the Inspector's report?

Deputy A.K.F. Green:

Yes, I will. That was another area of confusion. St. Ouen seemed to have a higher demand according to the Inspector, 72 people on the waiting list, as opposed to, for the rest of the Island, 217 people on the so-called sheltered housing waiting list. I think it is this confusion around the term "sheltered housing" that is the problem. But I will work with the Parish. It is essential that elderly folk that have worked and lived in Parish communities remain in Parish communities with the networks that support them as they become older.

5.10.3 The Deputy of Grouville:

Would the Minister share my view that an improved and consistent criteria would be better so that as we have, at the moment, in certain Parishes, the age to qualify for sheltered housing is 55 and yet in others it is 75, which adds to the confusion of who is eligible for sheltered housing and in which Parishes they can apply?

Deputy A.K.F. Green:

Yes, I do share the Deputy's view and this is something that we need to work on but I would say that it is not only sometimes the elderly that need sheltered housing. We have younger disabled people that need sheltered housing and this is an issue that needs to be resolved and I am working on it.

5.10.4 Deputy G.P. Southern:

I was under the impression, probably mistakenly, that we were moving towards a single unified waiting list, the gateway for social housing and yet I am hearing today about a waiting list for sheltered housing. What is happening in the Housing Department and elsewhere?

Deputy A.K.F. Green:

The Deputy is under the right impression. We have a single gateway waiting list now for all the Housing Trusts and the Housing Department which will become the Housing Company later on. We have that but the Parishes are separate to that. Some have chosen to use the gateway to allocate

their homes and I am quite comfortable with the arrangements we have with the Parish. There is some confusion, though, around the term sheltered housing.

5.10.5 Deputy G.P. Southern:

The list for sheltered housing specifically, that you keep referring to, is that separate or is that included?

Deputy A.K.F. Green:

There is no true list for sheltered housing. There is a list of housing required in the Parishes.

5.10.6 Deputy J.H. Young:

I am very grateful for the Minister's full explanation but can he give a commitment that in view of the importance of this subject that he will produce consolidated information for this special housing need, including the elderly groups and the other categories he has mentioned to the Island Plan Review, that he will make it available to all Members and ensure that that information is available for all Parishes so we have a co-ordinated response? Will he give that undertaking?

Deputy A.K.F. Green:

That is a very big undertaking. I have given an undertaking to work with the Constables, the Minister for Planning and Environment, the Minister for Health and Social Services, to see what we can do to improve the available housing for people, particularly the elderly, maybe sheltered housing as well.

5.11 Deputy J.A. Hilton of the Minister for Health and Social Services regarding discussions with clinicians from the hospital and medical community on the continuing use of the Liverpool Care Pathway:

Can the Minister inform Members whether any discussions have taken place with clinicians from the hospital and medical community on the continuing use of the Liverpool Care Pathway, and, if so, could she advise Members of the outcome of those discussions?

The Deputy of Trinity (The Minister for Health and Social Services):

Following publication of the Liverpool Care Pathway review at the end of July a meeting is scheduled for later this month when a group of clinicians, together with G.P.s and hospice staff, will be discussing the best way to support end-of-life care for Islanders, be it in the hospital, hospice or in their own home. The meeting will look at our processes for individual care plans and how we can ensure that the best and most appropriate care is delivered to patients based on their individual needs and wishes in their last days and hours of life. It will consider the advice and support we can give to their families through this difficult time. Also, much work has been undertaken on the end-of-life care in Jersey as part of the white paper, *Workstreams*. The outcome of this month's meeting will further help to focus our efforts when refining our end-of-life strategy.

5.11.1 Deputy J.A. Hilton:

I would like to thank the Minister for her answer. I would just like to ask about who makes the decision to place a person on the Liverpool Care Pathway and who advocates for the elderly and vulnerable who have no immediate family to assist them while they are in hospital?

The Deputy of Trinity:

To make it clear, nobody is put on a Liverpool Care Pathway. The principles behind this are sound and well thought through. It is the individual care pathway, be it nutrition, hydration, pain control, family support or whatever, are fully discussed and it is a multi-disciplinary team as well as the

family. If the family have not got any next-of-kin or whatever, there is always someone who supports the family through because you would need to have a next-of-kin allocated anyhow.

5.11.2 Senator S.C. Ferguson:

The Minister has been very supportive of this procedure but the anecdotal evidence - there is some locally as well as in the U.K. (United Kingdom) - is that application of the Liverpool Care Pathway is unsatisfactory. Will she reassure this Assembly that this procedure will cease to be recommended at this point in time, given also that the U.K. has stopped it entirely?

The Deputy of Trinity:

If I answer the last question first, the review that I referred to, reported at the end of this July 2013 under Baroness Julia Neuberger. She said that the principles behind the Liverpool Care Pathway are sound. It is how it was put into place. Liverpool Care Pathway is a tool. It is how it is placed and who places it and the communication which is important. It is general good principles and good practice to care for somebody during the last days and hours of their life. I know Senator Ferguson and the rest of the Members are very concerned about it and I can quite understand that. At the next quarterly meeting for States Members, which is in 2 weeks' time, I am happy that the Liverpool Care Pathway or end-of-life care is discussed then.

Deputy J.A. Hilton:

Thank you, Sir.

5.11.3 Connétable D.W. Mezbourian of St. Lawrence:

Excuse me, Sir. I thought you had acknowledged...

The Bailiff:

I do beg your pardon. Yes, you are absolutely right, Connétable. Must still be in holiday mode.

The Connétable of St. Lawrence:

I understand that a Liverpool Care Pathway nurse has been employed and certainly funding for one year was made available. Will the Minister advise whether that nurse is in place, whether they work for the hospital or Jersey Hospice? The other question is has the end-of-life register yet been implemented?

The Deputy of Trinity:

As regarding the specialist nurse, the specialist nurse is a palliative care nurse. The Liverpool Care Pathway is a tool. It is a mechanism to ensure that it is the best practices underlying that. I must admit the best practice and care for patients is very high here. It is on top of the nurses' agenda when somebody comes to their last hours and perhaps days of their life. Communication is important. It is not only communication with the patient but also with the family. As regarding an end-of-life register, I understand that is probably in the end-of-life strategy which is going to be finished formulating fairly soon once the outcome of this meeting is known.

5.11.4 Deputy J.A. Hilton:

Can the Minister explain what training is available to doctors if it is doctors who are approaching patients to discuss their end-of-life care? Also whether the decision about somebody being placed on the Liverpool Care Pathway, although I know the Minister did say in a previous answer that they are not placed on the Liverpool Care Pathway, I believe. But I would like to know how those decisions are independently monitored?

The Deputy of Trinity:

For end-of-life care it is important to have an individual care pathway so everybody's particular needs are individual to that patient. The communication with that patient and with their family is so important. As regarding the doctors' training is given but I understand one of the 44 recommendations that does come out, it came out by the Baroness' work was that the G.M.C. (General Medical Council) should look at ways of improving doctors' training. As with that, we will look at how that can be done locally. It is important because it is vital that the correct care and time is given at this very difficult stage of one's life.

5.12 Deputy T.M. Pitman of The Chief Minister regarding the intervention of the UK Justice Minister regarding Jersey's placement on the French tax 'black list':

Why has the U.K. Justice Minister been requested to intervene regarding Jersey's placement on the French tax blacklist?

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

Jersey has autonomy in domestic affairs, including fiscal matters so we have approached the French authorities directly with requests for meetings at the highest level so that we can understand more fully the reasons for the action they have taken and respond accordingly. Given our longstanding relationship with the United Kingdom we often find it helpful to see what support might be provided in resolving international issues. The Minister who leads for the U.K. on Crown dependency matters is the Minister of State in the Ministry of Justice.

5.12.1 Deputy T.M. Pitman:

It is common knowledge though, probably no thanks to Jersey's mainstream media, that within the former police chief's 62,000-word defence document, the *Wiltshire Report*, he made clear that the Chief Minister, Assistant Minister and the Deputy Bailiff had asked the Chief of Police to explore independence from the U.K.. This being the fact, can we realistically expect the U.K. Justice Minister to then become involved in a problem which I think it has to be accepted is of Jersey's own making?

Senator I.J. Gorst:

I am sorry, I fail to see how that arises out of the original question. Simply, perhaps I might answer the final part of that question is this problem of Jersey's own making? No, it is not. Obviously the Minister for Treasury and Resources ... the administration of Tax Information and Exchange Agreements falls within his remit and he has answered very ably this morning all the questions of this Assembly. It is the role of the Chief Minister's Department and the International Affairs Department to support individual Ministers on issues like this.

[11:15]

That is exactly what we have been doing. I think he has fully answered and I am therefore surprised the Deputy could hold the view or even think after those fulsome answers, that it was of Jersey's making.

5.12.2 Deputy J.A. Hilton:

Just briefly, is the Chief Minister able to say whether any other country has threatened to put Jersey on the blacklist but the position has been resolved before it has become public knowledge?

Senator I.J. Gorst:

As the Minister for Treasury and Resources ... I cannot just recall exactly what he said ... Jersey has 39 Tax Information and Exchange Agreements currently. The administration of those are peer reviewed and I can say that the only country at this moment in time that we have issues with is the

French and we are committed to resolving those and resolving any misunderstandings that might have arisen. In actual fact, other countries in their submissions to the peer review mark us as very co-operative and some of the judgments that have been through the Royal Court are taken elsewhere in other jurisdictions as model judgments with regard to co-operation.

5.12.3 Senator L.J. Farnham:

Given the Chief Minister's previous statement about our good reputation in co-operation it might be helpful for him to say whether he understands that the problem with the French might well be resolved. I am really asking if he is confident that it will be resolved?

Senator I.J. Gorst:

There are obviously issues which need to be resolved otherwise the French would not have designated us for potential listing on the list of non-co-operative jurisdictions as of January next year. Ministers are confident. As the Minister for Treasury and Resources says, he has reviewed a dossier. We will in due course be passing a dossier to the French ambassador to the Court of St. James for onward transmission to Paris and then we will be meeting with Ministers in Paris and we hope that misunderstandings can be resolved and we can find a working solution into the future so that we are not listed in January of next year.

5.12.4 Deputy G.P. Southern:

In the light of the Minister for Treasury and Resources' statement that France and the US insist that we ask permission before we publish how many requests have been received under T.I.E.A.s does that mean that previous figures given for T.I.E.A. requests were inaccurate when they were given to the States?

Senator I.J. Gorst:

No.

5.12.5 Deputy M. Tadier:

The Chief Minister has referred several times to misunderstandings. Does the Minister have a basis for thinking that the blacklisting is due to a misunderstanding rather than a correct understanding from the French and Jersey currently, certainly for our part, not knowing why we are on that list?

Senator I.J. Gorst:

Ministers cannot take what they read in the media or on certain blog sites as fact. Therefore Ministers have a responsibility to ascertain the facts from the jurisdictions in question, which might be making statements in this case the French proposing to list us as unco-operative. That is exactly what we are doing, not surmising.

5.12.6 Deputy M. Tadier:

Can the Minister give a timeframe because it has been 2 weeks already since we have known about this? We are still talking about misunderstandings about blog sites; the mainstream media speculating as to why we are on this list. That is because we have not had any answers from Ministers when Ministers do know certain amounts of information including the numbers of T.I.E.A. requests that have been made and that may be in dispute. When will that information which is known be released from the Council of Ministers' side?

The Bailiff:

The what?

Deputy M. Tadier:

The information that is currently known, but which has not been released, the information relating to why this is. Does it relate to T.I.E.A. requests? How many have there been that have not been complied with? Or is it to do with court cases which are ongoing relating to financial matters of French residents who currently reside in Jersey? What is the real reason and when will we know what the real reason or reasons are for the blacklisting?

Senator I.J. Gorst:

The Deputy tried to indicate in his opening question there that Ministers were not being honest. That is absolutely incorrect. Ministers are not assuming nor surmising. That is why they are seeking ...

The Bailiff:

I took it that he withdrew that because he changed the word.

Senator I.J. Gorst:

I did not quite hear him withdraw, but I am pleased that he has. Ministers are seeking to understand where the problems are, that the French consider would lead to us needing to be listed as unco-operative. As the Minister for Treasury and Resources said, a dossier is being compiled. That will be forwarded on to Paris as I have suggested and then Ministers will have more facts and we hope to be able to ensure that we are not, in due course, listed. I hope that when we have further detail to state then we will be in a position to do so.

5.12.7 Deputy T.M. Pitman:

I have to say the Minister's answer was contradictory, as it often is. He stated that we had full domestic responsibility yet we are asking the Justice Minister to intervene. Could he just, at least outline what help he believes or hopes the U.K. Justice Minister will provide Jersey and how he thinks this sort of mix-and-match, sometimes we ask for help, sometimes we do not, is going to play out in Jersey's interests because I know firsthand obviously that the Minister will not intervene in justice matters even though he has a mandate to.

Senator I.J. Gorst:

The word I used was support and that is due to our long-standing relationship. One would expect us to ask for support in resolving international issues. As the Deputy will be aware, the French have also said that they intend to list Bermuda and B.V.I. (British Virgin Islands). They relate to the United Kingdom Government through the Foreign and Commonwealth Office and obviously it is useful in our negotiations to understand what the British Government is doing on behalf of those overseas territories as well.

5.12.8 Deputy T.M. Pitman:

With due respect to the Minister, what I was asking the Minister is can he explain to us what he thinks the Justice Minister can do because if this is a misunderstanding is it something that Jersey is not putting across to the French? What exactly are we asking the Justice Minister to do? Surely that is fairly easy to respond to?

Senator I.J. Gorst:

I think I just answered that, did I not?

5.13 The Connétable of St. Helier of the Minister for Treasury and Resources regarding the distribution of this year's telephone directory by J.T. (Jersey Telecom):

Is the Minister, as a shareholder representative of Jersey Telecom, satisfied with the distribution of this year's telephone directory?

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

From the perspective of the shareholder I am satisfied with the production and delivery of the 2013 directory. It was a success despite the exceptionally small number of businesses and homes that did not receive a directory. To give some context to the position, J.T. (Jersey Telecom) distributed, I am advised, some 55,000 directories in 2012 but some concerns were raised about the quality of the distribution with either no or surplus directories being delivered to certain homes and businesses. To deal with this issue J.T. entered into a new arrangement with Jersey Post, who deliver the 2013 directory. To date I am advised 54,500 directories have been distributed in 2013, 500 lower than the previous year but the most pleasing aspect is that Jersey Post's performance in appropriately dealing with properties previously missed or receiving multiple copies has significantly improved. If J.T. can be criticised for anything it can be perhaps for trying to be too precise with its forecasting, which was hampered by the quality of the prior year's distribution by a U.K. provider. J.T. has assured me that it has put in place further checks and balances to ensure that the same issues do not arise in 2014.

5.13.1 The Connétable of St. Helier:

I am grateful to the Minister. He reassured us that exceptionally few households and businesses have not received this year's directory. This does not quite square with the reports that I have certainly heard from people who have not received their directories. Could he perhaps give us a number of how many households and businesses have not had a directory this year and have been advised to use the Internet?

Senator P.F.C. Ozouf:

I am sure that it has been a frustrating issue for those people who did not receive a directory. Clearly there is a media report in probably a low news time which certainly inflamed matters. I am advised by J.T. that 72 customers got in touch with J.T. seeking a 2013 directory, all of which have been catered for. J.T. welcomes any further requests from individuals who have not received a directory. An arrangement has been put in place that where surplus directories where people do not need their directories, they hand them back to J.T. and then J.T. have been handing out those directories to people who have not got them. Certainly my understanding is that J.T. has dealt with this limited issue extremely well and is receiving requests but they are very small.

5.13.2 Deputy G.C.L. Baudains:

Before I request the delivery of the latest telephone directory I wonder if the Minister could advise whether it now contains the numbers in the back which were deleted from previous directories because it is handy sometimes to be able to look up a number to find out who had telephoned. That was deleted from some copies. Is it available in the 2013 version?

Senator P.F.C. Ozouf:

Sometimes I think that Members expect me to go and count the paperclips in J.T. as well as knowing everything about it. We set up these organisations in order that they are largely run by a board of directors. I do not know the reason. Certainly I can give Deputy Baudains my own copy of the directory if he wants. I use an Internet-based search. I will bring it in to him later on today or tomorrow if that solves that problem. In relation to the numbers, I do not know. I do not know whether there was a data protection issue or an issue but I will find out and I will circulate an email to Members.

5.13.3 The Connétable of St. Helier:

I am as keen as the Minister is on co-operation with Guernsey but I cannot say I have used the reverse side of the directory very often. Would the task of distribution be easier and cheaper if directories did not include our sister Island?

Senator P.F.C. Ozouf:

I will confess to Members that when I received my own directory a couple of years ago, I did not turn it open. I thought that I had been sent the Guernsey directory. It was only when I turned it over I realised that it was the Jersey one. I understand from J.T. that having a Channel Island directory is more efficient. It reduces the cost and it has dealt with the availability of numbers in Guernsey for businesses. There is a lot of cross-border trade going between Jersey and Guernsey. We have got increasing co-operation and certainly it was lower cost. I understand that J.T. is going to look at that again next year. Certainly the directory is still well-used. It is an important advertising medium. The Islanders welcome it but clearly there is a move to online which is happening ongoing but I will certainly express any concerns that Members may have about the directory to J.T. when I speak to them, as I do regularly.

5.14 Deputy G.P. Southern of the Minister for Social Security regarding statutory maternity leave provisions:

Given the prevalence of U.K. candidates in recruitment to professions such as teaching and nursing in the Island, will the Minister inform Members what aspirations, if any, he has to bring Jersey's public sector and statutory maternity leave provisions into closer alignment with those that exist in the U.K. and if none, why not?

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

While I cannot answer for aspirations in respect to public sector maternity leave entitlements, I do aspire to bring forward statutory maternity leave provisions. This aspiration is reflected in our department business plan which states that work will continue this year to prepare family-friendly legislation. As the business plan also notes, this will be undertaken in conjunction with work to introduce protection against discrimination on the grounds of sex. By the middle of 2014 I expect to present family-friendly legislation to the States as an amendment to the employment law. The legislation will be based upon the rights the Employment Forum recommended following public consultation, which included time off work for ante-natal care appointments for pregnant women, a period of maternity, paternity or adoption leave for parents, the right to return to their job after that leave and protection against dismissal on the grounds of claiming these rights. The new maternity rights will not be as extensive as those that are available in the U.K. which have been developed over decades. However, I believe that we must take this first step as soon as possible to give vital protection to parents but with minimal cost to employers.

5.14.1 Deputy G.P. Southern:

Does the Minister have any aims in the following areas? 1. Extending what he proposes for 2014 and in what timescale? 2. Ameliorating the cost of business by examining whether Government has a role in paying for statutory maternity leave?

[11:30]

Senator F. du H. Le Gresley:

The very minimum rights that we are proposing, I have no intention of extending although, I have to be honest, I would like to. But we would have to have a complete round of new consultation with the employer groups and employee groups, *et cetera*, and the public if we were to go further than the proposals that were recommended by the Forum some 3 to 4 years ago now. As far as

ameliorating the cost to businesses, I have no intention of introducing a statutory maternity pay. We do have maternity allowance and if we were to bring in our maternity leave rights we would have to make some changes to maternity allowance.

5.14.2 Deputy J.A. Hilton:

The Minister has just said that he does not intend to extend, I believe, the same rights to Jersey as currently in the U.K. but would the Minister consider whether he would agree to extend the period of unpaid leave with regard to maternity leave? Also, secondly, has he any concerns around this coming forward in 2014 as there are currently reports that there is a backlog of legislation that the Law Officers are dealing with, and has he any concerns this might not happen in 2014 for that reason.

Senator F. du H. Le Gresley:

In answer to the Deputy's question I will be putting forward changes to the Employment Law which comply with the Forum's recommendations, which is 2 weeks compulsory leave at full pay, 6 additional weeks of unpaid maternity leave and, subject to a 15-month qualifying period, a further 10 weeks of unpaid leave. I will not be making proposals to extend those periods at the current time. Insofar as the backlog of legislation and drafting, this amendment to the Employment Law is already with the law draftsmen and we will be accelerating the work on this in the New Year.

5.14.3 Deputy J.A. Hilton:

Can the Minister confirm that he is proposing 14 weeks' leave currently, a combination of paid and unpaid? I did not quite catch that. If that is the case, does he not believe that really to assist families that he should be considering a far greater period of unpaid leave for pregnant women or women who have just newly given birth?

Senator F. du H. Le Gresley:

I did not say 14 weeks, I said 6 weeks unpaid as of right but subject to a 15-month qualifying period of employment a further 10 weeks so it is a total of 16 weeks if you have been employed for more than 15 months.

5.14.4 Deputy G.P. Southern:

Does the Minister accept that there is a risk by encouraging early return of mothers to the workplace as a risk to the wellbeing of both the mother and the baby?

Senator F. du H. Le Gresley:

I think that depends on the general health of mother prior to childbirth and it is a medical question which I am not qualified to answer.

5.14.5 Deputy G.P. Southern:

In terms of what is advised, in terms of the length of maintaining breastfeeding, that presents a problem in the timescale he is talking about.

Senator F. du H. Le Gresley:

I am certainly not an expert on breastfeeding, maybe Deputy Southern is. I really cannot answer that question, I am not familiar with all the details of childcare in the sense of everybody's different, a lot of mothers now use bottles so breastfeeding is not an issue I can comment on in this Assembly.

5.15 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the resurfacing of Rue à Don:

Would the Minister advise why he intends resurfacing Rue à Don and the expected cost of doing so?

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

Rue à Don was identified in the 2010 Jersey Highway Network Survey as requiring urgent resurfacing. From 2010 the project has waited for the new Jersey Electricity Company link with France to be designed, route confirmed and installed in the road before T.T.S. (Transport and Technical Services) was able to let the resurfacing contracts. Over the last 3 years the road has deteriorated further and is considered to be past its end of life. The project cost for resurfacing roads is estimated, excluding traffic calming scheme at Ville es Renauds, as £1.7 million.

5.15.1 Deputy G.C.L. Baudains:

Is the Minister aware that most of the road he intends resurfacing is in a better condition than most other main roads and really the only stretch that is in real need of repair is from Grouville garage to Gorey Village? Can the Minister confirm that the proposed work is not simply to make up his department's long-standing failure to ensure utility companies reinstate transport to a satisfactory standard?

Deputy K.C. Lewis:

Not at all, as I have just pointed out, Normandy 3 has come down the road which does cause more disruption. Hopefully by May of 2014 I will be bringing forward the Streetworks Law to the States for their approval, which will give the position of Minister for T.T.S. extra powers to enforce. At the moment trenching is guaranteed, I think, for 3 years but everything at the moment is done by agreement. The road itself is in very bad state and I think if the Deputy would consult the good people of Grouville they will tell him otherwise.

The Bailiff:

The Deputy of Grouville. Deputy, I owe you an apology for the last question and we will revert to it at the end.

