

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 2nd MARCH 2011

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[9.30]

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

PUBLIC BUSINESS – RESUMPTION

1.1 Historical Child Abuse: request to Council of Ministers (P.19/2011) - amendment

The Greffier of the States (in the Chair):

Very well. The debate resumes on the amendment of the Deputy of St. Martin to the proposition of Senator Le Gresley. Does any other Member wish to speak on the amendment? Senator Le Gresley.

1.1.1 Senator F. du H. Le Gresley:

I was reflecting last night on some of the speeches we had yesterday and I felt it important to perhaps point out a couple of issues that were mentioned in certain speeches. I would like to first deal with the speech of the Minister for Home Affairs when he talked quite enthusiastically about the Time to be Heard forum that took place in Scotland. I have read up quite a lot about this forum and I felt it important to point out to Members that not everybody who took part in this forum was happy with the outcome. Not only some of the survivors who attended the forum were not happy, but also the commissioners who ran the forum came up with some problems. If Members will allow me to do so, I would just like to read a few sentences from the report which was released in February of this year by the organiser of the forum, Tom Shaw, and he said this about the issues that they faced in setting up the forum because this forum was modelled on the Confidential Committee of the Irish Commission to Inquire into Child Abuse. So it was very much a pilot forum and there were issues that had been discussed with the Scottish Human Rights Commission which also affected the way that the forum was conducted, but one of the issues they faced was the lack of protective legislation in Scotland for the work of a confidential forum and that necessitated changes in the conduct of the forum, especially the way in which it recorded what participants said. Another key issue for some survivors was the lack of an accountability strand in the work of the forum. T.T.B.H. (Time to be Heard) had no powers to investigate allegations and no role in recommending participants for compensation. For some survivors, that was seen as a major weakness and a renegeing by government on what had been anticipated during its consultation. We also have to remember that the participants were all people who attended what was known as the Quarriers Homes. These were previously known as the Orphan Homes of Scotland. In their final observations to the Scottish Government, the forum commissioners said because the forum was set up without legislative basis, it did not have the benefit of the statutory protections enjoyed by the Irish model that it sought to emulate. The essence of the Confidential Committee model, as its name implies, is confidentiality. Because T.T.B.H. did not have statutory protection for confidentiality the chair and commissioners, informed by independent legal advice, developed practices to mitigate any risk that information provided in confidence might require to be disclosed. Another consequence of the non-statutory basis of the T.T.B.H. was its lack of corporate legal personality separate from the chair and commissioners. This had implications for the possible personal liability of the chair and commissioners, employment and contractual issues and the ownership of the records held by T.T.B.H. Their final recommendation is: “Nevertheless it is essential that any future forum be established on a statutory basis, modelled on the Irish legislation, thus providing necessary protections for both the participants and staff of the forum.” So I think you can see from that (and that was a report issued only last month on the work of the forum) that there are potential problems if we were to go down this route because we do not have the necessary protective legislation in place at the moment, whereas we do, of course, for a committee of inquiry. As I told you, the people who participated in this were all people who had attended the Quarriers Homes. Quarriers Homes set up their own organisation, the Former Boys and Girls Abused in Quarriers Homes, and they issued this paper I have in front of me in December 2010 and this was after the forum had taken place. They say: “Given that 9 ex-employees of Quarriers Homes have

been convicted in the Scottish Criminal courts, it is our view that a proper effective inquiry is essential and has to be undertaken to learn the depth and how widespread such abuse was, while ensuring that Quarriers is fit for purpose today. The Pilots or Forums will not address effectively such issues fully in our view concerning the past institutions' (including Quarriers') culture, past management and operational, regulatory and other such issues." So they had serious doubts at the end of the process that the Time to be Heard forum had delivered what had been anticipated. I also have a message from David Whelan who was the chair of the F.B.G.A. (Former Boys and Girls Abused in Quarriers Homes) and he said: "Truth and reconciliation never made it past the starting block because of Scottish Government's non-action, because survivors wanted a truth and reconciliation. This came up with something else. The Scottish Government has come up with its own solution which is Tom Shaw's work and a watered-down version of restorative justice with preconditions while avoiding the recommendations of the Scottish Human Rights Commission. Many of Scottish survivors are very unhappy about this latest news." That is about it, really. So what I am trying to say is it may be a way forward, but it was very much a pilot and we need to take note of that. The second point I wanted to make was in the Deputy of St. Mary's speech, he quite rightly looked again at the Criminal Offences Confiscation Fund and we of course heard from the Attorney General on his view about the use of the funds which, of course, I respect. I would say to Members let us all think back to last year when we were told that we had to, in future, budget for court and case costs and that we could not keep dipping into this fund, that it was not good practice to rely on windfalls, if you like, into a fund to pay for the escalating cost of court and case costs. We know from the records that we received yesterday and in the accounts we have seen that court and case costs historically have been funded out of the Criminal Offences Confiscation Fund. Unfortunately the Minister for Treasury and Resources is not here, but we have already, in our budget for 2011-2012, provided a budget now for court and case costs. To me, in budgeting terms, if you move some money from the fund to cover some of those court and case costs, you free up some money and that money can then be freed up to pay for a committee of inquiry. To me, it is quite a sensible way of dealing with the matter. **[Approbation]** If we are restricted in the use of the fund, let us use it for what we have used it before and let us remove some of that budget that was given for court and case costs to free it up for a committee of inquiry.

[9:45]

My final point, when the Chief Minister spoke, he referred to the Kerelaw Inquiry which I mentioned in my opening speech. He said that that was still ongoing but I do not quite know where he got that from because the inquiry report was published in May 2009.

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

In the immortal words of many speakers, I was not going to speak, but what I think has bedevilled this whole Haut de la Garenne, obviously the Island has become polarised by it and people on either side are deaf for various reasons to the arguments, insofar as they are arguments, of the other side. The sad thing is, and it was manifested in Senator Le Gresley's speech, that again we are a group of 53 people trying to work out what is the right kind of committee, the right kind of structure to move forward. Some of us have knowledge of this (very few, it should be added) some of us do not, but here we are, 53 people, struggling between the merits. This is so often the case in the States and this is what frustrates the public enormously, that these issues come to the States. Some have been subject to Scrutiny and we get some very excellent background material; a lot have not. We struggle, often from positions of ignorance, of bias, of prejudice, to work out solutions. That is what really disappoints me. What has disappointed me from the whole of the Haut de la Garenne thing is, quite frankly, the lack of empathy. It was quite clear that from the moment this hit the Island the Council of Ministers, quite frankly ... although I think there were people on it who were sincerely trying to resolve the issue, I do not think there was the basic empathy in many quarters. There simply was not the basic empathy. There simply was not the