5.15.2 The Deputy of Grouville:

I would agree with the Minister that Rue à Don is most certainly in urgent need of resurfacing and was awaiting the French cable to be laid underneath the road, however the Minister's department gave permission for the newly laid beautiful cycle track to also be dug up which has been reinstated but has not been correctly reinstated and there is, I believe, an argument going on between his department and the electricity company as to who is going to reinstate this and who is going to pay for it. Could he give this Assembly the timescale that we can expect the cycle track to be put right and could he confirm who is paying for it?

Deputy K.C. Lewis:

Yes, indeed. I cannot give an exact timescale but I can assure the Deputy that it was the J.E.C. (Jersey Electricity Company) who put the cable in and if it is not reinstated to a satisfactory level it will be done again.

5.15.3 The Connétable of St. John:

Given that we used to spend £15 million a year, year on year, on resurfacing our roads and we now spend not even a third of that, so as the Minister has explained he is spending £1.7 million in this area of road when we have areas of this Island which are being patched upon patch upon patch. I could take him to an area at Sion within St. John which every other month I see his vehicles or

some vehicles patching the roads in that area. When will the remainder of this Island get a good road surface and get our infrastructure back to where it should be, not just have the *status quo* year on year? It is for him as the Minister. Will the Minister confirm that he will get off his backside and make sure he fights tooth and nail to get more money put into his budget at the time of the next review because this is unacceptable and our roads are turning into little bits of grit. We would be better just to cover them with hoggin.

Deputy K.C. Lewis:

I am not sure what the question was in its entirety.

The Bailiff:

Whether you were going to seek a lot more money on road repairs?

Deputy K.C. Lewis:

Absolutely, Sir. Both I and my department are in regular contact with the Minister for Treasury and Resources and funds are being allocated. We are coming to God's own Parish of St. John in 2014 to start on the road from Sion going north.

5.15.4 The Deputy of Grouville:

I would just like my previous question answered, please. If the Minister cannot tell us now when the cycle track is going to be reinstated, could he give us an assurance that he will come back and tell us when. He did not answer my question at all, in fact, and state who will be paying for it.

Deputy K.C. Lewis:

I believe I did. I said I could not give the Deputy an exact date but if the cycle track is not relaid to a satisfactory specification it will be laid again at the cost of the contractor.

5.15.5 Deputy G.C.L. Baudains:

I think the Minister will be aware that recent resurfacings have not been to a satisfactory standard. Rue des Prés is a prime example, it is a rumble strip and is in actual fact worse than the road was before. Can the Minister guarantee that the resurfacing of roads in future, especially Rue à Don, will be to a satisfactory standard and that his department will not continue to accept substandard work? The process being used for road surfacing at the moment is not the one that used to be used. Would the Minister ensure that the previous satisfactory method is used?

Deputy K.C. Lewis:

Absolutely, and T.T.S. officers will be monitoring throughout.

The Bailiff:

Before we come to the final question if I could ask the Deputy of Grouville whether she still wishes to ask her question of the Minister for Social Security because I had acknowledged her and then I omitted to allow her to ask the question. Do you still wish to pose it, Deputy?

5.16. The Deputy of Grouville:

Yes, Sir. If I may just ask the Minister why he has decided not to provide statutory maternity leave, at least in line with the U.K., if Jersey still remains one of the worst provisioned in this area in Western Europe and certainly in the Scandinavian countries?

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

The answer to the Deputy's question is that I am moving forward with the recommendations from the Employment Forum which were arrived at after a lengthy public consultation. If I was to

change those recommendations and bring in a much longer period of maternity leave, we would have to go out to public consultation again and I doubt whether we would be able to bring any proposals for any protection in time for debate by this Assembly.

5.17 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding sites for a possible rebuild of Les Quennevais School:

Will the Minister advise what sites, if any, have been identified for a possible rebuild of Les Quennevais School, whether a rebuild is the preferred option, and what the timetable is for action?

The Deputy of St. John (The Minister for Education, Sport and Culture):

A rebuild would be the preferred option because it is always difficult to renovate a school and operate it at the same time. Originally some 2 years ago it was felt that a redevelopment of the existing school would be an option. When I came into office I decided and felt that that just was not good enough, bearing in mind the fact that the footprint of the school was originally designed for 450 pupils and we have something in excess of 800 at the moment. Also, as I said, because of the difficulty of renovating a school and operating it at the same time. However, we are still exploring options and we are not yet in a position to name any sites until we have discussed proposals with interested parties and in answer to the timetable, as part of the question, assuming that the funding is made available, and I am still talking as hard as I can to the Council of Ministers and the Minister for Treasury and Resources to see what might be possible in the next Medium-Term Financial Plan, but assuming that the funds are available, we are aiming to commence building in 2016.

5.17.1 Deputy M. Tadier:

I thank the Minister for those answers. A question was asked in July 2012, and we were also told then that no sites had been identified and that the timetable was then 2017.

[11:45]

So while the timetable might have been brought forward, can the Minister explain what he has been doing in those 14 months when he should have been engaging with stakeholders, he should have been coming forward with viable sites and we would hopefully be going into the next year before the new States Assembly with a firm and concrete plan to put to Members, especially residents of the area who are concerned about what is going to happen to their estate and the school that is currently on it?

The Deputy of St. John:

I did not say that we had not identified sites, I said we are still exploring options. We are talking here about several tens of millions of pounds worth of public money. It would be counterproductive to go public and set hares running prematurely. We have to be careful in the process of this. We do intend to involve direct stakeholders, particularly politicians and the public in the St. Brelade's area in due course and I hope that is not too far away. But I would ask the Deputy to please bear in mind that a large part of this process is not under the control of the Education Department, it is under the control of Property Services and they have to, in themselves, be careful with what they do.

5.17.2 Deputy J.H. Young:

I wonder if the Minister could tell us - if he cannot tell us the name of these sites that he has been looking at for at least the 12 months - whether those options do include rebuilding or redeveloping on the existing site? Also, can he suggest what we might say to the constituents of St. Brelade who

for many years have had to tolerate very, very overcrowded conditions, which are completely unacceptable, and can he promise this Assembly he will give this priority?

The Deputy of St. John:

There are about 4 questions there so I will try and remember them. Rebuilding on the existing site is an option but it is not my preferred option for the reasons that I have already stated. I can tell you that. In answer to other sites, I can only repeat what I said a minute ago. We are talking about a lot of public money, it would be counterproductive to set hares running prematurely and speculatively at this stage. I think that answers certainly 2 or 3 of the questions, perhaps the Deputy would like to just remind me of the other one.

The Bailiff:

Do you wish a supplementary, Deputy?

5.17.3 Deputy J.H. Young:

Yes, Sir. I can understand the Minister's reply that he cannot identify those new sites in public but can he at least confirm he is working with the Minister for Planning and Environment on ensuring that the feasibility of those sites for this use is properly examined and in short order?

The Deputy of St. John:

Yes.

5.17.4 Connétable S.W. Pallett of St. Brelade:

As the Minister knows, Les Quennevais is a very heavily built-up area, Les Quennevais School sits in the middle of 2 very large estates. Moving the school to another area in St. Brelade may result in the same sort of problems. Has he considered any sites outside of St. Brelade for a possible rebuild?

The Deputy of St. John:

No.

5.17.5 Deputy M. Tadier:

I am fascinated by the methods that are being employed by the Minister. It seems that if we ask sufficient questions we can narrow him down. Now we know it is no sites outside of St. Brelade are being considered, which is remarkable given that the school serves the whole west of the Island in its catchment area. Will it be still in Les Quennevais, will it be along Quennevais Road?

The Deputy of St. John:

It will be in the west of the Island.

5.17.6 Deputy M. Tadier:

That is because St. Brelade is in the west of the Island [**Laughter**] and the Minister has confirmed that it will necessarily be in St. Brelade so it seems that a certain amount of options have already been excluded. So the real question is, at what point will the political representatives for this area, who quite rightly have an interest in this key strategic area and piece of infrastructure, and the residents themselves, at what point will they be brought in because if so much work is done without the support of those individuals, and especially the residents, it is potentially going to be a non-starter. Will the Minister promise action in short order? Can we sit around a table with Property Holdings, with the Minister, with Environment and thrash out some sites for that, obviously with confidentiality and the requisite care that is required with that?

The Bailiff:

Can we have a shorter question, please?

Deputy M. Tadier:

I think it is too late for that.

The Bailiff:

I lost the question, I must say.

The Deputy of St. John:

In the interests of single word answers, I am tempted to say “soon” but I am going to expand on that ever so slightly. I would just like to remind the Deputy and other States Members, and the public at large, that it is only because I felt that rebuilding the existing school on the existing site was not good enough, that we are in a position where I am talking to Property Holdings, feasibility study on other sites for a major ... probably what will be the biggest secondary school investment that this Island has made in several decades, will take place, in my view, in the not too distant future. It is only because I have dug my heels in on that and said that rebuilding was not an option on the existing site that we are in the position that we are. I understand the great interest that there is in the west of the Island, particularly the Deputies and the Senators that are involved, and the other people. I understand the great interest and the wish to become involved in the process. I will and fully intend to involve those major stakeholders politically at the earliest opportunity but I cannot do that on the basis of speculation. I have to be sure of my ground and there is more work that needs to take place, both by the Education Department and by Property Services. But he has my assurance that as soon as I am able to involve the political community in the St. Brelade area, west of Island then I will do so and I hope that it will be very soon.

The Bailiff:

Very well, that brings Questions on notice to an end. Before we move to Questions without notice can I inform Members that Deputy Le Hérisier has lodged Projet 109, Law Officer’s Department Revised Disciplinary Process. We come to Questions without notice, the first period is to the Minister for Social Security. Deputy Pitman.

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

6.1 Deputy T.M. Pitman:

I would like to ask the Minister about his plans on dealing with people who might leave employment without good reason. His written answer to question 19 really does not put me at ease so I would like him to explain whether this is not going to be left to some kind of subjective opinion from an officer which could leave a person who has left for a very good reason possibly without any income maybe for weeks on end, all the way to an independent tribunal, which will take weeks and weeks and weeks.

The Bailiff:

Was there a question there, Deputy?

Deputy T.M. Pitman:

I thought there was but perhaps I am confused. What is he going to do to make sure that this process is not just subjective? How is it going to be maintained so it will be objective decision so we have proper criteria and it is not done on a whim?

The Bailiff:

So it is how is he going to make sure it is not subjective?

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

As explained in the written answer to the Deputy, we have been working with the Department for Work and Pensions who have a sanctions regime in place, and we will be consulting on the proposals for officers to use with the Jersey Advisory and Conciliation Service. There will, as the Deputy points out, be appeal rights initially for a redetermination by a segment officer and then an appeal to a tribunal. The basic principle of sanctions for people who leave work without just cause is set out in a decision of the Tribunal of Commissioners. For the benefit of the Assembly I will just read it: “The test is: Some fact which, having regard to all the circumstances, including the claimant’s health and the information which he had received and that which he might have obtained would probably have caused a reasonable person of his age and experience to act or fail to act as the claimant did.” That is the reasonable test which we will be applying.

6.1.1 Deputy T.M. Pitman:

Could I have a very short and to the point supplementary, Sir? As a former staff representative I have seen many people who have been forced out of their jobs through bullying and it is normally a very insidious process. What sort of guarantees and assurances can the Minister give that that will be fully considered? Because it may not look like someone has left for a good reason on purpose but if you do a bit of digging I am sure the Minister will accept it could be a completely different story.

Senator F. du H. Le Gresley:

The test of people leaving work due to bullying or harassment will be considered in the guidance notes for determining officers. What will be one of the tests is has that person taken the matter up through the usual procedures within an office, i.e. through the Personnel Department or head of department? If they have made attempts to deal with the issue rather than just walking out of the job then that would be taken into consideration.

6.2 Deputy J.A. Hilton:

Would the Minister consider a fresh look at the rules which dictates that the self-employed must not have worked for a whole quarter before submitting a low income support claim? My understanding is, for example, if a self-employed person worked for a few weeks in April they would not qualify under the current rules for low income support until the quarter beginning September. This does, in my opinion, seem very harsh in the present economic circumstances. The role of a person being made redundant appears to be treated differently in that if someone is made redundant and receives 3 months redundancy pay they automatically qualify for low income support at the end of that period.

Senator F. du H. Le Gresley:

With all due respect to the Deputy, that is the sort of question I would have preferred to have as a written question and I could have provided a fulsome answer. Being asked to answer that sort of question on the hoof, so to speak, is difficult. With regard to the self-employed, obviously we do take into consideration the situation with their business, whether it is no longer profitable, *et cetera*. I cannot answer the Deputy in the full detail but if she would care to submit that to me by email I will provide a response and copy it to Members. As far as people who are made redundant - and that is where their job has gone and they are truly redundant in that sense - the fact is that they can receive income support because the money they receive as redundancy as opposed to notice money or any other sick pay, holiday pay, is treated as capital rather than income.

6.2.1 Deputy J.A. Hilton:

Supplementary? It was not my intention to catch the Minister out, it was just something that came to my attention in the last 24 hours. So is the Minister confirming that he will consider a fresh look at the rules?

Senator F. du H. Le Gresley:

Yes, I will look into the matter the Deputy has raised.

6.3 Deputy R.G. Le Hérissier:

Would I be right in thinking that in the *Actively Seeking Work* report there is no gender breakdown of the various groups referred to in that report? If indeed I am right, could the Minister tell the House whether there are gender imbalances in the figures that are being put forward and does he not think that these are matters for open public debate? Could he tell us where the areas of concern are?

Senator F. du H. Le Gresley:

We could certainly provide gender information for those who are actively seeking work, it is certainly available in the department and it is the department that provides the information to the Statistics Office so there is absolutely no problem with providing that information. Insofar as the long-term unemployed, i.e. that is people that have been unemployed for more than 12 months, the balance is equal and there is roughly 50 per cent females to males who have been unemployed for more than 12 months and I think the Deputy asked a further question but it has escaped me.

6.3.1 Deputy R.G. Le Hérissier:

Supplementary. Are there any areas where the Minister feels that there is a worrying imbalance and, if so, can he identify them?

Senator F. du H. Le Gresley:

An imbalance between the genders I understand is what the Deputy is asking me, because I do not have the detail of those breakdowns, other than for the long-term unemployed, I cannot really comment about imbalance.

6.4 Deputy G.P. Southern:

I return to the answer to question 19 on sanctions for leaving work without good reason and ask the Minister to reconsider what he has written about the appeal mechanism because he refers to guidelines for officers and then refers to a second determination by a second officer.

[12:00]

That currently is used only for administrative purposes; have they met, ticked the right boxes administratively? Is the decision sound? It then goes on to an independent tribunal which as the previous questioner has said, takes weeks to complete or to arrange and I find it very inadequate. It is also not very clear what that tribunal currently considers. If it is to consider reasonable, would he consider appointing a lawyer-led tribunal to assess those decisions because that happens in the complaints board procedure.

Senator F. du H. Le Gresley:

Questions without notice end up about 6 questions without notice in one go.

The Bailiff:

Well, just answer one or 2 and be done with it. [Laughter]

Senator F. du H. Le Gresley:

Thank you for your guidance on that. I will pick the ones that I can answer. The situation is that the sanctions that we will use for people who walk out of work without good cause, the procedures or the guidelines for officers will be carefully drawn up. We are certainly going to protect vulnerable people, people who have good cause for leaving work. We are not intent on a witch hunt here at all but there are situations - and we have them regularly - where people do make the decision, without consulting the department, to walk out of a paid job and then would expect to receive tax-funded benefits. That is the position we are trying to correct. As far as the second determination, yes, it would follow the normal procedures which the Deputy has described. The same evidence is looked at by a second officer to see if they might come to a different opinion. We will process appeals as promptly as possible. We will try to work to a 14 day timeline for once an appeal has been requested but the actual calling of the tribunal is the work of the Judicial Greffe and we have no control over the operation of the tribunal. As to having a lawyer chairing the tribunal, that would be a matter for the Judicial Greffe to decide in conjunction with myself.

6.4.1 Deputy G.P. Southern:

Supplementary, if I may. Would the Minister consider releasing and circulating the report he quoted from the Commissioners in the U.K., I presume? Would he release that so we could all study it?

Senator F. du H. Le Gresley:

It is not a report, as I understand it, I was just quoting from - I can tell the Deputy what it was - a formula that was adopted by the Tribunal of Commissioners and has since been endorsed by the Court of Appeal but I can give the Deputy more information about it.

6.5 Senator L.J. Farnham:

Given the recent introduction of the charitable work scheme, I wonder if the Minister would consider extending the scheme or creating a similar scheme which encompasses perhaps apprenticeships and other useful community and environmental projects, obviously at a wage commensurate with the work undertaken with the potential of putting hundreds of people back to work in these times of high unemployment?

Senator F. du H. Le Gresley:

The Deputy refers to the recently launched Community Jobs Fund ... sorry, the Senator, I do beg his pardon: we may all be Deputies soon. The budget that we have put towards this jobs fund is to employ a maximum of 50 people for up to 6 months at a minimum wage. Obviously if there was a great interest in the scheme from organisations and charities and other groups we would extend the scheme because of any work and the ability to have that work experience is something that we are trying to promote and we certainly, if there was a real demand for this community fund, would consider extending it.

6.6 The Connétable of St. John:

Under the new population card, will the Minister look into his department that when dealing with students and others that when they are asked questions about getting information, i.e. from past time at school, *et cetera*, producing birth certificates, his department have access to many other departments by way of computer, why are they putting the general public, and students in particular, to the trouble of finding all this information out when, in fact, in some cases this information is at their own fingertips, albeit in microchip form or whatever? Will the Minister please look into this and give us his response, please?

Senator F. du H. Le Gresley:

It is important to explain to the Connétable that the Social Security are not responsible for the control of the Housing and Work Law and that staff at Social Security are working with the Population Office and the Chief Minister's Office in the assessing of people for their registration cards. The sources of information available to verify somebody's status is varied and we do use social security contribution records but because of changes in computer systems over the years contribution records prior to 1991 do not give us sufficient information, which would verify somebody's continuous residence in Jersey. This is the test, it is continuous residence: it is not about just being around to pay some social security contributions. We are working closely with the Population Office and we will try to improve the service but it is a big task and we ask people to be patient.

6.6.1 The Connétable of St. John:

Given that the Minister omitted to mention anything about students and the student's finance section I understand is within Social Security - although I do stand to be corrected - why are students, for instance, having to produce this information when in fact the schools and Social Security should be working closely to make sure that when a young person leaves school this information of that young person's 10 years' qualification or whatever it is, 15 years in education, is automatically with the department instead of the young people having to get that information from previous schools?

Senator F. du H. Le Gresley:

I can confirm that officers are working with officers from Education to try and streamline the service. Obviously we had a problem particularly during the summer holidays when the schools were closed but we are working to improve the service and the student finance section only leases part of Social Security buildings, they are not under my control.

6.7 Deputy M. Tadier:

Does the Minister agree that things like being able to go and see the doctor when you need to and not having to worry about the cost of it and being entitled to maternity or paternity leave when you need for a sufficiently long period of time are basic social requirements that we would expect in any modern civilised society?

Senator F. du H. Le Gresley:

Yes.

6.7.1 Deputy M. Tadier:

Based on that, does the Minister acknowledge we cannot have it all ways? We cannot keep costs low for employers and for the States and provide these things in any satisfactory function. Now if we are to provide these functions in a meaningful way, we do need to look at new funding mechanisms which may include raising the social security cap so that those who earn the most in our society pay the same as the rest of us and that perhaps progressive taxation should be included to look at these? Does the Minister think that those are valid points and will he be looking at those mechanisms to make sure that we can have a fit, modern and civilised society in Jersey as indeed exists in certain other places on this globe?

Senator F. du H. Le Gresley:

I agree with a lot of what the Deputy has just said but not all. We have to do things in Jersey carefully, we cannot just go for the maximum social protection that some of us would wish to see. We have to take the public with us and in particular we have to take employers with us. It is a fine balance and I am very mindful that that balance is something that I have to achieve in order to bring

social change and I feel that during my term of office I have achieved some social change and I will continue to do so.

The Bailiff:

That brings Questions without notice to the Minister for Social Security to an end. We move now to the second period which are questions to the Chief Minister.

7. Questions to Ministers without notice - The Chief Minister

7.1 Deputy T. M. Pitman:

I hope data protection is still within the Chief Minister's sphere. Could he then give me an answer to this? He has been quoted, perhaps incorrectly, that he is satisfied with the outcome and utilisation of public funds in regard to the secret thought process against former Senator Syvret. What I would like to know is that given the reality is- and I will not mention any names obviously - one of those people faces allegations from at least a dozen, I think might be as many as 15, 16 victims of Haut de la Garenne that he abused them, another has numerous allegations lodged with the police of quite appalling internet abuse, harassment, defamation, yet they have never been prosecuted. Is the Chief Minister happy and content that the public's money has been spent in support of such an action?

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

Yes, I am confident that the Data Protection Office acted in accordance with its statutory powers as agreed by this Assembly when the Data Protection (Jersey) Law was adopted. The complaints were judged to be valid and therefore it is entirely reasonable that they should have been pursued. I think the judgment of the court upholds that opinion.

7.1.1 Deputy T.M. Pitman:

Supplementary, please? Could the Chief Minister then outline for us, given a judgment has now been made, how much taxpayers' money has been spent on this case?

Senator I.J. Gorst:

It is unusual and not normal for the Chief Minister to make such an announcement about the costs of a case. Having said that, this particular case has been the subject of a number of questions in this Assembly and therefore in this instance, because of some of the astounding amounts which have been bandied around, it is right for me to outline the costs that have been incurred by the Data Protection Office in regard to this case. Of course, this does not include the normal operating costs of the court. Since 2008 - that is over the course of 6 years - legal costs incurred have been just over £387,000. I intend, during the course of this afternoon, to issue a statement in that regard.

7.1.2 Deputy T.M. Pitman:

Do we find out what the operational costs were, which are going to be quite astronomical, I believe?

The Bailiff:

You have had 2 questions already, Deputy Pitman, I think we will move on now. Senator Farnham.

7.2 Senator L.J. Farnham:

I just want to briefly return to the subject of the French blacklisting of the Island and I was pleased to hear the answer the Chief Minister earlier and that the Minister for Treasury and Resources will be providing a portfolio which will go some way to rectifying the matter. What I want to ask the

Chief Minister is does he agree that it is probably of higher importance the way in which the French approached it? It seemed to be rather high-handed that there was no notice period given to rectify any problems there may have been. Would the Chief Minister agree with that and undertake to address this relationship matter together with the Assistant Chief Minister as soon as possible?

Senator I.J. Gorst:

At Ministerial and at official level we have already expressed our disappointment and concern with regard to the announcement that we were to be included from January as unco-operative. Those comments have been made and now we need to move forward to resolution to ensure that we do not get listed in January of next year.

7.3 Deputy S.J. Pinel of St. Clement:

Can the Chief Minister give the Assembly an update on the situation with lo-lo (lift-on, lift-off) transport to and from the Island following the demise of Huelin-Renouf and is a private consortium still involved in progressing this urgent matter?

Senator I.J. Gorst:

Sir, as you said earlier in this sitting, unfortunately it appears that Members did not necessarily enjoy their holiday season in the way that they might have liked to. There were a number of issues going on during the course of the summer which meant a number of Ministers, some on-Island, some off-Island, had to remain in touch via electronic means and via the telephone. With regard to this, this was one of those particular issues.

[12:15]

I believe that Members were briefed fully by the Minister for Economic Development and were satisfied with the work that was undertaken prior to the public announcement and the work that is continuing to be undertaken and supported. Ministers recognise the importance of competition with regard to ro-ro (roll-on, roll-off) and lo-lo and the Minister for Economic Development and the port authorities are doing all they can, (1) to support such a private consortium and (2) obviously Members will have seen applications for licences being published in the *Gazette* and Members will have seen a current operator extending the provision of their services, all of which are to be supported.

7.4 Deputy M. Tadier:

Is the Chief Minister a supporter of greater cultural diplomacy including but not limited to the potential upcoming Island Games in 2015?

Senator I.J. Gorst:

Absolutely, I am. They, I believe, are going to be an important event in Jersey's calendar. The Minister for Treasury and Resources has had extensive conversations with the Education, Sport and Culture Department and we will, in due course - I am not exactly sure of the timing - be announcing what that programme... (I am just informed that it will be the end of October) be announcing a full programme of support and activities which, I believe, will lead to an Island Games of 2015 of which we can be proud, preparing Islanders for those games, the Games themselves and the legacy of those games.

7.4.1 Deputy M. Tadier:

Supplementary? I thank the Minister for that. I think on that issue we are of one accord. Does the Chief Minister believe that there is also scope within the whole move towards greater cultural diplomacy for a single and, perhaps, sizeable centre which could be used in what I would call a polyvalent capacity for various different arts, multi-functional, which could be a gallery but not

limited to ... and also an arts centre and *et cetera*? Is that something which he would give his support to if an appropriate package and location could be found for that?

Senator I.J. Gorst:

I said that the announcement with regard to the Island Games would be the end of October; actually it will be 8th October in the Budget. The Deputy makes some very good points. I suppose I could have waxed lyrical about cultural diplomacy. I think it is extremely important wherever I go in the world; people are interested not only in our financial services but also in our culture and our history and in the creativity of the Island. With regard to the specific idea of a centre, that the Deputy refers to, I understand that it is already being looked at and reviewing of facilities has already taken place by Education, Sport and Culture and I think it is probably being led by Deputy Bryans, the Assistant Minister for Culture.

7.5 Senator S.C. Ferguson:

Sorry, I was temporarily out and I hope I am not repeating anything. In the recent court case involving the former Senator Stuart Syvret, why was the Data Protection Law used in what appears to be a libel suit and what is the estimate of the total cost to the States over and above ... we have been given an estimate for the Data Protection Department, what is the total cost estimated to be?

Senator I.J. Gorst:

As I said in my previous answer the cost that I outlined was for legal costs, the legal costs of giving advice to the Data Protection Office. Of course the Data Protection Office has a budget, which is approved by this Assembly, and the functions of that office and staff are carried out within that budget and of course the Court Service itself is given a budget, which is approved by this Assembly, and the running of the courts are met from within those costs. I do not know whether you have a daily cost per unit of court sitting or how it works, I suspect not, but I think that is the information which the Deputy is asking which I do not have readily to hand.

7.5.1 Senator S.C. Ferguson:

Supplementary? The Minister has not answered the first part of my question, why was the Data Protection Law used, according to the reporting in the press, in what appears to be a libel suit?

Senator I.J. Gorst:

The Senator will probably be aware of the *Chapman* Report and some of the issues raised in that report with regard to duty of care and it happened in this case that the attributes, I suppose, one could say of the case, fell within the Data Protection Law that we, in this Assembly, approved.

7.6 Deputy J.M. Maçon:

With the closure of many businesses over the summer, when the Chief Minister was elected, his tag line was “jobs, jobs, jobs”. Does he feel that enough has been done in order to produce those jobs that are necessary for Islanders and if not what further changes would the Chief Minister like to see implemented?

Senator I.J. Gorst:

I am on record as saying, and I hold that unemployment is important because it affects individuals and families and every person on the unemployment list is one too many because they are not active and effective members in our community. It causes all sorts of future problems to them as an individual, to their family and ultimately to the community. That is why getting people into work was and remains a top priority of this Government. The Deputy also notes the number of businesses which, due to the recession, have sadly had to close. The Deputy will know that Social Security have an active policy when engaging with such businesses to support those individuals

who are being made redundant to enable them to access benefits, if they are entitled to it, to support them into other employment. So a lot is being done in that regard. The Deputy will also be aware that a number of other schemes have recently been announced coming towards the end of summer recess, and since the summer recess, so Ministers are not complacent. They continue to innovate and produce new schemes. I think that we can be pleased that the number of unemployed has not risen as was anticipated when we were looking at the economic data at the start of this year so unemployment numbers have remained flat. That is something that we can be pleased about but we must, and we continue to do more, because we recognise that we want to get people back into work because it is so important.

7.6.1 Deputy J.M. Maçon:

Supplementary? Can the Chief Minister give an indication to the Assembly about what that more is intended to be?

Senator I.J. Gorst:

Hopefully the Deputy has seen the announcements that the Minister for Social Security has made coming out of the Back to Work Group. We have also seen the Minister for Economic Development making announcements about training, grants as well, which will help people to get future jobs. We have seen the charity scheme which is getting people into work experience because we know that from work and from a piece of work experience it is far easier to get back into work. We will be seeing changes to the Jobs Grants Scheme as well. We continually ...

The Bailiff:

A concise answer, if you would, Chief Minister.

Senator I.J. Gorst:

I was asked for further information about various schemes.

The Bailiff:

I know you were.

Senator I.J. Gorst:

It is important that Members understand the amount of work that is being undertaken but we keep all these schemes under review to make sure they continue to work.

7.7 Deputy G.P. Southern:

The Minister did not quite make 15 minutes there. In the light of ...

The Bailiff:

Well, to be fair to the Chief Minister that depends upon the sort of question he is asked.

Deputy G.P. Southern:

In light of the proposal for long term care which contain a figure for net immigration of 350 persons per year, when will the Chief Minister come to the Assembly with a policy for controlling population with figures for net immigration that have the backing of the Council of Ministers?

Senator I.J. Gorst:

As has been said by my Assistant Minister in answer to questions prior to the summer recess, the Council of Ministers is working on a long term strategy and gathering statistics and information and out of that will come forward the Population Policy but we will, in very short order, I believe, be

proposing that we look at the Population Policy within the Strategic Plan and bring that in the short term.

7.7.1 Deputy G.P. Southern:

Will what the Chief Minister is referring to contain figures for controlling net migration?

Senator I.J. Gorst:

We are already controlling jobs and housing and a number of Members contact, on a weekly basis, my Assistant Minister because they believe that they are being too tough with regard to numbers and approvals. So we said when we started on this process of strengthening our controls that it would not always lead to easy decisions and that is exactly as it has been but that is what I believe this Assembly wants and that is what the Assistant Minister and the Migration Advisory Group is working towards.

The Bailiff:

Very well, that brings questions without notice to an end.

The Connétable of St. John:

I had my light on twice.

The Bailiff:

You were next in line, Connétable, but...

The Connétable of St. John:

If the Minister did not waffle so much he might have had time.

The Bailiff:

Well, no I have to say the question, particularly from Deputy Maçon which was asked, was one which invited a long list of things.

The Connétable of St. John:

He waffled. He gave us the information that was already in the public domain and he waffled for about 2 minutes.

The Bailiff:

It depends on the focus of the question, Connétable.

PUBLIC BUSINESS

8. Discussion on Additional Matters

8.1 Planning Appeals Revised System (P.87/2013) amendment.

The Bailiff:

Very well, now we come then to Public Business. Would Members think it helpful to discuss, at this stage, whether the Assembly wishes to take the additional matters of Public Business for which consent is needed? If Members look at the Order Paper there are a number of matters which are listed for debate and then towards the bottom of the page there are a number of other matters which were not originally on the list but where Members are asking that it be taken. Do Members think it would be helpful if we discuss that now so that Members know exactly what is going to be discussed at this sitting? Very well, I was going to take them in order but Senator Ozouf, do you

wish to open? I was going to say, therefore, that Planning Appeals Revised System, Deputy Young, are you maintaining that? Do you wish that to be taken at this meeting?

Deputy J.H. Young:

I am not sure it is mine. I think it is for the Minister to lead on this one.

The Bailiff:

Yes, I do beg your pardon, it is an amendment. I am so sorry.

Deputy R.C. Duhamel:

A Freudian slip perhaps. [Laughter]

The Bailiff:

Minister, do you wish this one taken?

8.1.1 Deputy R.C. Duhamel:

I will just consult with my alter ego. [Laughter] Yes, I think we do, yes.

The Bailiff:

Very well, does anyone want to say anything or do Members agree to take that matter?

The Connétable of St. John:

The Minister said “he thinks” so he should be positive or we should just kick him to touch?

8.1.2 Deputy G.P. Southern:

Would the Minister care to explain why it is important that we do debate it at this session and not later on?

Deputy R.C. Duhamel:

I am happy to do that. I think that is why I said “I think.” If, indeed, there are other items that are on the agenda that this Assembly think would best be discussed today I would be quite prepared to suggest that my particular proposition and Deputy Young’s and Deputy Le Hérissier’s be taken at another sitting but I am in the hands of the House.

The Bailiff:

Well, we need to be clear, Minister, are you proposing that it be taken at this sitting?

Deputy R.C. Duhamel:

I am at the moment in the absence of any other counterclaim being made that the composition and election of the Assembly ...

Deputy G.P. Southern:

Would the Minister like to explain why it is important we take it at this session and not a further session?

The Bailiff:

Do you wish to add anything, Minister, to your reasons to debate it at this sitting?

Deputy R.C. Duhamel:

No, Sir

The Bailiff:

If your proposition seconded? [**Seconded**] Very Well. Now, does anyone wish to say anything or should we move straight to a vote on whether to take this matter at this sitting?

8.1.3 Deputy G.P. Southern:

In the light of the complete absence of any evidence as to why we should take this proposition at this sitting and not another, I cannot see how we can vote for it.

8.1.4 Deputy J.H. Young:

If I could support the Minister’s request to have this debated today. I think these propositions have been around for quite some time and the material is there. I think the issues are relatively contained and having read through them unless there are any competing counterclaims from anyone else I think they are priority, let us get rid of them and make decisions today.

[12:30]

The Bailiff:

Very well. All those in favour of ... the appel is called for in relation whether to take Projet 87, with its associated amendments. If you wish to take it you vote pour, if you do not you vote contre. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 35	CONTRE: 5	ABSTAIN: 0
Senator P.F. Routier	Senator P.M. Bailhache	
Senator P.F.C. Ozouf	Connétable of St. John	
Senator A. Breckon	Deputy G.P. Southern (H)	
Senator S.C. Ferguson	Deputy J.A. Hilton (H)	
Senator A.J.H. Maclean	Deputy J.M. Maçon (S)	
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Connétable of Trinity		
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Martin (H)		
Deputy of St. Ouen		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy T.M. Pitman (H)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy G.C.L. Baudains (C)		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		

Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				

8.2 Organ Donors' Register (P.89/2013)

The Bailiff:

We come next to Organ Donors' Register - Projet 89 - lodged by Deputy Le Hérissier. Deputy, do you wish to take this one?

8.2.1 Deputy R.G. Le Hérissier:

As will be seen by the Minister's comments, there has been an awful lot of under-the-counter discussion about this. This is something instigated by people in the medical system who have themselves experienced some of these frustrations. Deputy Tadier has been very useful also in this regard. I think peace has broken out. One part, I think, will go through with everybody's agreement and the debate will simply be on what is an organ register. I would like to take it.

The Bailiff:

Very well, is that proposition seconded? [**Seconded**] Does any Member wish to say anything? All those in favour of taking Projet 89?

The Connétable of St. John:

The appel, please.

The Bailiff:

The appel is called for in relation to whether to take Projet 89. I invite Members to return to their seats. If you want it you vote pour, if you do not you vote contre and the Greffier will open the voting.

POUR: 36		CONTRE: 3		ABSTAIN: 0
Senator P.F. Routier		Senator P.M. Bailhache		
Senator P.F.C. Ozouf		Connétable of St. John		
Senator A. Breckon		Deputy R.C. Duhamel (S)		
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				

Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				

8.3 Composition and election of the States Assembly: reform – proposal 2 (P.94/2013) – amendment

The Bailiff:

The final one is Projet 94, composition and election of States Assembly reform proposal 2. There is an amendment from Senator Farnham. I was just going to ask Deputy Pitman, first of all, whether he wishes this one to be taken today.

8.3.1 Deputy T.M. Pitman:

If I put this back I may not even be here with the machinations of the establishment party so it is a risk for me. However, I am always happy to bear my proposition up against Senator Ozouf so if it helps the Assembly I am quite happy to do that. So I am happy to move it back to the 24th.

The Bailiff:

Very well, we will defer it to be debated at the same time as Senator Ozouf's.

8.3.2 Senator P.F.C. Ozouf:

The point that I was going to just raise by way of clarification is that my proposal has been put forward and it is designed to ensure that there is a debate on constitutional reform. Indeed, I just want to ensure P.P.C. have responded but have not been very clear about their timetable although they are, I am sure, trying. I just want to establish what the rules are that will require this debate to be take place. I understand that Standing Orders ... I just want to air this so that Members are clear in terms of what the rights of Members are to force a debate. I voluntarily have asked for a debate on 22nd October but I do not want to be in a position that effectively we could be in a position where this is not taken. So those of us that have got proposals and indeed Deputy Pitman is also now proposing to defer his so we do want to ensure that there is a debate and that the rights of a minority, in which case I am a minority in this case potentially, that this debate will happen and it will be forced. So I just wanted to check what Standing Order arrangements were.

The Bailiff:

Well, it is a matter for the Assembly but it can only be deferred a certain number of times. I do not have the Standing Orders in front of me. I think it is 3 times off the top of my head.

Senator P.F.C. Ozouf:

So does it mean that at the very latest we would ask for them to be debated on the 22nd October and then 3 sittings later it then must be taken?

The Bailiff:

Yes.

Senator P.F.C. Ozouf:

That is what I signal. This debate ... unfortunately we should have probably asked now and then got to 22nd October to have the third one but anyway the point is made this debate must go ahead and the debate must. We express the hope that obviously Members will consent and P.P.C. will get on and come forward with their proposals by 22nd October.

8.3.3 Deputy J.A. Martin:

Can I just query that, the understanding of that Standing Order? The deferral is when the States defer it not the proposer defers.

The Bailiff:

Yes. When the States defer.

Deputy J.A. Martin:

The proposers are now moving it back so it will start on the 24th October if the States refuse?

The Bailiff:

Yes. What Senator Ozouf was saying he wanted to ensure that it would be debated.

8.3.4 Deputy T.M. Pitman:

May I seek clarification from you, because my concern is ... I am happy to move it back to the Assembly? However, someone else could lodge something new next week, another reform. Does this mean that we could be pushing it back and pushing it back and it will never happen? Is there any way of assurances being given that that is not going to happen?

The Bailiff:

No. It is entirely a matter for Members as to when they take it. It is in the control of the Assembly.

8.3.5 Senator L.J. Farnham:

I just wondered if Deputy Southern would give an indication ... I understand he has reform proposition 3 due for debate prior to that. I wondered if he would be prepared to offer the same as the other 2 proposers.

8.3.6 Deputy G.P. Southern:

My understanding was today that we would debate proposal 2. I am quite content for my proposal 3, which is down for 24th September, to be taken on 22nd October. No problem with that at all and would request it.

The Bailiff:

Very well. So Deputy Pitman has agreed to defer Projet 94 to 22nd October which is when all the other matters would be tabled as well.

8.3.7 Senator P.F.C. Ozouf:

I am just looking at the date, so if P.P.C. are unwilling, and obviously I think Deputy Martin is a member of P.P.C., I hope she is not indicating that these things are just going to be sounded. The latest debate, therefore, so that those of us that have proposals, we will try on the 22nd, try again on the 5th and a date could be required on 19th November. So that is a signal.

The Bailiff:

Very well. So that completes the matters then that we are going to take at this Assembly. Do Members wish to commence now or adjourn at this stage?

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

The adjournment is proposed and the Assembly will reconvene at 2.15 p.m. to start public business.

[12:36]

LUNCHEON ADJOURNMENT

[14:16]

PUBLIC BUSINESS - RESUMPTION

The Bailiff:

Now we move on to Public Business.

The Connétable of St. John:

Before we start could somebody clarify, are those 2, are they cameras up on the walls there; is that Big Brother listening in or what is it, please, because I have been asked several times this morning?

The Bailiff:

Connétable, I do not know whether this applies to you, I am sure it does not, but apparently it is new loop to help those hard of hearing.

9. Draft States of Jersey (Minister for External Relations) (Jersey) Regulations 201- (P.67/2013)

The Bailiff:

Very well, so the first matter on the Order Paper is the draft States of Jersey (Minister for External Relations) (Jersey) Regulations 201-, Projet 67 - lodged by the Chief Minister - and I will ask the Greffier to read the proposition.

The Greffier of the States:

The draft States of Jersey (Minister for External Relations) (Jersey) Regulations 201-. The States, in pursuance of Article 29(2) and (3) of the States of Jersey Law 2005, have made the following Regulations.

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

I propose the Regulations to establish a new post of Minister for External Relations. As described in those draft Regulations the Minister for External Relations would discharge, concurrently with the Chief Minister, the function described in the States of Jersey Law to conduct external relations in accordance with the common policy agreed by the Council of Ministers. In addition the functions of the Chief Minister under various enactments as described in the Regulations would be transferred. It will remain the function of the Council of Ministers to discuss and agree their common policy regarding external relations. Members may recall that this Council of Ministers is the first to have agreed a unified common policy statement for external relations and is the first to have reported this common policy to the Assembly which we did in November of last year. While the States of Jersey Law would be amended to increase the number of Ministers to 11, the Troy Rule is unaffected by these draft Regulations and would remain in place. Standing Orders will apply to the process of selection and appointment of the Minister for External Relations which, if

this proposal is agreed, will take place at a subsequent sitting of the States. I would like to thank the Scrutiny Panel for their thoughtful report in the scrutiny of these regulations and I am pleased to note that the majority of their recommendations have been accepted by me and by the Council of Ministers. The report from the panel however noted the possible read-across to ongoing work on reforming the Assembly and no doubt some Members will wish to speak about that during the course of this debate. However, I hope that Members will by now have received a helpful update circulated on behalf of P.P.C. regarding alternatives for reform of the Assembly and the machinery of Government. While there is an important need to establish a Minister for External Relations I do not believe that there is anything in the establishment of this new Ministerial post which is incompatible with the options for reform being proposed. Indeed the latest recommendations made by the Machinery of Government Review Sub-Committee support the view that there is a need to ensure the ministerial portfolios remain aligned with the strategic needs of the Island. The establishment of a Minister for External Relations is not intended to change the role of any other Minister with regard to external relations. In fact it is an important support role supporting other Ministers in the delivery of the requirements of their portfolio. It is not intended to make any changes and it does not make any changes to the important functions performed by His Excellency and by the Bailiff. This new ministerial post will not either make any changes to the Island's constitutional relationship with the United Kingdom. The creation of a Minister for External Relations is consistent with the framework for developing the international identity of Jersey signed by the United Kingdom and Jersey in 2007. Hopefully, Members will have had time to see the copy which is appended to the accompanying report of the Regulations. While there are a number of benefits that would arise from establishing this new Ministerial post the most important are probably the need to meet the international norm for the conduct of external relations and the improvements to accountability that would be achieved. The international norm is for each jurisdiction around the world to have 3 positions in order to conduct external relations. These positions are a Head of State, for example, Her Majesty the Queen; a Head of Government, for Jersey that is I, the Chief Minister; and a Minister for Foreign Affairs, in Jersey - which it is not presently - a Ministerial post. The international norm is upheld whether a Government is internationally sovereign or not. For example, sovereign governments like Singapore adhere to this norm as do non-sovereign governments such as Scotland. There is a clear expectation overseas that along with a Chief Minister we will have within the Council of Ministers the important role of a Minister for External Relations. While the role of Assistant Chief Minister with responsibility for external relations has proved valuable this is not the same as being able to engage on equal terms with Ministers for Foreign Affairs from other jurisdictions. A Minister for External Relations with cabinet status will inevitably, and I believe does, carry more weight overseas as well as being more easily understandable to those from other cultures around the world. The creation of a Minister for External Relations to replace the Assistant Minister, as I said, would also improve accountability. There would be improved accountability to this Assembly as a Minister would be voted into office by Members and would be required to regularly answer questions and appear before Scrutiny as is the case with other Ministers. Most importantly there would be additional clarity for Islanders in holding their Government to account in the increasingly important area of international relations. In summary then the establishment of a Minister for External Relations is an essential change for the better which is necessary to represent the best interest of our Island overseas. Jersey would be taking the lead among the Crown Dependencies in this regard but in doing so would also be meeting the international norm applied by hundreds of governments around the world whether large or small, sovereign or non-sovereign. This is an opportunity to make a simple transition from a post of Assistant Minister to a post of Minister which has no direct resource implications but which would ensure an immediate improvement in our ability to represent the best interest of the Island overseas and to be held to account in the important area of international relations. I hope that Members will support this simple but important improvement. Thank you.

The Bailiff:

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

9.1.1 Senator S.C. Ferguson:

The Corporate Services Scrutiny Panel has recommended that the proposal to create a Minister for External Affairs should not be debated until after issues regarding the machinery of government have been addressed. In our review we have noted that the Island is not yet able to decide major international treaties on its own behalf. It is still necessary to obtain the consent of the U.K. Government. We are able to deal with lesser treaties on our own recognisance, a process known as entrustment, but major issues still require agreement by London. As has happened recently it was still necessary to call on the Minister for Justice in the U.K. to support us as we fight to get taken off a French blacklist. I can understand that when you are faced with a crisis you enlist all the help you can but would it have made a blind bit of difference whether it had been the Minister for External Affairs or the Assistant Chief Minister for External Relations making the calls? Surely it is the presence and gravitas of the officer holder which counts not the title. I think it was best summed up by Baroness Thatcher, and she said: "Being powerful is like being a lady. If you have to tell people you are, you are not." Think about it. The panel have also discussed the rank of foreign representatives visiting the Island and these are usually ambassadors or high commissioners. Although we have been visited by heads of state the only ones we can recall, within the last 20 years, are the President of Rwanda or Her Majesty the Queen. I think I remember Former President Giscard d'Estaing visiting the Island but if I remember correctly he was on holiday. I think he was doing the rounds of the Chateau de Reilly, or whatever they are called. Despite the Chief Minister's comments on international norms the evidence is that generally small states, such as Jersey, do not move to appoint foreign ministers until they achieve independence. Singapore is a very good example of this. In Guernsey, for example, the Chief Minister retains control of foreign affairs, while in the Isle of Man there is a Minister for Culture and External Affairs which does seem a very unusual juxtaposition. It has been suggested that the title of Minister would enable better contacts to be made in the Far East which is felt to be very status conscious but, as I say, if you have to tell people you are, then are you? There is also a problem on division of duties to be discussed here I think. Technically, trade visits to far flung corners of the world fall under the broad umbrella of the Economic Development Department. If it gets to the point that we need to send in the big guns then it is a job for the Chief Minister.