understanding of these issues, of the impact they can have, of the long-term consequences, of the nuances that surround these issues. It was not simply there and it was simply decisions were taken: “How can we close this down as quickly as possible?” and of course it has led to all manner of rumbling on and on and on. I know why the Deputy of St. Martin has come up with his 6 points because he is really, I suppose, trying to confront the Council and say: “This is what you agreed with. Can you show me the movement that has been made in dealing with these points? If you cannot, then we need to investigate.” Partly because of the old cliché: “Those who do not learn from history are doomed to repeat the mistakes of history”, I do not entirely agree with the view that you can just say: “You must, you must, you must look to the future” because it suggests that these, sort of, systemic failings, the causes of them, the causes in our structure and so forth and so on have been removed. We have all, sort of, made a confession and moved forward. I do not think that is the case. I do not think some people, quite frankly (in very key positions) have absorbed what went on, what really went on and what the lessons were to be learnt from what went on. I do not think that has been absorbed. The tragedy is that here we are, 53 people, trying to structure the future of an inquiry; some, it has to be said, incredibly late in the day, these, sort of, emails that appear to have arrived. I blame myself as well, but I am surprised at these emails that have been pulled out of the hat very late in the day about new approaches. Why were the key parties not sat around a table, the Care Leavers’ Association, the people who, if they are represented in terms of formal groups, feel they have been subject to very, very serious allegations against themselves, the Council of Ministers, the Back-Benchers who have taken a very strong interest, why were they not sat around a table to try and hammer out a solution to this? Instead, we have all this manoeuvring going on about what is or what is not the right approach. It is for that reason that I will vote for Deputy Hill. I am not totally convinced, I have to say. It has this feeling of being stuck in a period of history but it has to be looked at and there has to be a system which is credible to the people who have a tremendous investment and commitment to its outcome, but it is so sad (and I never thought I would end up in this position of saying we need more consensus in that sense); yet again, the search for consensus, the search for knowledge, has not been carried out and we are all at sixes and sevens trying to sort out what are the best ways forward, how different countries handle this, when we could have easily got a paper saying: “These are the different approaches that different jurisdictions have taken, these are the pros and the cons of these approaches” and we know that there are these arguments. Kindly vote on the basis of that knowledge, that insight and the engagement of all the parties who have an investment in the outcome of this and the engagement of all the parties. Instead, as ever, we are struggling from positions of ignorance, prejudice, bias, polarisations but, for that reason, I will support (imperfect though it be) and as a Member told me this morning, we do not live in a perfect world. I think I have come to that conclusion many times recently, we do not live in that world but we have to move forward. If he, as I think will be the case, shows flexibility in how he is prepared and if the Council of Ministers say: “Look, we may not have the most perfect solution but tell us how we can move forward and we will look seriously at trying to incorporate that in the way forward”, I think it would be the magnanimous gesture which we have been crying for. **[Approbation]**

Connétable G.F. Butcher of St. John:

Before we move on to the next speech, Sir, and I do not know procedurally whether I can do this or not, the Deputy of St. Peter did try and contact me earlier this morning but was unable to reach me because I was in an early meeting. Can I do malade for him now and have the défaut lifted?

The Greffier of the States (in the Chair):

I did wonder in the sense that he was malade yesterday. I think we could allow you, if you are willing to take the oath.

The Connétable of St. John:

I did not want to do it off my own bat, Sir, just in case he walked in. **[Laughter]**

The Greffier of the States (in the Chair):

That was absolutely the right approach to take, Constable, and I will ask the Greffier to administer the oath. Thank you, Constable. Does any other Member wish to speak on the amendment? Deputy of St. John.

Deputy P.J. Rondel of St. John:

Although I am supporting the main amendment, I have one or 2 concerns with this particular amendment, or number of amendments, and I would give way to the proposer of the amendment if he can tell us whether or not he will allow us to vote on 1 to 6 in individual votes, given that number 1 is, for instance: "How have the Island children's homes been running over recent decades?" We are asking for far-too-wide historical decades. We are talking about 10, 20, 30, 40, 50 years. We will have great difficulty in getting that information. I believe that is probably too wide to ask a review, to go into something like that, and I will give way, as I say, to the proposer if he can indicate whether or not we can take the vote separately.

Deputy F.J. Hill of St. Martin:

Yes.

The Deputy of St. John:

Thank you for that. That makes life much easier for me. I believe we need to do this in a sensible way and we want the Chief Minister to come back, hopefully the main proposition accepted, with the terms of reference of an inquiry. That being the case, now I have got that from the proposer, I will not say any further; I do not want to delay the debate any more. We can move forward and I will sit down.

The Greffier of the States (in the Chair):

Does any other Member wish to speak? Deputy of St. Ouen.