[14:30]

If we start having Ministers for everything we shall start looking like a musical comedy Rule, Britannia, and if we manufacture jobs for personalities we risk losing credibility. We were pleased to note that the Council of Ministers has developed a common policy on foreign relations but we have noted in our report that this is very important and it would be more appropriate for the policy to be brought to the States for debate and for approval. As a panel we concluded that while Jersey's external relations are possibly a growth area it is very difficult to see the immediate need for the new Minister as the Chief Minister is solely responsible and would appear to have sufficient status to represent the Island overseas. However, until we sort out the problem of corporation sole what happens if the Chief Minister and the Minister for External Affairs disagree on foreign policy? It is one thing to have disagreements locally in the Council of Ministers about local matters but it is a little more difficult if you are playing away from home. Such a situation could also blur the lines of accountability for external relations rather than improve them as has been suggested. However, whatever the merits of creating a Minister for External Relations may be it must be recognised that the States Assembly is also about to embark on broader discussions regarding the composition of the Assembly and the machinery of government. Whatever the total number on the Executive will be under whichever reform programme comes forward an extra Minister at this time makes it much

more difficult to comply with the Troy Rule. We do not have parties and even for the Clothier purists the best way to achieve consensus and avoid dictatorship is a minority executive. We believe that it will be best for those broader issues to be resolved and to be resolved first before the Assembly is asked to consider the establishment of yet another Minister and that for External Relations; in other words eventually but not yet. Please do not pass this proposition.

9.1.2 The Connétable of St. John:

I am probably coming from the other side on this against the Senator, the last speaker. Why I say this, I believe the scenario we have at the moment with our French cousins may not have arisen if historically our Chief Minister and others were conversant in French which historically, prior to 2005, we had a very good operating relationship with our French cousins. It was not all done through an embassy north of us and 150 miles away up in London. If we had a problem we could ring up a Minister in the French Government, which we did from time to time. We had some very good friends over in the French Government, in central government, and we could resolve issues over the telephone. I am sure if the likes of the former Senators, Jean le Maistre and/or the Connétable of St. Ouen of the day, Ken Vibert, were in this Chamber today they would be echoing those very words. We had a very good relationship and it is a shame that we see everything has to come via London these days when we are dealing with issues with our French cousins. It is important those doors that had been made in France that were opened all those years ago in the 1960s by the late Senator Philip Romeril, when he was one of the first Members to start opening the doors, and those doors stayed open for some nearly 45-50 years. To see the way things are happening today where a lot of Members are no longer conversant with the French language we seem to be sending more and more of our paperwork via the U.K. I am very supportive that we have a Foreign Minister who is currently the former Bailiff who still has, I am sure, many good connections with the French Government and if it is going to help this Island in moving things in the right direction we should not be waiting for Government reform. We want to be able to give that authority, or the gravitas, as the previous speaker spoke, to that Assistant Chief Minister today or as soon as possible, not wait for more Government reform. Whether he is just dealing with our French neighbours or whether he is dealing with something further afield. I believe if we are sending somebody abroad to sign agreements, friendship agreements, whatever that agreement is that that person should have the authority of this House by being called the Minister for Foreign Affairs. An Assistant Minister, whether we like it not, does not carry the same weight. What really worries me is what is our Chief Minister going to do given this is one of his responsibilities? Is he just going to become a Deputy Chief Minister as we have done with our Viscount's Department when we used to have a Viscount, now we only have a Deputy Viscount.

The Bailiff:

I think on a point of order there is a Viscount.

The Connétable of St. John:

Is there? I do stand to be corrected. Therefore I will change my tack but I have concerns that our Chief Minister will have very little, if anything, to do because at the moment he might be able to answer some of my emails that I have sent him because I very rarely get a reply. **[Laughter]** Right the way through the summer we have had what concerns me, a problem down at the ports, a very big problem. We were told by one of his Ministers some weeks ago that this urgently needed to be resolved. Nearly a month has passed and we still have not really been, contrary to what the Minister said this morning, updated or Members have not. I have been updated by various sources but I have had to make a number of phone calls to the Minister for Economic Development to get this confirmed and we keep in contact. But I know other Members, and it was asked this morning in this Chamber, have asked to have an update and I sincerely hope the Minister for Economic

Development through the Chief Minister gives us an update tomorrow if not later today. That said I am 100 per cent behind this proposition because I think this is overdue.

9.1.3 The Deputy of St. Owen:

First of all I am grateful to the Council of Ministers for accepting the majority of the recommendations that the Corporate Services Scrutiny Panel has made. However I would like to point Members to a number of matters that perhaps are still unresolved. The first being that again we see this particular Chief Minister making what he believes to be a strong case for an additional Minister to add to the Council of Ministers. For what? For children maybe because we have had a number of independent reports that have highlighted the fact that we need to have much stronger and better accountability and responsibility for children. That is without recognising that Social Services is another area that equally could be and is treated currently as the poor relation when it comes to Ministerial responsibility and accountability and yet no, we are not seeing those particular Ministries being promoted. We are seeing a Minister for External Relations. You have to ask why. Even our previous Chief Minister asked why and questioned the need for a Minister for External Relations. It happens that this Chief Minister, rightly or wrongly, believes there is a case. What about after the next election? What will that Chief Minister want? Maybe that Chief Minister will want and be able to and take full responsibility for external relations but introducing regulations at this time will tie the future Chief Minister's hands. Do we really want to do that? The other issue is that there are some significant matters still unresolved. The machinery of government being one, the number of States Members being another but more importantly a problem that our current Chief Minister continues to highlight when he keeps saying: "I have no responsibility, I have no ability to control my Ministers." In that sort of scenario we are going to have a Minister for External Relations who is going to be and act as corporate sole and yet the Chief Minister is suggesting that that will not be the case. I am sorry but the Chief Minister has already acknowledged that that will be the case that he will act as corporate sole and it will be very difficult for the Chief Minister to direct a fellow Minister because it is the same situation that he finds himself in with the current crop of Ministers. The Constable of St. John highlights some of the skills required and he is absolutely right that there are a number of skills that are necessary to conduct external relations but do not get drawn into the trap of looking at the individual. **[Approbation]** I do not question the ability of the current Assistant Minister to the Chief Minister in undertaking the task but I am sure the Senator himself will agree that his time is limited within this Assembly and someone else will be required to follow him. Again look beyond just the individual and look at the position and look at the current situation that we are in before simply agreeing to add another Minister to the group. The Chief Minister suggests that there will be a greater accountability. That is rubbish, I am sorry to say. **[Laughter]** Let me start again, I disagree with that statement, I am sorry, because currently we have that accountability because the Chief Minister is responsible for external relations. We can hold him to account and we do hold him to account. This idea that it is going to improve situations it will not because he has said, and we reported in our Scrutiny review, it is going to be a co-ordinated approach so now you are going to have a Chief Minister and possibly a Minister for External Relations and everybody is going to be saying: "Now who is responsible for this?" We have already seen that, and certain Members have commented over the last 18 months or so, the Assistant Minister who has taken responsibility for external relations has made a number of comments which perhaps might not necessarily be shared by others. What does this do to resolve that issue? Nothing. It is still the Chief Minister that we will look to to be responsible for external relations. It is argued that we have to change the name and the reason is because the title Minister has a more acceptable feel when it comes to dealing with other international jurisdictions. I would say we have the best of both worlds at the moment because we have a Chief Minister that is responsible. How much better can you get than that and yet we are supposed to dilute that and create a Minister who is not the Chief Minister, he is not all-powerful, to do the job. I really am

struggling to see how this fits. The Chief Minister shakes his head but he has agreed and stated many times in public and at public hearings that these are the sort of challenges he faces.

[14:45]

It is all very well to shake your head but the reality is as stated. I would just say to States Members when it comes to deciding whether or not we approve this new Ministerial position, is this the most important Ministerial position that we should be adding into the Council of Ministers? Is it really necessary, and what impact and effect it is going to have for the future and as we move forward determine and review and revise the machinery of government, and indeed adjust the number of States Members.

The Bailiff:

Does any other Member wish to speak on the principles? Yes, Deputy Vallois.

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

Just checking on the Standing Orders because I am looking at the regulations that have been changed and it refers to the changes in the Standing Orders, and the Minister talks about more accountability as a Minister, being a sole Minister, and my understanding as President of the Chairman's committee is that because Scrutiny is fairly tight in its requirement to hold certain Ministers to account under each Panel where the Minister for External Relations will sit.

9.1.5 Deputy J.H. Young:

When this proposition first reached me, being a Member of the Machinery of Government team as it were, I shared the reservations strongly of Senator Ferguson and the Deputy of St. Ouen because we clearly see there in that piece of work that there are a number of needs for new Ministers. The Deputy has mentioned certainly children but there is also clearly some gaps in this question of justice, a Justice Minister. Indeed we have a property Minister who I certainly believe should not be subsumed within the Finance Ministry. It should be separate because it is strategic. There are a number of cases there which really flag-up a need for a reshaping of the Ministerial team. I certainly was convinced by the argument from the Chief Minister. He needed greater flexibility. I think our current structure is very inflexible. We have ourselves stuck in the silo straitjackets of different Ministries and the machinery of government proposals' aim is to put on the table proposals for greater flexibility to allow the Chief Minister to first set his strategic plan and then structure a group of Ministers and select individuals for it or propose to this Assembly Ministers who will successfully do that. Of course the reality is that it is not going to come about until we have had our committee debate and then whether we find consensus and whether we can get the changes. Inevitably those improvements which I am really and strongly in favour of are not going to be around in the lifetime of this particular Assembly. I think we have the situation where there is no doubt that the Island is under external threat, external threat on financial services and the French experience that has recently hit us is an example and there will be others. Of course we need to have ways of opening our business links with other places in the world towards the eastern Asia area and so on. All those are things that say to me that there is a real role to be done here and we are fortunate that we have a Member who is well equipped and wanting to do that role, and prepared to do it. In the future we may not have that. We may not be so fortunate. We may not have a Member with the skills to do that and we may not have a Member who wants to do that. We may have a Chief Minister who prefers to do it. Where that takes me is it is not an ideal sequence of decision making that we have come here and we have regulations. I wish we did not have to do this for regulations but under the current structure we do. I hope this is an interim thing and I am going to listen to what the Chief Minister says in reply because I think if this is seen as an interim move to enable us to deal with this external threat well, I accept the argument that the authority needs to be there for the person who has that job. I also think that we are always criticised in this

Assembly for being too internally focused and we do need to ensure that we externally focus as well. In fact it is a priority at the present time. I will listen and I am hopeful the Chief Minister will indicate that yes, this is necessary at the moment. I hope that he shares those views about greater flexibility in future and would like to see that and that therefore this will not necessarily be a permanent appointment beyond the life of this Assembly because I do think if one had to make a choice between some of the other priorities of Children's Minister, Justice and Social Services I think I would find that a very difficult choice to make at the moment. That choice is not on the table. We only have one and therefore as an interim measure I am inclined to go along with it.

9.1.6 Deputy J.A. Martin:

I do normally agree with Deputy Young but as for the hokey-kokey of one foot in and one foot out if we are going to put in a new Minister and we will do it this time because the Senator doing the job at the moment as Assistant Minister is very good at it, thank you very much, and that includes the words of the Constable of St. John. Would he be so up for it with his comments about Deputy Tadier this morning about inciting the French? As the Deputy for St. Ouen has said the present incumbent has also made some very detrimental remarks in saying that Jersey should go independent and if anything did anything to the finance industry out there on the street was: "Do not say that again in public." We have not had a retraction. Do we make a job for the person that is in the Chair? To me this debate is completely back to front. We have gone all the way down to regulations and like the Deputy of St. Ouen said, many years ago there was a possibility and after many reports that we may have a Children's Minister and it was then why did we not have one for the elderly and it could be covered by one for social needs or Social Services. This goes through every regulation when we get to them, if we get to them, because I am certainly not voting for it to tell me where we will insert the Minister for External Affairs instead of the Chief Minister. It goes back to that I cannot understand then why the Constable of St. John is absolutely adamant to support this proposal but does ask what will the Chief Minister be doing. The Chief Minister to me has assistants to do the housekeeping, to go and maybe meet so and so. It is in the policy there are 3 ways you get this job and in Jersey it is being the head of Government, i.e. Chief Minister. If he cannot represent us or may not be able to speak French, but I am sure he has enough officers and translators that are paid very well in that department that can go with him and do that job. It is not always France. France just happens to be the in topic at the moment. We are trying to open up to Asia and other countries and I do not know if the present incumbent speaks Mandarin and he probably does not and he probably would not need to because they speak very good English. I absolutely agree with what I have heard from the 2 Members of the Corporate Services Panel and I would have liked this to have been in principle months ago and we could have washed our face with it and probably hopefully have thrown it out because there are more things we need to be getting on with. We have spent, by the looks of this, a lot of time on law drafting because all the regulations have been gone through. I also question the financial and manpower. I am an Assistant Minister. It costs my department absolutely nothing. If the Assistant Minister now performing the job has the same amount of support that I have in the Health Department and that is absolutely none which is fine, I do not have to have any. I have the use of an office occasionally when no one else in it and probably after hours and share that with my other Assistant Minister and the Minister, but we are to believe that either the Assistant Minister now has an army of assistants behind him and officers or he is going to do this job completely out on his own. What do you believe? It is another empire-building within Cyril Le Marquand House and I just really need for people to understand why is this an important job now? **[Approbation]** Clothier never even mentioned it, never, ever mentioned it. It was not mentioned as the Deputy of St. Ouen said the Chief Minister before last was not too enamoured about getting this role up and running either and here we are today and it seems to be a foregone conclusion and the majority of people if they vote for this are looking at the person doing the job at the moment. Absolutely wrong, absolutely thinking we are going to bring

all this regulation in for a year in accordance with Deputy Young is madness. It is perceived as madness and also perceive that everything on this agenda today is talking about ourselves. It is not needed. We have the Chief Minister to do it. If the Chief Minister did not want to take on this role maybe he should have thought about being Chief Minister. **[Approbation]** He really should have thought. It is the tail wagging the dog and we should not be seen to be doing this. We need the Chief Minister. We have all the portfolio there with the Chief Minister and again, very excellent speech from the Deputy of St. Ouen, it will not bring more accountability to this House because how do we hold the rest of the Ministers to account? With great difficulty I would say and he would probably agree with me. I cannot support this. I am very disappointed the way it has been done. The Chief Minister has a lot of explaining when he sums up as to why he thinks it is his role firstly to be attending - and I am sorry the Lieutenant Governor is here - a garden party at Government House when his Assistant Minister is in Asia doing big deals in finance I totally think that is wrong. He is the Chief Minister and he, in this proposition, already has the power to represent us in external affairs. We do not need anybody else.

9.1.7 Senator P.F.C. Ozouf:

It was interesting to hear Deputy Martin speak about the fact that Clothier did not recommend a Minister for External Relations. I think Deputy Martin and I are one of the dwindling numbers of Members that were in the Assembly in 1999, some 14 years ago. While it is uncomfortable that there is something which seems to happen with increasing speed and velocity and that is change... indeed in those last 14 years we have seen an expansion of trade flows. We have seen a pace of globalisation, cross-border competition, cross-border trade flows, cross-border co-ordination of worldwide policy. I would how many Members would be aware or even heard of organisations such as the O.E.C.D. (Organisation for Economic Co-operation and Development), A.S.E.A.N. (Association of South East Asian Nations), all of the bodies around the world, the work of the I.M.F. (International Monetary Fund). Who would have conceived a world in which the world would have come together in dealing with financial crisis as we saw at various different G8, G20 summits? There is absolutely no doubt at all that even in the last 10 years we have seen a world which is becoming increasingly globalised. One Member mentioned, I think, the remarks that somehow there is an aspiration of some Members, indeed one individual, which suggests that Jersey would become independent. There is no such thing as independent in this increasing globalised world whether it is in terms of co-ordination of action against countries like Syria, whether or not it is co-ordination on economic policy, financial policy, it is an increasingly complex and interrelated and communicating and co-operative world. **[Approbation]** There is frankly a requirement to put some additional Ministerial bandwidth in the areas of external relations and that is exactly what we are talking about here. Why does that matter? The Deputy of St. Ouen will say quite rightly there needs to be a focus on social policy and that is perhaps something that has distinguished this Council of Ministers under the leadership of the Chief Minister that not only are we focusing on economic policy and financial policy but we are focusing on social policy too. There must be no doubt at all about this Council of Ministers' commitment just by way of resources being allocated to increasing the care and attention and the services that we provide in the area of social policy.

[15:00]

However that has to be delivered. It certainly has to have the financial resources in order to be able to pay for it. It is the interrelationship which the Jersey Government needs with other places which we need to build in terms of our trade flow which are absolutely vital to ensuring that we have the economic wherewithal, and we have the financial wherewithal in order to deliver the Deputy's social policies. I would say increasing the amount of external relations bandwidth both within the Chief Minister's Department, putting in a separate Minister is giving us a better chance to be more

financially successful in terms of economic performance. But it goes a little beyond that. In the last few years even in the tenure of the last U.K. Government we have seen the Ministry of Justice that was responsible and is responsible for our relationships with the U.K., they have seen some of the most dramatic cutbacks of any Government department within the United Kingdom and that has meant we have had to put in place our own activities sometimes led by Ministers in order to ensure that we have good relations with Government departments in the U.K. Members will remember the ending of the health arrangement which meant that our citizens in Jersey did not have reciprocal rights for health arrangements within the U.K., an agreement that was just simply turned off at a moment's notice from that. That is just one example of the importance of an interrelationship with Government departments across the United Kingdom whether or not it be health, whether or not it be on law and order, whether or not it be on education, universities - whole areas of responsibilities. We have to be doing more ourselves which is the reason why we are creating and this Assembly has rightfully put the budget for the London Office. Could we have envisaged 10 years ago an arrangement whereby we would be co-operating with Guernsey in relation to having a Channel Islands' office in Brussels. The E.U. has all sorts of relations and implications for our Island. It is important that again that is just another example whereby there is increasing bandwidth required on the area of external relations, and that individual who is discharging that responsibility. I will come to the relationship between the Chief Minister and the Minister, or the current Assistant Chief Minister or the new Minister for External Relations in a minute. Frankly there is just an awful lot more work and effort that needs to be put in dealing with relations in both London, Europe and across the world. I think there is almost perhaps a quite an understandable lack of clarity. This is not about transferring the responsibility that individual Ministers have in areas of their external relations to the Minister for External Relations. This is about certainly setting up a Minister that will be working in co-operation with Ministers about their external relations. If I cite the Treasury, as we explored this morning in question time, the Treasury is the competent authority in relation to tax matters. We now have over 30 agreements and expertise is required both within the officials within the External Relations department and expertise and diplomatic experience is required in terms of Ministers in dealing with problems as we are dealing with the French matter in particular. There will be more issues that we will have to deal with. Is the Minister for Treasury and Resources simply transferring responsibility for these matters to the Minister for External Affairs? Absolutely not. In these matters it is the tripartite of the Minister for Treasury and Resources, Minister for External Affairs as he or she should be and the Chief Minister. This is co-ordinating this matter and that we are dealing with this issue together. This is not about transferring. It is about partnering and doing that job in partnership. I feel particularly perhaps sensitive to this because a number of Members have made remarks about the previous Chief Minister in relation to his views about external relations and I am sure that both the previous Chief Ministers will not mind me saying the actual experience and their own conclusions were, former Senator Frank Walker's clear recommendation was that there should be a Minister for External Affairs, and the previous Chief Minister certainly looked at the then Deputy Chief Minister which I discharged to deliver that. Many Members criticised that the Minister for Treasury and Resources was putting his fingers into too many pies and effectively I was discharging functions of that. Clearly Members cannot have it both ways. That is just to demonstrate the fact that it is not about personalities. It is about the bandwidth that is required. I am quite clear that the experience of both, and I have been on the Council of Ministers since 2005, there has been an unbelievable growth in the requirement, the need for Jersey's best interests from a social and economic part in order to discharge and do the work of a Minister for External Relations. Members should not forget that the actual law, the actual guiding principle and again just to be absolutely clear that this is not simply transferring a silo of external affairs which will not be relating to other Ministers or not relating to the Chief Minister, that is simply wrong. One of the functions of the Chief Minister shall be to co-ordinate external relations in accordance with the common agreed policy of the Council of Ministers. While

there is not collective responsibility - perhaps there should be - there is a requirement for a collective foreign policy which is under the leadership of the Chief Minister to be discharged by Ministers. That is equally going to have to be discharged by individual Ministers and the Minister for External Relations. This is simply not a case of functioning, of passing a responsibility for all external affairs, I am afraid to say not to underplay the importance of the future potential post holder. This is about discharging a common policy. In fact it could be argued that this Minister is perhaps going to be under that requirement of needing to be collectively responsible and discharge collective responsibility to a much greater extent than any other Minister. Perhaps that should be something. A number of Members have said that this is cart before the horse, and I understand that. I agree with the Chief Minister and other Ministers and indeed hopefully other Scrutiny Panel observers who have made comments but there is clearly a need to get more flexibility about moving Ministerial portfolios where there is an important issue to be dealt with. There is no doubt at all that the Chief Minister should be able to move portfolios and place a particular focus of attention which needs focus to a Minister and that should not have to go through a regulatory arrangement. Perhaps there should be a greater focus of collective responsibility but there is no doubt at all that we need to deal with this issue to a much higher level of external relations. This is not about the Chief Minister passing responsibility to the Minister for External Affairs. That is not the case. This is about having additional bandwidth at an appropriate level and yes, external relations is so important and such is the relationships that this Minister needs to deal with whether it is ambassadors, whether or not it is other Governments, whether or not it is dealing with trade missions, all the whole gamut of interrelations, and it needs to have the standing of a Minister. That is a sign of a mature jurisdiction such as Jersey. It is entirely in accordance with the report on the constitution of the States where we are going to be focusing importantly on growing our external identity. Our international identity is signed by the Minister for the then Constitutional Affairs, now Minister for Justice, and agreed that that is what the U.K. wants us to do. This is a natural evolutionary step and it is the right step and I would argue that Members need to strongly support it.

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

I am really pleased to be following the Minister for Treasury and Resources because he explained it far better than I could ever do. I think it would be worthwhile sharing with the Members that the conference I attended only last week and came back at the weekend, in South Africa along with Deputy Le Hérissier and Deputy Pinel, in particular the small state part of the conference. There was a very common theme that came out of it and it was a statement that was made by one representative. It was your close neighbours are not necessarily your friends, and nothing could be truer than that because that statement was made by the representative from the Falkland Islands who are under pressure from Argentina. Equally the same statement was echoed by the people from Gibraltar under threat now from Spain and when we look at our own situation let us just think about the U.K. Government and what they did in regard to our fulfilment industry, the old L.V.C.R. (Low Value Consignment Relief) and the arbitrary removal of it without any consultation whatsoever. Why did they do that? For political appeasement back in the U.K. to gain popularity. Let us look at what is going on with France at the moment, our neighbour just 12 miles away. Where is Monsieur Hollande on that? He is under pressure at home and he wants to point the finger at somebody else to turn the attention away from himself. What we really do need now in these times of change is we cannot keep harking back 12 years ago to Clothier. As the Minister for Treasury and Resources said earlier on we are in a different world today. We have different pressures. People are looking at us. They are very envious of what we have achieved. They will take from us whatever they can wherever it is possible. We need people out there who can defend us in the international scene and I fully support the Chief Minister and thank him for bringing forward this and also I must just comment that I am very unhappy to hear that the Corporate

Services want to bury this. I can see their skeletons still waiting to make the decision some many years from now. It is time for us to make the decision. The world is changing today. We are under threat today as are other small nations around the world right now.

9.1.9 Deputy G.P. Southern:

My starting point is to wonder exactly what those people out in the normal world will think of us if we accept that the most important thing we need to do at this time, our very first act when back from the 8 week break, is to make a new Minister. Is that really our priority? Is that what we owe those people who are unemployed? We make a new Minister for Foreign Relations. It may well be that the House thinks that is the best thing we could be doing and that will impress everybody out there. I do not think so. We have just had from the last speaker mention of: "Look what they did to our fulfilment industry" and presumably the extension of that is: "And if we wanted to make a difference back then for our fulfilment industry, what we should have done is change the cap badge so that the Assistant Minister could have gone along and negotiated a relief for our fulfilment industry and saved it because he was a Minister." What errant nonsense. It would make no difference whatsoever to and I think the previous speaker said the real world out there which is changing and one of the ways in which it was changing is that it would not put up with our fulfilment industry any longer and said so and acted. But whether we have an Assistant Minister or a Minister for Foreign Relations to cry: "Halt", makes no difference whatsoever. Then if I was in any doubt about whether we ought to be doing this and whether it would make a difference or whether it was valuable or not, I heard what I could only refer to as the piece of "management speak" that makes me want to kick this into the very long grass, never mind bury it, according to the last speaker, where I heard: "What we need on this is additional bandwidth." Now, what that means in changing Assistant Minister to Minister, is this Minister going to be connected to the WiFi? Is he going to be electronic, is he going to be Superman? No. "What we need is additional bandwidth." Well, I am sorry, that is the last thing we need at this moment. I will be voting against this.

Deputy S.J. Pinel:

I do not want to be repetitious so I will not carry on, thank you.

The Bailiff:

Does any other Member wish to speak on the principles? Deputy Pitman?

9.1.10 Deputy T.M. Pitman:

Hard to follow, that speech. I was disappointed. I thought Deputy Martin would be her usual robust in-your-face self but she was very restrained but I have to say I agree with her sentiments entirely, indeed, with Senator Ferguson and the Deputy of St. Ouen. I cannot understand why this is being proposed before the machinery of government is completed and debated. I think when you look at the thinking behind moves like this, it just shows how some people forget that we are the size of an English town, a fairly small English town, and really it has to be said that it is the thinking of people who think or know that they are big fish but do not understand that they are big fish in a very small pond. It is about delusions of grandeur.

[15:15]

Now, a number of Members have rightly said that this just cannot be our biggest priority and need. A Children's Minister is so glaringly obvious. We are still not even signed up to the Convention on the Rights of the Child - is it a U.N. (United Nations) convention - after all this time. What will be next if we have a Foreign Minister? Well, I am sure we must need a Defence Minister. That would surely be a job for, I do not know, perhaps Deputy Baker. He has probably still got his own flak jacket and maybe his own gun. I am sure it is registered. Maybe Deputy Lewis, he has got a tank, I

believe, or some sort of amphibious vehicle, could help out. Then we are going to need a Homeland Security Minister. Where will it end? It has been said quite rightly that it will make absolutely no difference as to whether this person, whoever that may be, and the Minister, of course, has got just one person in mind, has that title as Minister or not. It is going to be down to how he is perceived by others and that is something I have to say that really I suppose it will have to be debated at length if we ever get to the stage of passing this, which I hope we do not. It has surely got to be a fact that there are greater priorities for us, not just the Children's Minister. We should have a justice system which is not a laughing stock and an embarrassment to many people internationally. Our attitude to child abuse is probably the worst in Western Europe. Those are the things that people judge us on and you only have to go and talk to foreign journalists, which I think is a good thing that more people do. You only have to look on the internet. A decision of this size surely has to go hand in hand with some final action as we brought up this morning on ending the dual role. Jersey has to be brought out of the 17th century and into the 21st so let us do this all in joined-up thinking. I am afraid it does smack of just jobs for the boys when you hear the Chief Minister talk, as he has often, about just one candidate. Deputy Martin said to him: "Well, what about me?" She might have been joking, she might not, but Deputy Martin expresses herself very well in the terms that ordinary men and women would understand and about the things that ordinary men and women, I believe, think are important. Or what about Deputy Tadier? You know, he would be an excellent Foreign Minister. Speaks several languages. He has obviously got a lot of contacts with the French media. There you go. He is up and running. So we must not exclude anyone. It cannot just be all done and dusted.

Senator L.J. Farnham:

Would the Deputy give way, please, Sir?

Deputy T.M. Pitman:

Always for Senator Farnham.

Senator L.J. Farnham:

I would just like to point out that if this proposition is successful, there is likely to be an election for Minister and he is very welcome to put Deputy Tadier's name forward.

Deputy T.M. Pitman:

If I am here, I may well do so but I am saying the thinking has all been about one candidate. That is the point I was making for the Senator. People are looking at the personality instead of do we need the role and we do not need this role. It is a farce and it is fine for Senator Ozouf to say there is no such thing as independence but I have to say I have never heard such nonsense. Independence is really what this is all about. I would just like to quote from a document I mentioned earlier because it is very relevant to this and it was from that 62,000-word submission from the former Police Chief and he talks about how, and I quote: "... where some notable figures favour an eventual severance of links with the U.K. and would see the ready acceptance of U.K. working practice as running counter to this agenda, I recall in 2007 I assisted a small working group which included, among others, the Bailiff, Sir Philip Bailhache and the Attorney General, William Bailhache. The purpose of the group was to prepare a draft contingency plan for complete independence. I submitted papers to the group on the implications for law enforcement and used some contacts from my previous role to offer suggestions as to who outside of the Island could assist in developing such a plan. I provided contact details of key figures in the Scottish Government and the administration, including the Scottish National Party. I recall that some of the advice and contacts I provided were in an email I sent, probably in July 2007." The important bit: "This and other experiences reinforced my understanding that there was a tide flowing against closer association with the U.K. and a strong local agenda to develop working models and solutions

within the Island.” Independence, that is what all this is about. It is not about doing what is most important. It is fine to say: “Rubbish”, Constable of St. John, but I am entitled to my opinion as you are. Independence would be the death knell of this Island. It really would and we should be focusing on what Deputy Southern touched on, about unemployment and what we can do for the community, not talking about all the jargon about bandwidth. This is unnecessary and I would appeal to Members, please reject it and let us focus on the things that are really needed in an Island of 100,000.

The Bailiff:

Does any other Member wish to speak on the principles? Then I invite the Chief Minister to reply. Oh, Deputy Baudains?

9.1.11 Deputy G.C.L. Baudains:

My light was on and I am afraid you were unable to see it but I blame the Minister ...

The Bailiff:

Right, you were behind the Minister for Education, Sport and Culture.

Deputy G.C.L. Baudains:

Education’s fault, Sir. I will be very brief. I wonder if in his summing up, the Chief Minister could deal with something which is troubling me and that is he does not have the power to direct a Minister, and has spoken about it many times, and, of course, a Minister is a corporation sole. In my mind, that potentially runs a danger of us having 2 separate foreign policies. We could have a Chief Minister in Jersey saying one thing with the Foreign Minister off-Island saying something else. I am concerned that we would be diluting our voice, not strengthening it. I wonder if the Chief Minister could deal with that when he is summing up.

9.1.12 Deputy M. Tadier:

Slipped in, Sir, although following the Machinery of Government Review report which has come out, then Members may well have expected to hear a small few words from myself. I come at it from a slightly different perspective which does not involve ideology and I think that is necessary in this case. I do not have a problem *per se* with a Minister for Foreign Affairs if it is deemed after discussion in the Assembly that we need one. I think that is still a moot point. I do not think that has been proven yet. I do think that there are valid concerns when one is going away in whatever capacity we should be able to be recognised and a title is important. I do not think it is simply what is in a name, especially when one does go on these conferences and it is an issue for us when everyone is being called Honourable, everyone is a Senator and they have got specific titles and roles, when you are just presented as a Deputy or whatever you might be, a Connétable. People do not really know what that is. That is clearly not the key issue though. The issue for me and basing it on what we have just been looking at with the Machinery of Government Review is that things should not be done in a piecemeal approach. I would say notwithstanding all those comments that I have just made, is this the right time to create this new role? Why, two-thirds of the way through an Assembly term, would we be doing it? Why can it not wait until September in 2014, October when we reconvene or whoever the new incarnation of the States Assembly is? What we are quite keen to see is that absolutely the Chief Minister, whoever he or she is at the time, and I will switch that phone off and happily pay £10, Sir, because I thought it was on silent and that will be the I.T. calling me for the I.P. address or whatever it is they need for the Mac. **[Aside]** I am happy to give that because I know it is ...

The Bailiff:

The Greffier has made a note.

Deputy M. Tadier:

Maybe it can go towards the fund for the new Minister for Foreign Affairs' travel arrangements in future. [Laughter] I do not think it is the right time to do this. We are quite keen that whatever new portfolios need to be created, need to be done at the time when the Chief Minister has been elected, when his priorities, the coalescing of his personal manifesto in his election when he got elected, and also taking on board States Members' views and the Strategic Plan, that is the time where you reassess the critical priorities and the corresponding portfolios that go with the new Assembly and they may well entail things like a Minister for Women. It may entail a Minister for Disability. I know Senator Ferguson has a grimace. These are just ideas, I am not endorsing them one way or the other, a Minister for Equality, a Minister for Children. These are things that have just been mentioned previously. A Minister for Children is not a new concept. It is one which was recommended by Williamson a while ago and still has not been done. Why? Because the political pressure is not there but all of a sudden, this thing seems to have come up and mushroomed in a very small corner of the Chamber but nonetheless this mushroom has appeared. I just do not think it is the right time and I think hopefully I speak for the Machinery of Government Review partly in that, having gauged their opinions. So by all means, let us look at this again but the Chief Minister and the current Assistant Minister and the Minister for Treasury and Resources seem to be doing a job in dealing with international issues and I hope that the Chief Minister ... we talked this morning about cultural diplomacy. These things all tie in. It is not simply about finance and that can be done in a coherent way on the back of a Strategic Plan when all the portfolios have been realigned. This is simply not the way to do it.

The Bailiff:

Does any other Member wish to speak? The Connétable of St. Mary?

9.1.13 Connétable J. Gallichan of St. Mary:

I just move to speak very briefly after hearing the last speaker because I understand a lot of what he has said. Two years ago at the end of the last Assembly, we recognised there was a need for machinery of government reform, what was really standing in the way of the true accountability of the Chief Minister and much more besides, and I know that the previous speaker has been working diligently on that matter. But I think it is really a sad thing that 2 years into this Assembly, for whatever reasons, and I do not lay the blame at any particular door, that we have not grappled with this machinery of government reform but key in that reform must be the accountability of the Chief Minister, reviewing his powers but also looking at how we shape up with regards to other modern democracies in lots of different ways. One of those ways is that most governments will be adaptable. There will be a mechanism where when a need arises, the government can make a Ministry, can redefine itself, can put the right pressure to bear, whether it is as a Children's Minister or a Foreign Minister or whatever and I think we have come to the situation where the Chief Minister and the Council of Ministers are persuaded that there is a need for this Ministry and there is no other mechanism in place. If we had been more mature about this and progressed further, this debate probably would not even be happening. It would be something that could be done by the Council of Ministers and I think for that reason, we really at some point need to make a move because I am dismayed - that is the word I was looking for before - that we have not grappled with our machinery of government. I think it is the thing ... we have talked lots about reform. Until we have knocked these things on the head, until we have dealt with them, we cannot do the job we are supposed to be doing which is benefiting this Island and serving our public and I think if this is something that we need to do in a small step, then let us go ahead and do it.

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

This is an important position required now. It exists in all but the correct title. However, when dealing with foreign powers, the Minister's title can be seen as the highest representative for our government. The title Minister for Foreign Affairs does just that. Our Chief Minister cannot possibly attend to foreign affairs and at the same time take care of our local issues. It needs to be a designated job. There is constant communication required with foreign governments, some of it brought on by a certain Member of this Assembly wishing to spice-up the readership of a French newspaper. That is an example of why this post is necessary. This cannot wait. The world will not wait for us to change and it will not change to suit us. We need to respond or to defend our case as soon as an incident is brewing. Foreign business keeps Jersey on the map. We need foreign financial business now. In order for Jersey to have continued growth and to be able to survive, we need a designated Minister for that job.

9.1.15 Deputy J.A.N. Le Fondré:

It is really just a point of clarification from the Chief Minister because I was fairly clear in my mind up to a few minutes ago as a result of a conversation I was having with another Member. Could the Chief Minister please confirm that this is a full Minister, this is a new Minister, corporation sole, all powers, *et cetera*, of a Minister? It is not a Minister in title, which in some shape or form is still part of the Chief Minister's Department. As far as I am aware, the position is the equivalent of any other Minister on the Council of Ministers.

[15:30]

The Bailiff:

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

9.1.16 Senator I.J. Gorst:

It is difficult to know quite where to start. I would like to thank Members for, I think, on the whole, what have been very thoughtful contributions, broadly, I think, supporting the creation of the post but some Members feeling that perhaps not today was the day to do it but recognising that ultimately there was a need; others suggesting that we should change other areas of the machinery of government first and then this job could fit into place. Some Members rather touchingly were concerned about what I might do should this post be created. I am very grateful for their concern. Strangely, the same Member who, prior to you entering the Assembly, Sir, was chastising me for spending too much time out of the Island, but anyway, there is some irony **[Laughter]** in those comments, I feel. If only they were holidays. But that amusing anecdote brings into focus why I believe that this is necessary. If we take just one day in June this year, the Minister for Treasury and Resources was hosting a German M.E.P. (Member of the European Parliament) in Jersey who was influential on finance committees in Europe. The Assistant Chief Minister with responsibility for External Affairs was in Guernsey negotiating some tricky issue. I was in London having lunch with the Chinese Ambassador, all, I believe, acting on behalf of the Islanders of Jersey. And why were all of those appointments important? They were important because we know that unless we get Jersey's message out to the larger community, unless the international community understands what Jersey does and the business community as well, then our jobs are at risk, our future is at risk, our economy is at risk. So all that we do in the international arena is about protecting and promoting Jersey. It is about protecting jobs and creating an environment whereby businesses can create new jobs, businesses can be attracted to Jersey and can create jobs and can help to stimulate and grow our economy. So when Deputy Southern says: "Is this the first thing that we do on the first sitting after the summer recess because it is not really what Islanders are interested in," I would say it is what Islanders are interested in. Islanders want to know that Ministers are out promoting Jersey, ensuring that investment comes to Jersey and ensuring that jobs are protected, promoted and new jobs are created in our community. Deputy Martin said she always very kindly - I took it as a

compliment to my abilities as Chief Minister - that she always wanted me to be in the Middle East or the Far East promoting Jersey and I have done just that and I enjoy doing just that but it is difficult, it is hard work. But let us take tomorrow. Deputy Martin would like me to do it all so should I go to London and have dinner with B.V.I. or should I stay in Jersey and have breakfast with the Cayman Islands? I cannot be, because of transport arrangements, in 2 places at the same time as much as I would like to be. So we need to have ... because Senator Ozouf is absolutely right. There is more and more work to be undertaken to protect Jersey and to protect Islanders' best interests and we need to have ... we may not like the management speak of bandwidth but we need to have people with the appropriate designation from the Council of Ministers carrying out these functions and representing Jersey in those environments. As I said right at the start, the title is extremely important because it complies with the international norm and when jurisdictions that we are visiting look to see what the title is all about and they do some research on Jersey, they want to know, and they know if it is not the case, that an individual is at Cabinet or Council of Minister level and that is important. Despite what Senator Ferguson said, yes, of course, once one is in the room, one stands on one's own ability but sometimes in order to get into the door, to get into the room, one has to have the title so that you will be invited in [**Approbation**], so that you will be welcomed in. Contrary to what Senator Ferguson might have said, yes, the Isle of Man does have somebody designated and associated with culture as well as a Minister at that level. In Scotland, the same. They have a Minister at the Cabinet level. So it is the international norm. It is not some strange new experience. It is not about delusions of grandeur as other people have tried to suggest. It is about complying with that international norm in order to best represent the interests of Jersey and I believe that this Assembly would be right to challenge me if we were not doing that and if we were not changing our structure in order to be able to do that. Will there be disagreements, because Deputy Le Fondré asked about the role of the Minister? Yes, it is a Ministerial role but the functions, as in the Regulations, are carried out concurrently. Why was it important to do it in this way and not do it at the start of my term of office? Because we had to bring forward, as a Council of Ministers, a common foreign policy. We are the first Council of Ministers to have done such a thing and it is important to do that so that this Assembly, so that anybody carrying out any function in External Relations, be it the Minister for Treasury and Resources, be it the Minister for Economic Development, be it myself or be it hopefully the new Minister for External Relations, they have a framework to which they are working. But beyond that we also have something called F.E.R.A.G. (Financial Services and External Relations Advisory Group), I forget exactly what those letters stand for but basically they offer advice and they are a clearing house for how we are going to interpret the common foreign policy in relation to any particular situation that we are facing. So of course there is the possibility of challenge but that already exists. Ministers already challenge each other in that forum and in the forum of the Council of Ministers and we thrash that out, we agree what the policy will be, we agree what the lines are and we go out and we present a united front in what we believe is the best interest in Jersey and that is not going to change. That is the process that we have in place to ensure that that happens. But also, we must remind ourselves that largely the function of the new Minister will be one of supporting other Ministers. So if we take the particular issue we are facing with the T.I.E.A, the competent authority, as the Minister for Treasury and Resources said, is the Treasury Department. Some of the legwork, if I might put it like that, some of the worker bee work, needs to be done and is done by the External Relations Department. That is absolutely right but some of the technical work is then done by the competent authority and it will be the Treasury Department in Jersey and the Treasury Department in Paris. So it all fits together in a way that other jurisdictions and other countries understand and acknowledge and expect. When they do not see it in Jersey then they do not quite understand where individuals fit and whom they should be introduced to, whom they should talk to and what their roles and responsibilities are within government. Should we wait until the Machinery of Government Review is complete and they have had their in-committee debate? I do not believe

that we should but I do believe that that piece of work is a very good piece of work and I am not as pessimistic as Deputy Young was, who seemed to think that we were not going to make any progress on that particular piece of work because it was going to have an in-committee debate and we might not be able to resolve it. I would say that we do not have that luxury. If I quote the President of the Chairman's Committee on the B.B.C. on Sunday morning, he said, and rightfully so, that when we sit at a desk, we should endeavour to leave it in a better state than when we found it and I believe that we as an Assembly have a responsibility in that regard when it comes to machinery of government changes. We cannot just throw it down into the long grass and not make the changes that we all know are necessary. **[Approbation]** Yes, we might have some disagreements around the edges but I believe that we can deal with those in a mature and adult way so that we can change this Assembly; we can change the Government of this Island for the better, for the future. Minority executive will not change. It will remain exactly the same. I have written so many notes here, I am not sure that I really need to go through them all. Deputy Vallois did ask about the scrutiny. I have checked with the Greffier of the States and it is quite clear under Standing Order 135.12 that the scrutiny for External Relations falls to the Corporate Affairs Service Panel. The Deputy, however, has raised a point about the Code of Conduct for Scrutiny, which will need to be changed in due course. But the Standing Orders, as I understand it, take precedence and they are the ones that need to be changed. From changed Standing Orders, then any policies underneath them will need to be changed. That is my understanding from the Greffier.

Deputy T.A. Vallois:

Sir, I am sorry. Can I raise a point of order with regards to that? Standing Order 141 refers to the Code of Practice for Scrutiny Panels and P.A.C. (Public Accounts Committee) and within that Standing Order, that Code of Practice has to be approved by the States and I was always of the understanding that any amendments made to that Code of Practice had to be brought before this Assembly.

The Bailiff:

It certainly says that the Code of Practice must be approved by the States, but I think the Chief Minister is referring to the Standing Order that deals with Scrutiny Panels.

Deputy T.A. Vallois:

Yes, Sir. But the Code of Practice stipulates the exact areas that each panel is supposed to concentrate their efforts on.

The Bailiff:

I see.

Deputy T.A. Vallois:

So Corporate Services' Ministry is Chief Minister and Treasury and Resources. So in order to change that, I would have to ...

The Bailiff:

Well, clearly if there is a new Minister, there would have to be an amendment to deal with that.

Deputy T.A. Vallois:

But while that amendment is taking place, there will be nobody holding the Minister for External Relations to account.

The Bailiff:

I suppose that is so. If there is no ...

Senator I.J. Gorst:

Sir, as I understand it from the Greffier though, it is not a problem in that regard but I will certainly endeavour to work with the President if there are changes that need to be made to the Codes of Practice. The Greffier is clear that External Relations... so therefore whoever carries out that function, bearing in mind that it is done concurrently anyway with the Chief Minister, falls under the Corporate Services Panel. Very briefly before I close, I wanted to mention 2 things. One was the question about Jersey not being signed up to the U.N. Convention on the Rights of the Child and I think there is some criticism of the current Council of Ministers, which I reject entirely. We are not signed up, that is absolutely right, but the Social Policy Section, together with Health and Social Services, have been working extremely hard on this particular issue and are pushing it forward and we will hopefully have done enough to mean that we can sign-up. This Council of Ministers does prioritise social policies. In actual fact, I have been in some venues before the summer recess where I was accused of concentrating only on social policies and not putting the economy to the fore. I rejected that allegation but we are proud of the priority that we are putting on social policy. Just very quickly, Deputy Pitman talked about independence and he pooh-poohed Senator Ozouf's belief about independence. I am afraid, Sir, that I disagree with Deputy Pitman. In today's global world where jurisdictions and countries are signed up to international conventions and treaties and decisions are made at the European, the O.E.C.D. and the U.N. level, the concept of independence that was around in the Victorian time has gone. Small jurisdictions, large jurisdictions all have to deal with the international treaties and the international conventions and what comes out of those international bodies. Therefore, the notion that a state can just go off and do what it wants to do in an independent fashion is a notion of yesterday. Having said that, of course we know that the third constitutional review group gave a presentation to States Members and their remit was to plan for the contingency of perhaps being driven to the point of needing to be independent and therefore the questions that the Deputy seems to think are strange are absolutely and appropriately part of contingency planning.

[15:45]

As I have said, and I think other speakers have said, the world is becoming a much more challenging place, particularly for small jurisdictions like Jersey. I believe we will continue to see a steady stream of challenges, not only from the United Kingdom and the E.U. but from the O.E.C.D., groups of countries like the G8 and G20 and of course we are in the middle of dealing with the issue with regard to possible listing as non-co-operative with our neighbour, France. We must give ourselves the best possible chance of succeeding and I believe that we can do that by the establishment of this new Ministerial post. I have seen during my time as Chief Minister both the challenges and the opportunities for Jersey around the world. Therefore, I am convinced that there is a need now to establish this new post. We cannot fudge this issue any longer. Governments around the world, as I have said, do their homework and we either have a Minister for External Relations at Cabinet and Council of Ministers level or we do not. If we do not, then we start from a position that is one rung down. I want to ensure that Jersey starts on the same rung of the ladder as everyone else and gives our Island the best possible chance of prospering. Therefore, I hope that Members will support this important proposal. Thank you.

Deputy J.A.N. Le Fondré:

Sir, can I seek a point of clarification from the Chief Minister? All it is, the Minister used the word, "concurrently" in his speech and I just want to clarify, I hope I have my understanding right, is that the new Minister will be a corporation sole and legally will be independent as all the others are. But if I have understood the Chief Minister correctly, he will be constrained by the, if you like, forum endorsed by the Council of Ministers and by the operation of F.E.R.A.G. The question, I suppose, would be what happens if that Minister decides to go and make utterances which are

against that policy or not consistent with, but I imagine that is something to worry about in the future. Could he confirm?

Senator I.J. Gorst:

The same that I would hope that would happen to any policy, the Chief Minister would override and state what the position of the Government was.

The Bailiff:

Can I just deal with one matter that Deputy Vallois raised on scrutiny? Standing Order 135 says that the Corporate Services Scrutiny Panel is assigned to External Relations. So that will take precedence over any Code of Practice which says something different.

Deputy T.A. Vallois:

Even though the Code of Practice is governed by Standing Order 141?

The Bailiff:

Yes. This is in the Standing Order. It is quite clear from this that the Corporate Services Scrutiny Panel has responsibility for External Relations and it would have the ability to do so.

Senator L.J. Farnham:

Just to be clear, the proposition refers the matter to Section 18, paragraph 3(b) of the States of Jersey Law 2005, which clearly says that: “conducting external relations, the Chief Minister in accordance with the common policy agreed by the Council of Ministers”, so I presume the Office would be bound by that.

The Bailiff:

Well, here we are. The appel is called for, Chief Minister? The appel is called for then in relation to the principles of the regulations, Projet 67. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 35	CONTRE: 10	ABSTAIN: 1
Senator P.F. Routier	Senator S.C. Ferguson	Deputy of Grouville
Senator P.F.C. Ozouf	Deputy R.G. Le Hérisier (S)	
Senator A. Breckon	Deputy J.A. Martin (H)	
Senator B.I. Le Marquand	Deputy G.P. Southern (H)	
Senator F.du H. Le Gresley	Deputy of St. Ouen	
Senator I.J. Gorst	Deputy S. Pitman (H)	
Senator L.J. Farnham	Deputy M. Tadier (B)	
Senator P.M. Bailhache	Deputy T.M. Pitman (H)	
Connétable of St. Helier	Deputy J.M. Maçon (S)	
Connétable of Trinity	Deputy G.C.L. Baudains (C)	
Connétable of St. Clement		
Connétable of St. Peter		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy J.A. Hilton (H)		

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

The Bailiff:

Very well. Now, Senator Ferguson, I think this matter has already been referred to your Corporate Services Panel, is that right?

Senator S.C. Ferguson:

We could do it again, Sir. No, we cannot.

The Bailiff:

Thank you. Very well, then Chief Minister, how do you wish to take the individual regulations? Most of them are amending particular pieces of legislation, I think.

Senator I.J. Gorst:

Yes, thank you. If I take them *en bloc*, obviously they are straightforward. They look lengthy but they are largely amending minor pieces of legislation, the majority of which are to do with the function of giving implementation to sanctions that arise from the E.U. or the U.N.

The Bailiff:

So you propose Regulations 1 to 22?

Senator I.J. Gorst:

Yes, please, Sir.

The Bailiff:

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? The appel is called for in relation to Regulations 1 to 22. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 37		CONTRE: 7		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Deputy J.A. Martin (H)		
Senator B.I. Le Marquand		Deputy of St. Ouen		
Senator F.du H. Le Gresley		Deputy S. Pitman (H)		
Senator I.J. Gorst		Deputy T.M. Pitman (H)		
Senator L.J. Farnham		Deputy J.M. Maçon (S)		
Senator P.M. Bailhache		Deputy G.C.L. Baudains (C)		
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. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy 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 J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				

The Bailiff:

Do you propose the Regulations in Third Reading, Chief Minister?

Senator I.J. Gorst:

If I may, Sir. Thank you.

The Bailiff:

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? Will all those in favour of adopting the Regulations in Third Reading, kindly show? Those against? The Regulations are adopted in Third Reading.

10. Draft Loi (201) (Amendement) sur la Voirie (P.70/2013)

The Bailiff:

We come next to Projet 70, the Draft Loi (201-) (Amendment) sur la Voirie lodged by the Comité des Connétables and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

Loi pour modifier la Loi (1914) sur la Voirie. Les États, moyennant la sanction de Sa Très Excellente Majesté en Conseil, ont adopté la Loi suivante.

The Bailiff:

Yes, Chairman of the Comité.

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

Thank you, Sir. Government is a wonderful thing. We go from one thing to something which is really now past, thankfully, the branchage. I will be very brief. Most people have had the draft law and the amendments. I will just give a quick summary. The draft law will make various changes to the Loi of 1914 sur la Voirie and one parallel change to the Highways (Jersey) Law 1956. This relates to future amendments by regulation rather than by law. The Comité des Connétables issued a *Green Paper* in September 2007 seeking the views and a number of issues relating to Visites du Branchage and, as a result, were published in a report of 2008. Following careful consideration of the replies, the Comité decided it was minded to make the following changes to the law: give greater flexibility to the dates of Visites du Branchage by extending them from a period of 14 days to 21 days and these 21 days would be now from 24th June to 14th July instead of 1st to 14th July and the second branchage in September from the 1st to the 21st extending it by a week depending on the growth of that year; maintain the current height of 12 feet over roads and 8 feet over footpaths - there will be no change there; amend the law to provide if there were multiple occupants in a property such as a block of flats sharing a communal area, then the person liable to the foncier rate should also be liable to the branchage fine; amend the law to clarify that branchage relief must be cut; address a couple of lacunas in Articles 41 and 42 and update practical arrangements for visits and deal with other such minor matters. The Comité has also taken the opportunity to update a number of other provisions including some which relate to Roads Committee and Road Inspectors. These are as follows. Abolish the £5 penalty liable against a Roads Committee Member who fails to give a good reason for not attending a meeting. Remove the deadline for the presentation of Roads Committee Accounts - these accounts are now presented as part of the Parish accounts. Remove requirements of the roads inspectors to present annual accounts - these accounts are now maintained by the Parish and not the inspectors. Remove the fine technically payable on roads inspectors under Article 12 of the law for failure to carry out the instructions of the Roads Committee. Clarify that the failure to cut branchage by the date of the visit creates a liability to an administrative penalty rather than a criminal penalty not exceeding £50. Provide that the failure to comply with the order of the Connétable to cut back the branchage may be dealt with by somebody at a Parish Hall Inquiry if the person accepts that jurisdiction. Provide for future amendments of the Voirie Law and also the Highways (Jersey) Law which forms the pair with the Voirie Law to may be made by regulations rather than amendments to the law. The Minister for Transport and Technical Services supports the change to the Highways Law. The States are already empowered by Order in Council of 26th December 1851 to make regulations relating to the policing of the public roads and such a provision already exists in other legislation relating to the roads such as the Road Traffic (Jersey) Law 1956 and the Motor Traffic (Jersey) Law 1935. This amending law would make it clear that such powers are similarly exercisable by the States in relation to that law of 1940 sur la Voirie and the Highways Law 1956 without the need of reference to Her Majesty in Council. The new provisions enable the Connétable, in respect of the branchage, to recover administrative penalties as a civil debt in the Petty Debts Court if they are not paid on time and to undertake the work required to recover the cost as a civil debt from the person who should have undertaken the work. Article 8 makes it clear that the branchage fines are not criminal but administrative and are purely civil penalties. There has been doubt about the precise status of the branchage in the past and this amendment will put that method beyond doubt. I mention these in short notice and I propose them, Sir.

The Bailiff:

The principle is seconded. [**Seconded**]. Does any other Member wish to speak on the principles? Yes, Senator Breckon.

10.1.1 Senator A. Breckon:

Sir, if I may just ask the Connétable, I noticed in the report it mentions that the *Green Paper* was issued in September 2007 and the result of the consultation was published in August 2008. Can I ask why it has taken so long in the meantime? If there was issues about drafting this or if there was disagreements and obviously there has been a couple of changes of watch in that time. I wonder if there were any issues that have delayed this for 5 years.

10.1.2 Deputy G.C.L. Baudains:

From what I call correctly, it was a former Constable of St. Peter, a W.P. who first called for the branchage to have a more flexible timing to it and a few years ago, I brought a proposition myself to give flexibility to the dates for the branchage which the Constables strongly opposed at that time and voted against me pointing out they had the power to order foliage to be cut at any time. So I ask myself: "What has changed?" Obviously, they have seen the light at last. I just wonder why it has taken so long and that is why I will be supporting the position.

10.1.3 Deputy J.H. Young:

Having not read French, I read this, I have to admit, for the first time yesterday and I was concerned about the levels of penalties for persons not complying with branchage and so I sent an email through to the Solicitor General and the Connétable and I have had a reply from the Solicitor General and I am grateful. But I think it does raise still a point for me of clarification that even though we are now not talking about a criminal offence, we are talking about a civil matter because the new law says so. But of course what we appear to have is a situation where on a branchage, a fine of £50 is then imposed and then if a person does not pay it, as I understand it, they can go to the Petty Debts Court and argue their case and if they do not still then follow it, they can go to a criminal hearing and face possibly a fine of £500. I was worried about the safeguards on that. That strikes me as being really quite a worrying situation because, frankly, there is no choice.

[16:00]

Pay the £50 and put up with it even if you disagreed. So I wonder if I can have clarification. I see in the law change there is some reference to kind of a middle ground of the Parish if a person accepts a decision *en route*, as it were, halfway between the first and second notice, they can pay a fine of £200 instead of £500 but I would like clarification. Which is the amount that a person can go to the Petty Debts Court and challenge? Is the £50, is it the £200 or is the £500 because I am troubled about the state of those penalties?

10.1.4 Deputy R.G. Le Hérisier:

I wonder if the Chairman could clarify - and I half know - what is the relief which was going to be dealt with but I do not see how it was dealt with. Secondly, I wonder if the Chairman, if I may branch out here ... I have not quite twigged what ... oh, it is terrible. **[Laughter]** Even I have got to say that I have not quite understood what they did about flailing. The issue of flailing was raised and I wonder if he could mention that. Some time ago, I remember, at one Parish, there was a fuss about the Roads Committee not convening enough and I see punishment for road inspectors - it may be the committee - has now been removed so what sanctions are now left?

The Bailiff:

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

10.1.5 The Connétable of Trinity:

Maybe Deputy Le Hérisier could branch out a little bit and if he wants to go on to relief and I always think Deputy Le Hérisier is a relief now and again. The relief, obviously, is just an area of

land on the edge of your property which is yours so you can cut your hedge against your property but what this new law is doing is making sure that you do cut your relief. In olden times, some said: "Oh, no, that is mine. That is my relief. It is not the Parish road" so they left that piece uncut but now this clarifies that you are to cut your relief that touches your property. Okay, that is fine. Deputy Young, obviously, I think it is up to £50 on the fine. If you have ever been on a branchage, you will find that, in most cases, only when someone has not attempted to cut the hedge would that be the maximum fine of £50. In general, you will find that there is a variation like for sweeping-up things that have been cut and left on the road. It depends on the Roads Committee and the Connétable on that afternoon. First of all, you would tell the person that they have a fine. Then he, if he is not happy to pay, could then go to the Parish Hall in the first case and see if it helps there but, in most cases, I would have thought that, usually, the Parish would come to an agreement with the person who has not done the infraction sometimes. We take photographs now. It is very, very hard to argue with a photograph if you have not bothered to cut your hedge so I think, in most cases, it is a done deal. I have never known ... the Royal Court over a branchage fine which is where we used to have to go before to the Royal Court. This just seems such a minute thing and we are trying to get away with the fines as being criminal which will just be levied as a nominal fine hopefully they will be charged. Deputy Baudains, I know the problem with the fluctuating of time of course is you have people who are very environmentally friendly. Now they do not like having hedges cut when obviously the flowers are out and the seeds are there. It is a tricky one. I would say if you go back a number of years when most farmers employed French people who used to use a sickle, this was the ideal way but I can remember quite well even when I was farming that when they there was stop digging orders, when you had no work to do, you would say: "Well, go and cut hedges." So we were cutting hedges in May. It is now a much shorter time really because the farms are so big. The farms of today have hundreds of hedges to cut so this is why we have given them maybe an extra week because of the workload involved in doing this and I must say we are fortunate today for the agricultural industry doing the hedges for the Island. If this was done by the States, this would cost an absolute fortune. As we are forced under the law in Jersey, if they are landowners, they have to do the work or the tenants and this is where we are very, very fortunate. To Senator Breckon, could I just say this was not at the top of the list of law drafting and the final thing we had to get, and we have it, was was it human right compliant? But I do apologise for the lateness of this but, as you know, it was always being put on the backburner. When you come to law drafting, I do not think branchage law was at the top of the list so it was just put in the pile and we have got there eventually. So I hope that answers all the questions. No?

Deputy R.G. Le Hérisier:

If I may ask about flailing, what was the conclusion of the committee?

The Connétable of Trinity:

Of flailing? We have to move on. The day of the sickles were lovely and a wonderful piece of equipment but with farmers with 1,000 or 2,000 or 3,000 vergées, it is impossible. It is the person who activates the flail that is the problem. There is nothing wrong with the flails. Unfortunately, if you have a contractor who comes in and puts it too close to the hedge, then it does a lot of damage but I must say anyone who travels around the lanes, for all those people who complained about the flails, it is amazing how every May, both sides of the hedge are still touching when you drive down some of these small lanes. So I do not think there is much damage. I think, to be fair, they have been educated and the people who are handling the machines now are far better trained and, hopefully, therefore will stop the damage to our hedges because that is the big worry that if they go too deep, they get into the soil but there was never any action. There is no way we are going to stop flails. Obviously, that is the way of the world. I am afraid machines are used. It is just a matter of training people to use them properly.

The Bailiff:

Very well. Is the appel called for in the principles?

The Connétable of Trinity:

I do not think there is any need for that, Sir.

The Bailiff:

All those in favour of adopting the principles, kindly show. The principles are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel? **[Laughter]** Very well, Chairman, do you wish to propose the Articles *en bloc*? Can you take any questions?

The Connétable of Trinity:

Yes, Sir, *en bloc*, and if there are any questions, I hope I can explain them.

The Bailiff:

Very well. Are the Articles seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles? Very well, all those in favour of adopting Articles 1 to 13, kindly show. Those against. They are adopted. Do you propose the Bill in Third Reading, Chairman? Seconded in Third Reading. **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour of adopting the Bill in Third Reading, please show. Those against. The Bill is adopted in Third Reading.

11. Draft Public Finances (Amendment No. 4) (Jersey) Law 201- (P.73/2013)

The Bailiff:

We come next to the Draft Public Finances (Amendment No. 4) (Jersey) Law 201-, P.73 - lodged by the Minister for Treasury and Resources - and I will ask the Greffier to read the citation.

The Deputy Greffier of the States:

The Draft Public Finances (Amendment No. 4) (Jersey) Law 201-. A Law to amend further the Public Finances (Jersey) Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

11.1 Senator P.F.C. Ozouf:

Today, I am seeking Members' approval for a further set of important amendments to the Public Finances Law. Members will recall that, in 2011, the Treasury brought forward major changes to that law which established the Medium-Term Financial Plan and an overall longer term budgeting framework. The Assembly this year will of course, for the first time, not be deciding and debating an Annual Business Plan. Instead, on 8th October, the Assembly will consider the Budget. I must say that, during the course of what I hope is going to be a good debate on the underpinning law of our public finances, I am able to report to the Assembly that, on 8th October, I will report a further strengthening of the Island's financial position. In fact, the Island's financial position is, compared to most places, in remarkably good stead. We have delivered on those previous amendments to the Public Finances Law and all that time that, previously, we spent on annual budget is now focussed on medium-term financial planning and a much better long-term capital planning approach and this is all underpinned by the importance of a strong law. I will be relying on Members' judgement and my own track record with my Assistant Minister and the Treasury in supporting changes that are before Members today. I said at that time in 2011 that we would be bringing further changes to the Public Finances Law to further improve financial management and accountability in the States. I believe that the previous changes have already made a step change of improvement in terms of financial management and accountability. I have to say to the Members of the Assembly that I do

not believe that we would be delivering the scale of change and efficiency of comprehensive spending review savings without those previous amendments. All of these amendments, despite the fact that we may well not agree with some conclusions that have been drawn on these amendments, are from the Treasury Department and the Treasurer of the States strongly advises the support of the Assembly in these changes. I say that we have been grateful for Corporate Services' review and scrutiny of this law. There are sometimes comments that the Assembly does not properly scrutinise legislation and I am pleased to say that Members have the benefit of a substantially complete review of these amendments to enable a good debate to be had today. This debate will, once again, show some differences of opinion with Corporate Services. We do not always see eye to eye on areas of control of public finances. I have, however, accepted a number of the conclusions of Corporate Services and I am happy to do that and I will refer to them later in my remarks. I will not go in detail through each of the provisions. Suffice it to say that the amendments that we are going to consider deal with the putting, on a statutory basis, arrangements for the Insurance Fund. It deals with changes to the Medium-Term Financial Plan and the ability to make extra provisions, should the need arise and also, to put on a proper basis transfers of Heads of Expenditure. There is a strengthening of the arrangements and the powers of the Treasurer. There are important changes concerning the responsibility of accounting officers. There are some changes in relation to the way that States of Jersey accounts are made and there is also the really landmark decision to put the Fiscal Policy Panel on a statutory basis and that is something that the Assistant Minister and I have been extremely strong on. We believe that that is going to be an important further strengthening and safeguarding of the strength of our public finances going forward. There are some amendments concerning special funds and there are some other minor administrative arrangements. I move the preamble to the law.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? Very well. All those in favour of adopting the principles ... Senator Ferguson.

11.1.2 Senator S.C. Ferguson:

Yes. I apologise. I seem to have a plethora of papers and I do not think my desk is big enough. We do have a slight problem. Our report raised some significant questions regarding the whole of this proposition. There has been a sporadic response from the Minister. One of our recommendations has been adopted but it is disappointing that there have been no comments and no overall response from the Minister. I know that the department in fact has 6 weeks in order to answer the report but it means that we are debating before Members of the Assembly have had a chance to have all the information which they might require in order to reach an informed decision on the proposition and our opposition to parts of the amendment. We presented our report to the States on 28th August and it is now 10th September so there has been time at least to submit comments. We have had - I am glad to say and I give the Minister credit for this - comments on the insurance arrangements and he has made an amendment to the proposition taking the position of Treasurer of the States as adviser to the Council of Ministers out but we have not had all the information and I am sorry about that. It is not up to his usual standard. Now a number of the amendments, as constituted, can clearly be seen to be founded on the review of the provisions of the Public Finances (Jersey) Law 2005 as undertaken by the previous Comptroller and Auditor General in a paper entitled "A Review in the Light of Experience" published in February 2010.

[16:15]

Well, I suppose that is quite speedy for the Assembly. That paper highlighted a number of weaknesses in internal controls and a number of the current amendments substantially aimed to strengthen such weaknesses. The first stage was the 2011 debate introducing the Medium-Term

Financial Plan with the Minister for Treasury and Resources pledging a commitment to bring back further amendments to the law to promote improvements in financial management. The Minister is to be commended for driving these changes forward. We have had various attempts to improve financial management over the past few years. The M.T.F.P. (Medium-Term Financial Plan) has been developed as part of a strategy to provide a firmer base of financial management which can adapt to prevailing conditions and it is, as our adviser said, an extremely positive move. The amendments are a progression towards best practice but, as our adviser said, such progression within the States of Jersey is not always consistently achieved in practice with a requirement to further develop improvements to ensure a stronger level of consistency in the approach to financial management. In other words, are we going to be able to ensure that the theoretical improvements in financial management will be achieved in practice? Another aspect of the proposals which is of concern is the fact that some of the amendments which will be incorporated in primary legislation are building solutions about people rather than processes. This means that reliance is placed on a high level of professionalism and the skills of key individuals rather than basing it on reliable systems. Given that eventually you have a turnover in staff, and there are other changes with time, this is not always sensible, and you end up with undue reliance on particular individuals. In this case we have crucial positioning of such individuals, such as Accounting Officers, the Treasurer of the States and the Minister for Treasury and Resources. Now, some of the amendments are extremely positive. But it is arguable that a number of them, such as the role of the Treasurer of the States, the adoption of proper accounting practice, and the formalisation of the existing policy - Fiscal Policy Panel, are unsuited to their inclusion within primary legislation. There is always this debate, Sir, as you will appreciate, should it be in primary legislation or should we have enabling legislation with regulations. Anyway, most of the amendments attempt to address stewardship issues, which need to be addressed, but our advisers commented that the amendments will do little to stimulate the organisation's overall financial management capability, in the sense that the non-finance community are able to demonstrate an enhanced financial management capability that comes through taking the optimal decision making with quality decision support provided by the corporate core finance team at the Department for Treasury and Resources. In other words, are we going to have a system where the financial management gives proper information to the non-financial operation parts of the States, so that they can make the right decisions? The Treasury should be a supporting role of the operational departments rather than the lead player. There are a number of the amendments which are of concern to us. Article 10 and 12 of the amendment give considerable flexibility which runs totally *contre* to the stricter rules brought in under previous amendments to the Public Finances Law. One particular amendment was the removal of the ability to make 11(8) expenditure requests. Article 10 brings back this procedure, and we were at a loss to understand why and we have not been able to get a good explanation. In Article 12 the proposed amendment allows transfers of capital and revenue heads of expenditure to contingency expenditure during or after the year end for any reason. Again, our advisers stated that this will allow a level of end year flexibility which we have not seen among organisations with which we have worked. They were concerned that the inherent flexibility, which will be available to chief officers and Ministers, may have the potential to undermine the rigor of the Medium-Term Financial Plan if budgetary resources can be moved about with impunity and/or transferred to contingency for any reason. In Article 11 we were concerned this proposal put in place provisions which recognise the issues inherent in providing internal control over the approval and tracking of capital expenditure and given the difficulties associated with this we were quite happy with that. The Fiscal Policy Panel ... we disagreed with the treatment in this and we have in fact brought an amendment which we will come to later. The Insurance Fund, I have mentioned the fact that we are pleased to see the introductory information regarding the fund in line with our report. So that in general the proposed changes do provide an opportunity to deliver the practical operational mechanisms needed to improve financial management. The problems will be in applying the

changes. Merely changing the law is just words. The proof of the pudding will be in the wholehearted adoption of the changes. As far as the Panel is concerned, as can be seen from our report, the amendments are somewhat of a curate's egg, good in parts. As a result we can accept the broad principles of Part 2, Part 4 and Part 6. But we have brought an amendment regarding the position of the Fiscal Policy Panel in Part 5. We will be opposing most of the amendments in Part 3 and we do have some stringent comments on Part 4.

The Bailiff:

Does any other Member wish to speak on the principles? Deputy Le Hérissier?

11.1.3 Deputy R.G. Le Hérissier

Very quickly, unlike the previous speaker I do support the main thrust, because I think people are finding the M.T.F.P. has a possibility, as it probably intended, of being a straightjacket too far. The points I would raise are under-spends. Is the Minister going to say to a department: "Look, you have got several under-spends, you must now put in a base budget based on what your under-spend sum was rather than what we had allocated." Secondly, Sir, what is the role of the 3 people, for example, in regard to under-spends? Do they have the power to block each other, The Minister for Treasury and Resources, the receiving Minister and the giving up Minister, so to speak. Thirdly, Sir - and maybe along the line of Senator Ferguson - the role of the Fiscal Panel, it says: "Due note must be taken." But how can we be assured due note is taken, will we get a report, for example, of how the Council of Ministers has assessed the evidence presented by the Fiscal Panel, or will due note just mean we will just nod to the fact that we have read it, which is not really a terribly inspiring way to deal with it. But generally, Sir, I think these are good moves forward.

The Bailiff:

Does any other Member wish to speak on the principles? Deputy Le Fondré.

11.1.4 Deputy J.A.N. Le Fondré:

I can tell from the number of people who were not here in the beginning how exciting this subject is to a fair proportion of the Assembly, which is a bit of a shame, because it is a somewhat fundamental subject, given that it is one of the 3 documents that appears on the States Assembly website. One being Standing Orders; one being the States of Jersey Law 2005; and the other one being this one. While it has been a longish day already, the whole key about this is if you are serious about controlling expenditure, you should at very least be giving this some consideration. I have to say, when I started off on this, I thought ... well, I have to say I was not that excited about it when I originally started. Then I thought: "Well", I started to read the Scrutiny Panel's report. I have to say I thought it was a very good report. I would like to echo Senator Ferguson's comments that it is a great shame. I do appreciate it has been tight but a number of Members have been here during the summer and doing various bits and pieces, actually we have not had detailed comments in time for this proposition, for this debate today, because there are some very good comments in here. What struck me, and I do not know if Members do have this report anywhere to hand, but they had an adviser who was a member of C.I.P.F.A (Chartered Institute of Public Finance and Accountancy) which is the public finance chartered institute for public accountants basically. That adviser has written a report to the bankers as normal, and there are some quite, I think, strong comments therein. Some of which Senator Ferguson has referred to. But to clarify, it is not actually just the view of an individual, the report starts off pretty early saying: "This represents C.I.P.F.A advisory's independent view." In other words, that adviser is speaking for that branch, or for that ... I think it is a company or branch from C.I.P.F.A, I am not too sure. We have heard the point about much more focus being placed on effectively the strength of the individual in the various posts and not on the process. That, I think, is a little worrying. But going on, and I do want to make some comments because they are at odds, I think, with some of the other comments that

have been publically. Most of the amendments will do little to stimulate the organisation's overall financial management capability. Section 3, in particular, which Senator Ferguson has referred to, they say: "There is a lack of reasoned rationale behind Article 10 and 12 that may potentially encourage negative budget behaviours and impair the performance management of the utilisation of budgetary resources, potentially import a lack of rigor to the management of the M.T.F.P. and distort transparency and rigor of the approval process at the highest level." That is accountancy speak for saying this is actually loosening the reins on expenditure. I mean the whole principle of the M.T.F.P. were to set better controls within a framework. "We find it difficult to understand the exact purpose of the amendment to Anderson given that Article 20 already provides for the approval of expenditure in such serious circumstances." That is basically about bringing back what used to be referred to as "1.1.8" requests. I think this quote is worth repeating: "This potentially unlimited operational service with more capability which already exists, coupled with the impact of the draft proposal will allow a level of end year flexibility which we have not seen among organisations we have worked with." Full stop. That is C.I.P.F.A. That is any organisation they have dealt with, that is what that is saying, have not have this level of flexibility on expenditure. In other words, this is opening the gates. "We do not fully grasp the underlying rationale of the amendment. It may have the potential to undermine the rigor of the M.T.F.P." They conclude: "We believe that the overall flexibility which will be potentially available to budget holders can potentially encourage sub-optimal budget behaviours that can mitigate against the best use of resources, and is an amendment which we could not support." That is the professional opinion of the advisers of the Scrutiny Panel and that is the professional opinion of somebody who was held up to be the views of the advisory body to a branch of professional accountants nationally. So that is not a politician saying that, that is some people who have a serious amount of experience on this area. So I think the point from where I am, Sir, to reiterate Senator Ferguson, it is a bit of a curate's egg. There are parts that we can support, I am certainly going to vote for the principles, but as we get further down to the detail there will be elements that I will not be supporting.

The Bailiff:

Does any other Member wish to speak on the principles? Yes, Deputy of St Ouen.

11.1.5 The Deputy of St. Ouen:

Just a brief few words because I will be speaking in more detail on some of the articles later on. I would just like to start by saying that for the last, almost 11 years, I have been in the States Assembly. The financial management has definitely improved. It has been a long and tough climb and it is no small part to the efforts of not only the likes of the current Minister for Treasury and Resources, but equally, P.A.C. members, both past and present, and indeed our previous Comptroller and Auditor General, who were determined, and in fact we tasked him, to help improve the financial management of the States. There are issues with certain of the amendments, and as I say, we will be dealing with those later on.

[16:30]

But I would just like to pick up on, well, first of all encourage Members to look at our report, and indeed if they have not got time to look at the whole lot just look at the executive summary, findings and recommendations would be quite useful, and equally the executive summary and the conclusions of our expert independent adviser who is well versed and very knowledgeable in all matters of public finance. In the concluding remarks that he makes on page 5 of the report it says: "We believe that the proposed changes represent a positive opportunity to enact improvements that will deliver more robust financial management capability. However, as ever, in legislating for change, the devil is in the detail." Indeed that is what we will be discussing when we look at articles individually. "The effectiveness of the revised provisions can only be measured in an

assessment of how the precision in the draft wording of the amendments will deliver the practical operational mechanisms that will deliver required changes in reality.” That is the issue that is facing States Members today. As we look at the actual draft wording and the precision of that wording, and try and determine what the impact and effect will be. That is where our independent adviser’s expertise must be considered and does play a part. He goes on to say: “Adopting primary legislation may well clearly outline relevant responsibilities and accountability. However, it would be our considered view that statutory adoption is no substitute for the actual ownership and discharge of the issues involved.” Again, that is where we look to the Minister for Treasury and Resources and his department to ensure that when we accept and we agree and look at these amendments that not only do we accept or reject them, but equally we place great emphasis on the fact that we need to see action following the acceptance or otherwise of words. Thank you.

The Bailiff:

Does any other Member wish to speak? Yes, the Connétable of St. John?

11.1.6 The Connétable of St. John:

Yes, I have concerns, because to me, this, in part - and only in part - could be a re-run of the debate we had on the Health Insurance Fund, and that is what concerns me. We were given all sorts of promises when that particular fund was allowed to be, what I called “raped” at the time, by £6 million-odd for one year. We were told that it was a one-off but it happened again and then eventually, when something came to the house, we had it made it possible for the Minister for Treasury and Resources to get his hands in the till, for want of a better word, and I do not mean that in any way that can be taken wrongly, Minister for Treasury and Resources, but that is the way it seemed to me, and I said it at the time. In my mind, I have concerns that there is something in here that actually allows the Minister for Treasury and Resources to get into some of these funds without all the checks and balances. I will mention that later on in the main debate.

The Deputy Bailiff:

Does any other Member wish to speak? Alright, the Minister’s reply.

11.1.7 Senator P.F.C. Ozouf:

Thank you. I do accept that we have not perhaps given Members a note on the 2 issues that we are probably not going to agree with Corporate Services. I apologise for that. I think that I can explain it on my feet and we can have the discussion that we need to have during the course of the debate. The issues that Senator Ferguson, the Deputy of St. Ouen and Deputy Le Fondré raise are principally around 2 fundamental points; the Panel does not agree that we should reintroduce, effectively, an arrangement whereby this Assembly can vote a proposition brought forward by the Minister for Treasury and Resources to amend the Medium-Term Financial Plan for an extra allocation to a budget. Members will remember the old Article 11(8) request that was abolished in the previous amendment. Experience has shown, and in fact it is probably in the advice that I have from the Treasurer of the States and indeed from the Corporate Management Board, simply that we do need to have a provision that is not automatic. Indeed, I agree absolutely with the comments and the remarks of a number of Members. It is not only just having the law in place; it is actually how you use it and how those powers are discharged and what the decisions the Assembly is being invited to make. Simply the argument is whether or not there should be the ability for the Minister for Treasury and Resources to bring forward an amendment to a Medium-Term Financial Plan. With the benefit of hindsight - and hindsight is always a great thing - we have set, and I am very proud of the fact... and perhaps C.I.P.F.A. has not seen another jurisdiction which has 3, and in hopefully the next period of office of the next Assembly, a 4-year term. Perhaps C.I.P.F.A. has not seen a government, say, an Assembly, that brings forward statutory 3, 4-year limits. Perhaps C.I.P.F.A. has not seen a jurisdiction that does not have debt and deficits and has such strong public

finances. So, I would argue that we should have the flexibility to bring forward extraordinary expenditure. I will go through the article in detail. It is limited in its requirement; it is only after all other eventualities have been considered, all contingents have been exhausted. Then, of course, the key decision is it is this Assembly's decision whether or not to make it; currently the law does not allow us to do that. The other point of contention is that there should be no arrangement to effectively move resources from a head of expenditure. A head of expenditure is effectively one Ministerial portfolio to another. We are currently, and we have been, working under something called a "transitional provision." We have been permitted to, under the old law, continue the arrangements of the previous law, and we do move resources from department to department and that seems to be something that we should be able to do, with the benefit of hindsight. If, for example, the Chief Minister has said the priority is jobs, jobs, jobs but within a period of time the situation has changed; if the Minister for Social Security has resources available within his department and the Minister for Economic Development has a proposal to do jobs in relation to a particular area or Education can take on something or Environment can take on a particular endeavour to secure additional jobs, then we should have the flexibility to move the resources. The most important, crucial protections are that there should be the approval of the giving and the receiving Minister, and the Minister for Treasury and Resources must authorise that transaction. So it does not break what the Assembly really is, I think interested in: it is overall expenditure limits. It does allow some flexibility. I will come to the Connétable of St. John in a minute. The Panel believes that we should not have that flexibility, so I will be representing, during the course of the debate on the articles, that we do need that flexibility; that it is sensible, that it does not aggravate the overall spending allocations that are there. Indeed, I will be arguing strongly that that needs to happen. The Connétable of St. John has a number of ongoing concerns including drains, including infrastructure, and the Health Insurance Fund. I whispered to him earlier on this afternoon that if he wanted to put some more money in roads, then of course he can allocate, because it is a one-off expenditure in the budget; he can amend the capital programme. He will have to wait and see what the Minister and I have planned for the 2014 capital programme, but of course he can amend the capital programme for infrastructure. I know that is one thing that he is concerned about. There is some flexibility on one-off expenditure. In relation to his concerns about the Health Insurance Fund, I know he is concerned about that, but that is not really about the debate today. What I will say is that flexibility is required. I am sure that a lot of his parishioners will be enthusiastically welcoming the proposal by the Minister for Social Security for a long-term care fund, which is going to ensure that elderly parishioners in his Parish are not going to suffer the distress of the long-term care arrangements that they may have and protections are being put in place and we are making that new benefit available. What we are doing is we are going to be giving his parishioners, and indeed the parishioners of all the Parishes, that benefit one year early. Quite contrary to his suggestions that we are raiding a fund, we are actually going to be putting some resources from Social Security into the long-term care fund as a result of Social Security's under-spends. I hope that he will think carefully about not only criticising Social Security and the Treasury. On that occasion we are actually going to be putting some resources into a fund which is going to be giving somebody a benefit earlier. Maybe that does not assuage the sins of the past that he considers that we have made, but also you do need that flexibility, which is what I am going to be trying to say to him. Just in response to Deputy Le Hérisier, we are dealing with not carry-forwards; we are dealing with head of expenditure movement. He is right to ask questions about carry-forwards, that is not actually encompassing in the amendment today. What I am asking the Assembly is the ability to move upon the approval of the giving and receiving Minister, as authorised by the Minister for Treasury and Resources, upon advice, of course, that we could move resources from one department to another. So that is not quite the same thing as the carry-forwards. All of these amendments are designed to strengthen public financial management. They are to deliver a public financial management which is strengthened and which is efficient. Many

Members require and ask the Council of Ministers to operate corporately and collectively and that movement of head of expenditure is designed to achieve that. How can we be corporate and how can we be collective if we cannot move priorities and move resources in a transparent way, in a way that is reported? How can we not almost deal with our own problems as a collective of a Council of Ministers if we cannot move head of expenditure? We will, of course, debate this, and I will explain the articles in detail when I come to them, but that is the essence of the arguments. I am extremely pleased that we are putting the biggest protection of good economic decision-making and sound external scrutiny of our public finances by putting our Fiscal Policy Panel, which has been held up as a model of small jurisdictional economic management and we are putting them as a result of the amendments that we are going to consider that on a statutory basis. I am happy to agree with Corporate Services, there is a debate to be had about how the Members of the Panel are doing, and we will come to that with the amendments. I do not think there is a debate on the legal citation. I will go through the articles, and that is when the real debate will happen, so I move the citation.

The Bailiff:

Very well, 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 Scrutiny Panel, although I think you seem to have scrutinised it very thoroughly already?

Senator S.C. Ferguson:

I think we're back to the same sort of everlasting circle. No, thank you.

The Bailiff:

Very well. Then, Minister, do you wish to propose matters in parts?

11.2 Senator P.F.C. Ozouf:

Yes, that is what I intend to do. Just to give some Members some guidance, I intend to propose Part 2, Articles 2 to 8, the Insurance Funds; then to deal with the Medium-Term Financial Plan, Articles 10 to 12; and then, depending on how we go, I think then the rest *en bloc*. I propose to propose the articles as amended, and certainly we will have an eventual amendment on the F.P.P. (Fiscal Policy Plan) which it will be a matter for Members to decide.

Deputy J.A.N. Le Fondré:

May I just ask if Article 4 which amends Article 6 be taken separately in that first block?

The Bailiff:

What I suggest is that they be debated together, but of course any Member can ask for any particular article to be voted on separately. Yes, Minister, do you wish to take Part 1 first, briefly?

Senator P.F.C. Ozouf:

Yes, indeed. Part 1: the general introductory provisions. We have tried to assist Members. I know we have not commented on the 2 issues we do not agree with, but we have got a consolidated version of the law, so Members may want to have that on their desks in relation to the debate, because hopefully that is going to absolutely explain what the changes are. I hope that that is up to normal standard to Senator Ferguson. I just propose Article 1B, the interpretation clause.

The Bailiff:

Is it seconded? Does any Member wish to speak on Article 1? All those in favour of adopting Article 1 kindly show. Those against? Article 1 is adopted. Do you then wish to speak to Articles 2 to 8?

11.2 Senator P.F.C. Ozouf:

Yes, indeed. The formal establishment of a States Insurance Fund is the issue that these articles deal with. I should emphasise that this is not really a new initiative. The Treasury has operated a comprehensive insurance arrangement across all States departments for a number of years, insurance that deals with all the matters of insurance: motor, property, employers' liability, engineering and medical matters, *et cetera*. As Senator Ferguson alluded to earlier, the Panel requested that I present a report to the States on the Insurance Fund. I know that Members have only just had that, but suffice it to say that that report sets out and, I hope, shows the positive arrangements that have been put in place. Effectively, what these articles do is put on a statutory basis the arrangements that we have been putting place for a number of years. That has dealt with and has delivered a number of important efficiencies and savings, whereby individual departments get the insurance cover that they want but we can reduce the cost of insurance by not having to pay... effectively, we have large excesses in the insurance that we buy externally and that we self-insure internally. These arrangements will continue to ensure that we make those very substantial savings on insurance premiums, as well as ensuring that we get the appropriate cover. I should say to Members that, as a result of the work that has been carried out over a number of years, we have built up a reserve of £7.5 million within the Consolidated Fund, as a buffer to deal with insurance claims. The new arrangements will enable the Minister for Treasury and Resources to enter into insurance arrangements with bodies which have connections with the States and these bodies will be charged for insurance cover and will only be accepted by the States into a scheme once full consideration has been taken on the level and type of insurance cover required and any associated risks. I move Articles 2 to 8.

The Bailiff:

Is it seconded? Does any Member wish to speak to any of those articles? Yes, Senator Farnham?

11.2.1 Senator L.J. Farnham:

Yes, just very briefly. The Minister reminded us that there is already a fund of £7.5 million. Does he have any idea if it is possible to foresee what sort of fund will be required to underwrite this scheme in the medium term?

11.2.2 The Deputy of St. Ouen:

Just picking up on the point that Senator Farnham has just made; it is true that in answer to written questions posed to the Minister for Treasury and Resources, he did highlight that the current fund totals £7.5 million, which is in fact not ringfenced; it is held within the Consolidated Fund cash balances. He also went on to say that the Treasurer of the States had recently commissioned a States insurance risk adviser to undertake a full actuarial review of this fund with a view to establishing its robustness, adequacy, and ability to meet future liabilities. Then we were told that once this report is available, the Treasurer of the States will consider any recommendations and decide what action should be taken. As far as I know, we have not seen that report or indeed are able to verify whether the £7.5 million, which at first glance sounds a lot and seems a lot, is indeed an appropriate amount, especially when you look at some of the bodies that are included in the Insurance Fund, which, I hasten to add, is already in existence and all this amendment is doing is formalising the establishment in legislation. Some of the insurance arrangements and the bodies that are currently involved include the States of Jersey Development Company - one could suggest that there may or may not be some risks involved in that particular organisation - Assisted House Purchase Scheme, and perhaps more importantly Harbours and Airport. Harbours and Airport are currently included within the States insurance arrangements and they are covered by the following classes of insurance: property, including third party property damage and third party personal injury; motor fleet, including third party property damage and third party personal injury; liability,

including third party property damage and third party personal injury, employer's liability and engineering. We are told that will continue to remain so unless otherwise directed. We are all aware of what could potentially happen at the airport. In fact, 50 years ago now, we saw an accident with a plane. Nowadays, planes have got bigger, and carry far more people, and we are certainly into a position where litigation is part of the norm. I am not suggesting that we are not properly covered or insured; it is just that these matters are less fully understood and provided for and insured against and could provide us with that nasty shock that could make a significant difference to the general funds of this Island. The only other point I would like to make is that it is the Minister who will decide who is accepted and included in the insurance arrangements. There could be an issue that the Minister, for good intentions, approves the body without necessarily being advised and knowing all of the risks that could be attached to that body. What I am saying is that yes, it is all very well to agree to set up this insurance fund in legislation, but again, it is what actions follow the words. I look to the Minister: are we making sure, properly sure, that we have sufficient funds and we are properly covered for the sorts of eventualities that we hope will never, ever happen?

The Bailiff:

Does any other Member wish to speak on Articles 2 to 8? Deputy Le Fondré?

11.2.3 Deputy J.A.N. Le Fondré:

I really started off with just one query. Following the comments made by the Minister for Treasury and Resources, of the £7.5 million, if I have understood the note that came in just before lunchtime, only £1.9 million is, effectively, Treasury have used the word, "untouched." The rest of it is already spoken for, to use their terminology. It is not actually a significant sum of money that we are talking about, in total. I understand from the Deputy of St. Ouen, again, from the same note, that this just represents what they call a first-tier insurance, and that over and above a certain level, that liability is then reinsured with external providers. That is the understanding from the note. Perhaps the Minister for Treasury and Resources can confirm that. I had a very simple query, and it is the one very minor issue I had with the whole principle of the Insurance Fund. In reality, I will caveat my expression, because it probably does not make any difference. The amendment to Article 6 of this law basically makes the Insurance Fund one of the funds that is then subject to the investment strategies by Treasury, but equally, the money already sits in the Consolidated Fund, which is already subject to investment strategies. What I really wanted to ask the Minister for Treasury and Resources is if he can confirm that when the Insurance Fund is identifiable and separate, there would not be any intention to apply alternative investment strategies to that fund. In other words, in my view, the Insurance Fund is something that needs to be realised, but if you have a claim next year, you need to be able to settle that claim in cash, next year. It is no good investing it in social housing which you cannot easily sell, and that, the point is, alternative investment strategies allow you to do so, which have been applied to some of the other funds like the Currency Fund, and I would hope that there is no intention to do that with the Insurance Fund. That is a very simple question, I hope.

The Bailiff:

Does any other Member wish to speak? Deputy Young?

11.2.4 Deputy J.H. Young:

I have to apologise to the Minister for not giving proper attention and detail to this law, but I am troubled by the comments in the Scrutiny report and because I can understand the proposal that we need to enshrine in the law a fund which already exists in practice but we need to put it into a separate pot of money and have rules about movement into that fund and out of it; I understand that entirely. What I see missing is what are the risks and liabilities that the fund is effectively going to

be carrying? Should there not be some provision within this part of the law to set some limits on that and to propose some kind of management arrangements for it? Because I assume, as other Members have said, that this fund is not carrying high risks and that the risks it is carrying do not exceed industry limits or industry tolerance levels, as referred to by C.I.P.F.A. Of course, there is nothing in these papers to show that. So, I assume therefore that the major risks are being externally insured, rather than us carrying those all in an internal insurance fund. I am going to listen to the Minister for Treasury and Resources on that, because I am troubled. I am looking here at a draft law that, to me, is coming across as only half the story. If the Minister has already covered that in his separate note, I apologise. I still think it is good to have something- structure - and when we change these laws, which is rarely, we should try and bring in those best practices. I will listen to the Minister's comments on this particular set of articles.

The Bailiff:

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

11.2.5 Senator P.F.C. Ozouf:

Thank you. The first thing that I probably should say to the Assembly is the Minister does not act without advice. The Accounting Officer in relation to insurance matters and indeed this fund is the Treasurer, and I do not think I need to reinforce the credibility and the standing of the financial professionalism and the care and attention that the Treasurer discharges those functions with. While all matters are in the name of the Minister for Treasury and Resources, ultimately I only act upon advice, and that advice is given by the Treasurer of the States. Indeed, the funding for the insurance arrangements almost have been a victim of their own success. They were introduced a number of years ago. Indeed, I think Senator Routier and I were on the Finance and Economics Committee at the time, and Members must, I am sure, understand the way that insurance works; if you have, effectively, a large excess, then you reduce your premium. That is effectively what we do. We have gone out and purchased ... I say to the Deputy of St. Ouen, no, this £7.5 million is not the only fund that is available to fund problems, whether they happen in the area of health or the airport; we are also buying external insurance arrangements for the covering of the larger liabilities. This is effectively a captive to deal with ensuring that we can negotiate good and value for money premiums and have relatively high excesses, and actually therefore the savings. Departments still pay an insurance premium, and we then deal with their relatively lower level claims in dealing with excesses through this fund. It has been a victim of its own success because it has worked very well. Perhaps it should have been put on a statutory basis earlier on, and certainly all of the modalities and the operation of the funds will be put in place and if Members want to have a separate briefing, if they would like the Treasurer of the States to address them on the subject of how the financial arrangements work, that is absolutely fine, we are happy to do that. Suffice it to say, this is a twin track approach; getting good value for money for external cover, minimising that external cover, and minimising appropriately, through appropriate excesses, that external cover, and putting effectively some self-insurance arrangements through our own captive, which this is doing, and this is putting a statutory basis for that. I am sure Deputy Le Fondré will remember from his time at the Ministry for Treasury and Resources and that he will have read that the Consolidated Fund is not invested in the 2.30 p.m. at Newmarket or anything else, any racy investments. We do not do that. I have to say, again, that the Treasurer of the States' performance with the Assistant Minister on the management of the Strategic Reserve and other matters is absolutely fantastic at delivering benchmark improvements and delivering improvements on all matters. The Consolidated Fund is held in cash, and it is held also in a way that is ensuring that we do not have problems. I am sure I do not need to say to the Assistant Minister ... I sometimes wonder whether he thinks we are entirely capable or competent at doing our jobs, sometimes. It seems to me common sense and I think he knows that. This is a good arrangement. It is putting on

a statutory basis something that has worked well. We are absolutely covered properly with insurance, and we have delivered some cracking improvements in terms of value for money on insurance arrangements. I move Articles 2 to 8.

The Bailiff:

Articles 2 to 8.

[17:00]

Deputy J.A.N. Le Fondré:

Can I have a point of clarification, because the Minister did not actually answer the question, which was quite simple: is the intention for the Insurance Fund to continue to be in cash, if you like, or is there any intention for it to go anywhere near alternative investment strategies?

Senator P.F.C. Ozouf:

No.

The Bailiff:

Very well. All those in favour of adopting Articles 2 to 8 kindly show. Those against? They are adopted. Do you then wish to propose Part 3, Articles 9 to 12, Minister?

11.3 Senator P.F.C. Ozouf:

Yes. This is the real meat of the amendments, in addition to the Fiscal Policy Plan.

The Bailiff:

No, I think the fiscal policy ...

Senator P.F.C. Ozouf:

This is in addition to the article we will come on to in relation to the Fiscal Policy Plan. Sorry, this is one of the important parts, but yes, I am dealing with the Medium-Term Financial Plan and heads of expenditure. This law amendment proposes the formal recognition of the central planning vote head of expenditure. This is a sum of money which is used to scope and assess future capital projects. Funding will only be allocated to those capital projects which have been approved in principle by the States. The approval of any funds from this area does not mean that the project has been given a green light, of course. It merely means that a department has been allocated funds to research and scope a project. When I brought amendments to the Public Finances Law in 2011 we introduced, as we have rehearsed earlier, the Medium-Term Financial Plan. We made changes which resulted in a general tightening of the provisions that allowed variations to heads of expenditure. The reality is that experience has shown that it is appropriate for there to be the reintroduction of some flexibility to the rules of transferring of funds and I am therefore proposing, upon advice, that the Minister can approve transfer of funds between heads of expenditure. We have heard from the remarks by Senator Ferguson earlier that the Panel does not agree with this amendment and I must strongly and robustly deal with those concerns. I believe that there is a general misconception that the Minister for Treasury and Resources has authority to move funds without recourse; this is absolutely not the case. States Members should be reassured that there is no intent to allow a department to simply transfer unlimited transfers of heads of expenditure between departments or capital projects, as opposed to within a department. All transfers under the arrangements which Members are asked to approve will continue to be approved by the Minister or other person responsible for the States department. Both the relinquishing Minister and receiving Minister must be approved prior to the request being authorised overall by the Minister for Treasury and Resources. The Minister for Treasury and Resources cannot make transfers unless both departments can agree in advance, and the States... perhaps there is some concern about a lack

of transparency here. I believe that we are one of the most transparent administrators of public finances in any jurisdiction. The States will continue to be advised and notified of any transfers in the regular updates that we provide. I think it is important that we remember that one of the reasons that this Assembly wanted to introduce the concept of an M.T.F.P. was so that the States had greater control of overall spending limits. Departments have been allocated tighter spending limits for the period of the M.T.F.P. and therefore at the same time we are suggesting that there should be some flexibility to move funds between Heads of Expenditure so that changing priorities can meet these overall tough budgetary limits so we can maintain the spending limits that we approve. I am aware of what the Scrutiny Panel believes is the ability to transfer funds and that that may undermine the decisions that are made by the Assembly when we approve the M.T.F.P. I believe that we should be directing resources towards the priorities that we make and therefore if we can make savings in one department and transfer it to another, or put the resources in the right department to deliver the right services, that should be able to be carried out by flexibility within the law. I want to clarify that the majority of transfers are normally ... and indeed we have been carrying out under transitional provisions, we have continued to be able to move Heads of Expenditure in recent months. Most are relatively straightforward and would needlessly take up valuable Council of Ministers' time if they were made in accordance with the published contingency process. Members will recall that as part of the overall process of departmental net expenditure limits in the M.T.F.P. debate, Members received a great deal of information in the annex to the approvals, which provided a great deal of detail on services and funding required by departments. Departments will still be expected, of course, to report all this detail in the annual accounts and that is obviously a set of annual accounts which compares the last year's allocation within departments and the actual spend. There is, it could be argued, lots of flexibility within departments. This Assembly votes an overall limit to the Minister for Social Security; the Minister for Education, Sport and Culture; the Minister for Home Affairs, and there is existing ability to transfer within effectively some bits of the education... In theory, the Minister for Education, Sport and Culture could move money between primary and secondary education. What we are asking for is that ability to be able to be moved sideways into departments as well. I would say to Members that that is absolutely something which is important to be able to do, to deliver savings, to deliver priorities, and is reported. All of the arrangements that we have to look at spending after it has happened, the Public Accounts Committee, and I know the Chairman of the P.A.C. would like to put us in a straitjacket and not allow these issues, and she will be addressing us on that matter, but frankly, Members cannot have it both ways. They cannot say: "Council of Ministers be corporate" and at the same time not allow flexibility within departments. Simply, I am afraid Members cannot, and the Chairman of P.A.C. cannot have her cake and eat it. The other issue that we will ask Members' approval for is that there should be an arrangement to exceptionally make an allocation by this Assembly to a budget. Members will recall the previous arrangements under Article 11(8) which will enable the Minister for Treasury and Resources to bring forward additional funding requests if expenditure was absolutely necessary, and that provision was removed. Again, I must report to the Assembly that experience and the advice of the Treasury has shown that it would be prudent to permanently reintroduce a similar but more limited arrangement to the previous Article 11(8) request, and therefore this amendment proposes that the Council of Ministers, on the recommendation of the Minister for Treasury and Resources, may take forward a request for the States to consider additional urgent expenditure, which, crucially - and this is where the law is absolutely clear - cannot be met out of existing heads of expenditure and where there is insufficient contingency funds available. I must be absolutely clear that this is only a theoretical ability; it will be ultimately up to the Assembly to decide whether or not approval should be given for that funding. I should say, I know that Corporate Services will question and are going to challenge that amendment, and I would say that while we do approve an overall envelope of spending - and I am very proud of what we have achieved in terms of the changes - 3 years, and

indeed 4 years, which the next Assembly will be in post for, is a long time. An annual allocation of contingency of course is designed to deal with all unforeseen expenditure. We have, I hope, gone a long way away - and I am grateful to the Deputy of St. Ouen in congratulating the Treasury on improving financial management - from the old supply day request, the general reserve and the general, as I described - as a former Assistant Minister for Treasury will fondly remember - the “self-service buffet” approach for allocations. This is a very limited provision which, in exceptional circumstances, could be used. I think that it would be unwise for us to continue an arrangement whereby this Assembly and future Assemblies could, under no circumstances, make provisions for an exceptional item of expenditure. We have to be honest and say: “What about a serious economic threat? What about a disaster that would happen that would be an unavoidable expenditure?” This Assembly has required, outside the arrangements, for example the setting up of the Committee of Inquiry for Child Abuse. We did make an additional allocation for the Innovation Fund, which was something that we did not conceive when we did the M.T.F.P. and we found the resources to do that. Perhaps Members would remember the consequences that the Department of Health had to make for the reciprocal health arrangement. I would hope that all these changes - and it is certain that there will be unexpected items - can be met with by contingencies, but I cannot guarantee that and so, upon advice, and this is the clear advice that I have, we should make an arrangement to do that. I think it would be unreasonable, if I may say, not to put that provision, with all the protections that it has, into the law. We should be able to meet unavoidable expenditure. This Assembly should never be in a position that it is embarrassed because it cannot find some urgent form of funding for some problem from an existing head of expenditure. I think that all of those remarks relate to the articles, and I am happy to answer any questions that Members may have on those Articles 9 to 12.

The Bailiff:

Are those articles seconded? Does any Member wish to speak on those articles?

11.3.1 Deputy J.H. Young:

Can I ask for clarification, if I may, on Article 10, which varies Article 9(2) of the Principal Law? Can I just make sure I understand this correctly? The change that we are being asked to agree today is to give power to the Council of Ministers if it is satisfied that there is a case for bringing a proposition to this House, to vary the Medium-Term Financial Plan. Is that correct? This is the decision of this Assembly. It is not the decision of the Minister. Can I have clarification on that, please?

The Bailiff:

That is your speech, is it?

Deputy J.H. Young:

If it is my speech, if I can go on? I would like to be satisfied on that, because obviously the whole point of introducing a Medium-Term Financial Plan is that we would have long-term financial planning and that we would have moved away from the annual budgets and pots of money and the kind of wooden dollars things, moving money around, and that we would set in place a stable long-term framework to manage our finances. I am quite struggling that we are now, so soon after changing the Public Finances Law to create such an arrangement, that we are now finding opportunities to bypass it. If I have understood it correctly, that the States Assembly are going to be the body to make that decision, with the greatest respect, I am not really convinced that that is the right framework for a thorough review and auditing and checking of that proposition to make a transfer. I think Members are likely to be in a position of having no realistic choice, of being told: “This is necessary; we either agree this or some disaster happens”, and I am troubled about that. I would have thought that, in our laws, we ought to find ways of having more structured

arrangements. For example, say we were dealing with a proposal where there was supposed to be some involvement of some external panel or scrutiny body or something, on such a request, but we have not got that. It is going to be a decision in the Council of Ministers. I am sure the Council of Ministers is a very thorough, excellent body, but I am not sure that is the entire body to be sitting around discussing all the details about the fine details of States accounting. It is really a tough task to get your head around. I think the Council of Ministers are probably not going to be in much of a different position than the States Assembly when it comes to dealing with these matters. I am troubled by this. Maybe I should listen again to what the Minister for Treasury and Resources says in reply and to what other Members say. I would like to have some examples of the sort of things; are we talking emergencies, are we talking national disasters? The Minister for Treasury and Resources holds up his hands; he is expert in all these things. We are being asked to agree something, and all I am doing, as an ordinary Member, is asking some simple questions on behalf of the public; they want to know. We have got a financial arrangement, we want to make sure that what we are being asked to do is safe, particularly when we have got people like C.I.P.F.A., acknowledged experts in the field of public finance, putting big question marks on these things. I do not think my question is unreasonable, so I am going to listen to what the Minister for Treasury and Resources in answer before I decide what to do about this.

The Bailiff:

Does any other Member wish to speak on these articles? Yes, Deputy Vallois?

[17:15]

11.3.2 Deputy T.A. Vallois:

Thank you. I think it is probably appropriate that I speak, seeing as the Minister for Treasury and Resources referred to me having my cake and eating it. I was appointed as Chair of P.A.C. by the States Assembly and I hold Accounting Officers to account, but I was co-opted on to the review for this Public Finances Law amendment and anybody that has been in the States during the last term will be aware of my concerns over contingency funding when we debated the last round of proposals. The Chairman of Corporate Services has kindly given me the task of explaining why we should not adopt Article 10 and Article 12 of this amendment. Article 9 and Article 11 we are broadly in agreement with, but Article 10 and Article 12 are where we depart on the view of the Minister for Treasury and Resources. The reason why we do so is, to put it quite simply, it seems that a roundabout has been taken with regards to the views on the discipline of the financial management of the States of Jersey. When we debated the first phase of the Public Finances Law amendments, we debated having the Medium-Term Financial Plan and discussing a 3-year cycle of approving States expenditure. Now, we are all aware that this is the States Assembly; it is responsible for agreeing tax spend and regulation. Two of those sit firmly within the remit of our Minister for Treasury and Resources. Financial management has improved and I think the Treasurer of the States is doing a good job in very difficult circumstances, particularly being in a recession. This particular Article 10 and Article 12 basically asks us to go back on what was initially sold to the States Assembly by the Minister for Treasury and Resources. The reason why I state this is because the reason why we were sold the contingency funding to be put in place was on the basis that we would remove Article 11(8). What we are being asked to do is bring back Article 11(8) and have contingencies. I would say to the Minister for Treasury and Resources: “You cannot have your cake and eat it.” **[Approbation]** I would also say that it is this States Assembly that determines the amount of money each department has. If that department cannot advise the States Assembly how much money they need to deliver for the public service, I would suggest there is something seriously wrong with the way we are advised. I would also suggest that there have been previous reports done by Corporate Services, such as forecasting the expenditure, our attempts at saving money in the past by the C. And A.G. (Comptroller and Auditor General)

and it would appear to me, what is being attempted here, from the Public Finances Law, is providing a flexibility that we cannot amend in our States of Jersey Law for the change in Ministers, the shuffling around of Ministers and the change in policies that we should be doing as a States Assembly, as a government, under the Chief Minister. So that comes under the machinery of government law. For too long we have been focusing on the Public Finances Law to determine how to be flexible and how to do our jobs properly in this States Assembly and I do not think that is appropriate. Article 10 and Article 12, in mine and the panel's opinion, and in C.I.P.F.A.'s opinion, is a step too far in terms of flexibility. I would ask the States Assembly to please reject those particular articles and I would also state that if those articles are not rejected, I will be considering bringing an amendment to the Public Finances Law myself to remove contingencies from the Public Finances Law.

The Bailiff:

Does any other Member wish to speak? Deputy Southern?

11.3.3 Deputy G.P. Southern:

I have long been worried about 3-year and 4-year planning, which takes all control away from simple, humble backbenchers like myself. My question to the Minister for Treasury and Resources is, as the result of all these changes, will it make it any easier for this House to pass a request to any Minister to bring about any action? My thought is, an example, is the Hoppa Bus which for years, almost a decade now, we have been talking about and I think it was last year - it might have been the year before - this House voted for and asked the Minister appropriately, to bring forward plans for a Hoppa Bus, which, when the spending analysis came out, had fallen off their priority list. This sort of thing happens time and time again. This House decides that it wants to see something happen, Ministers do not deliver. Will this flexibility, however it is delivered, enable this House to actually hold Ministers to their sticking point and say: "Look we have voted for this, why have you not delivered?"

The Bailiff:

Does any other Member wish to speak? Deputy Baudains?

11.3.4 Deputy G.C.L. Baudains:

I, like some other Members, share concerns about Part 3 generally. I can understand where the Minister is coming from, that flexibility and moving money across departments where necessary may help to deliver the Medium-Term Financial Plan, but as with most legislation in this Assembly, I try to look forward and see what the downsides may be. We are told nothing could possibly go wrong, and yet every time, it does seem to go wrong. My concerns are threefold. That while it would help the Minister for Treasury and Resources, it would help the Council of Ministers, to some extent it means it bypasses this Assembly. I believe it would make it more difficult to hold departments to account and I believe it would also be a disincentive for efficiency among departments. I am unlikely to be supporting these particular articles.

11.3.5 Deputy J.A.N. Le Fondré:

At the end of the day, I am going to go with Scrutiny on this, and it begs a couple of questions: We have had lots of calls for legislative scrutiny and they have definitely done a very good piece of work on the scrutiny of a very fundamental piece of legislation, with a very top-class professional adviser from one of the institutes of accountants particularly specialised in public finances. What I found quite amazing is the comment that was made: "Well, perhaps they have never seen a jurisdiction like ours." I believe that was made in the principles by the Minister for Treasury and Resources. That is all very well, but process and control is their bread and butter and I do not think it is right to challenge them on their expertise on that. One can agree to disagree for political

matters, that is fine, that is perfectly rational, but not necessarily on expertise. To be honest, I am basing a lot of my thoughts on the expertise of the professional, independent advisers. At the end of the day, they may never have seen a jurisdiction like ours or circumstances like ours. I somehow doubt that, but anyway. Accountants see behaviour all the time, good and bad, and they see bad behaviour. At the extremes you get the likes of B.C.C.I. (Bank of Credit and Commerce International) and Polly Peck, but there are all extremes, in all types of business. The accountants quite often will see them. But they also see the reason behind it, and what C.I.P.F.A. are saying in some of their comments, that these particular articles will encourage such bad behaviour. That is the nub of it; that is what Scrutiny are saying. To an extent, I must admit, I go back to the point, if on something quite so fundamental, you are serious about controlling public expenditure, if that is what we go on, certainly one of my mandates is being about controlling expenditure, about reform and that type of thing, in terms of what we, as taxpayers, are required to pay and how efficiently that is spent, then I think we need to be listening to Scrutiny. If you support Scrutiny, you should be supporting them and I talk, obviously, as a former member of the Corporate Services Scrutiny Panel; obviously, I am not there now. Again, to go back to the report, I accept that it has been a long summer break and people may not have read this. The first part that we are talking about, Article 10, C.I.P.F.A. have said: "We find it difficult to understand the exact purpose of the amendment, given that basically there is already an article that provides for the approval of expenditure in such serious situations. In other words, in summary, that disaster is already covered by existing legislation." What they also talk about - and reference was made back to it - how the States will be informed. Yes, to quote them, I think the States will be informed something like 6 months after the event, if we present as a *fait accompli*. Sorry, to quote their phrase: "This would, however be, in all probability, a *fait accompli* for States Members. The related expenditure will undoubtedly already have been discharged in meeting the urgent need, a point in time distant from the eventual approval, debate and request." In other words, it will be too late. Going on again to the Article 12 side, to repeat, they have: "... never seen among organisations we have worked with, this level of flexibility." They cannot understand or cannot grasp the underlying rationale for the amendment that may have the potential to undermine the rigour of the Medium-Term Financial Plan. I am kind of getting to the point. Is the purpose of the M.T.F.P. just to turn around and say: "Okay, we are going to spend £750 million"? A one line proposition. That is it, and do it each year, end of story. That could be the corporate role, that is fine, but there is a difference between the corporate role in a private sector company when it is your money or my money, if you are the M.D. (Managing Director). As it gets bigger, you are responsible to the shareholders. We are in the role of custodians, to the public; if you like, a trustee. We have got to think longer term, we have got to be able to hold people to account, and effectively, you have got to think of the unborn grandchild in our actions; that is long-term thinking. Part of that accountability is having a degree of control over how the money is spent. Again, to quote, and I make no apologies for repeating it: "The overall flexibility governed by Article 12 which will be potentially available to budget holders can potentially encourage sub-optimal budget behaviours that can mitigate against the best use of resources." It is an amendment that C.I.P.F.A. are saying: "We could not support", or their advisory agents. I reiterate, I am going to very much support Scrutiny on this. There are some very strongly-worded comments in there. As they have said, parts of these amendments are fine and are good but there are other amendments which are far too far and, to be blunt, I think if it is that strong a push-back from Treasury, they should have come back with proper comments in the time they have had since the report was issued.

The Deputy Bailiff:

Does any other Member wish to speak? Senator Le Marquand?

11.3.5 Senator B. I. Le Marquand:

There seems to be some misunderstanding here on the part of some Members in relation to the effect of Article 10, and I want Members to understand, particularly I think Deputy Young, the existing Article 9(1) says: "Once a Medium-Term Financial Plan has been approved by the States, the total amount of States expenditure approved for the financial year to which the plan relates may only be varied on a proposition lodged in accordance with paragraph 2." So, there was already built-in the ability to come back to the States, in certain circumstances, to increase the amount of money in the Medium-Term Financial Plan. Those existing categories are set out in Article 2 and they are: "... if a state of emergency has been declared, if the Council are satisfied there exists an immediate threat to the health or safety of all or any of the inhabitants of Jersey, if the Council of Ministers is satisfied there is a serious threat to the economic, environmental or social wellbeing of Jersey which requires an immediate response, following the appointment of a Council of Ministers otherwise than following an ordinary election for Deputies (in other words, if the Council of Ministers fell because the Chief Minister fell or the Council of Ministers fell, they could come back again) or in accordance with paragraph 3," and paragraph 3 would be if we are going to arrive at a situation where we were going to overspend and there was going to be a deficit. So, there is already a number of different provisions by virtue of which the Council of Ministers can produce a proposition to come back to the States saying: "Look, something we really did not anticipate has happened; please would you now amend the Medium-Term Financial Plan so that we can have some more money to meet this?" Now, the effect of Article 10 is simply to add another category to those which already exist. That category is set out. So it is not the Council of Ministers that would make the final decision here. It is the States. All this says is: "In these circumstances, the Council of Ministers can bring a proposition to the States to say, 'We need more money, please'." So there is a misunderstanding here. There is a kind of irony here, because when we were actually replacing Article 11(8) I remember meeting with the Treasurer of the States to go through a lot of details of this so I could understand it, and actually saying: "Are you sure that the categories that we are going to have in here are going to meet each and every case?" She said: "Yes, we are fine." Now, of course, in retrospect, thinking about it, we have reached the position where there are theoretical categories which would not come within any of these categories but where clearly we would need to come back to the States to find more money. I have to say that I think there are lots of safeguards here and my main point, in case of confusion, because of the wording of this, not viewed in accordance with Article 9(1) and the rest of 9(2), is the States make the final decision. I see no problems.

The Bailiff:

Senator Ferguson? We are now at 5.30, so I ought to invite Members whether they wish to adjourn or whether they wish to continue?

Senator P.F. Routier:

I propose an adjournment.

The Bailiff:

An adjournment is proposed. Very well, we will reconvene tomorrow to continue the debate on this matter.

ADJOURNMENT

[17:30]