1.1.3 Deputy J.G. Reed of St. Ouen (The Minister for Education, Sport and Culture):

First of all, I would like to say there is no doubt that we have in the past failed a number of individuals who have been in the care of this government. I think we all feel sorry and indeed would like to apologise for letting them down. The bigger question is whether or not a committee of inquiry will meet their needs, and I do not believe it will because, no matter how hard we try, we cannot turn the clock back. When I look at the amendment proposed by the Deputy of St. Martin, it is all about trying to look back. We have gone through that process. We forget about Andrew Williamson and the efforts that he made and the positive outcomes from all of that inquiry that he conducted. As part of the Children's Policy Group, we have far greater confidence now that we will be able to provide for the children in our care in a much better way than in the past but, equally, society's attitude to children has changed dramatically over the last 30 years and we tend to view children in a far different light to that of the past. Senator Le Gresley made some comments about the view of certain individuals regarding an inquiry that was conducted in Scotland and that people were not satisfied. I think if you look at the conclusions of every inquiry that has been conducted, no matter how extensive it has been, there will still and always be individuals who will be dissatisfied because an inquiry of its own does not help individuals deal with their concerns, their views and the impact of a set of circumstances that they have experienced. We also know, and Senator Le Gresley also touched on it when he mentioned that the allegations have not been properly considered, but I would like to remind Members that we have had an extensive police investigation that has fully investigated the allegations made by all individuals. Again, I do know that there are a number of individuals who made allegations who feel that that police investigation was not satisfactory, but we have to rely ultimately on something and fully acknowledge the past but deal with the present. We need to provide appropriate support for those who have suffered abuse; there is no doubt. I believe that has and is being offered, but I want to direct and suggest that the States would do far better to direct our attentions to making sure

that, both now and in the future, these sorts of circumstances do not happen again. So I am sorry, but I cannot support Deputy Hill's amendment.

1.1.4 Senator P.F. Routier:

I was a Member of the Council of Ministers at the time when the promise was made to have a committee of inquiry and I stand by that and I will keep that promise; I was there at the time and I know the circumstances. We probably know a lot more now and the offer of a committee of inquiry was probably made in the heat of what was going on at that time. There were lots of things happening, but I recognise that and I accept that but I still maintain that I will support that promise that a committee of inquiry should go ahead. So I will be supporting Senator Le Gresley's main proposition. When it comes to what is being asked of this amendment to have the list of 7 requirements put down as terms of reference, I have difficulty with those, with a number of them. I would prefer that the people get together and sit around a table. The same sorts of issues which Deputy Le Hérissier was talking about; he is unsatisfied with the way things are being dealt with and I do share those views and those comments but I have come down on the other side of the fence and hope that the people who want to progress this, the Council of Ministers and other Members, should get around a table and come forward with terms of reference which everybody can agree to. So I will not be supporting the amendment of Deputy Hill but I will be supporting the main proposition.

[10:00]

The Greffier of the States (in the Chair):

Does any other Member wish to speak? Constable of St. Helier.

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

I believe there are 3 good reasons to support the Deputy of St. Martin's amendments, or I could say 3 groups of people: first of all the survivors and the victims of Haut de la Garenne. The question will be asked: "Will they not be satisfied with Senator Le Gresley's proposition unamended?" I think the answer is no. The Council of Ministers has already stated they will look at other solutions, other models, and Senator Le Gresley's proposition allows them to do so. They have promised to talk to the J.C.L.A. (Jersey Care Leavers' Association) this time, as they failed to do before. The first time, of course, they announced they did not believe a committee of inquiry was necessary. Yesterday we heard Senator Le Gresley being invited to the Council of Ministers to be part of the framing of terms of reference or discussion about how best to tackle this matter. Where have we heard that call before? Was not the Deputy of St. Martin, the bringer of these amendments, invited over to discuss the *Napier Report*; the same Member of the House who has been doggedly pursuing the Council of Ministers for having dropped a key consideration in that review? Precisely how much reassurance will the J.C.L.A. and those whom the association represents take from what will surely seem to them a refusal by the Council of Ministers to agree to look into everything, to leave no stone unturned, no story unheard? What these amendments are saying to the victims is that: "We will do just that, we will examine everything: all this and more." The Council of Ministers, of course, is not bound to include it although, unless they want to have this debate all over again in a few months' time, they had better include it. The Council of Ministers is not bound to show, I am afraid, what has become customary profligacy in how it is paid for, nor their customary feet-dragging in the time it takes to bring it about. The comprehensive inquiry that these amendments direct the Council of Ministers to undertake (and which I believe the survivors and victims deserve) starts here today with an acceptance that the matters raised by both Deputies in their amendments must be included along with other areas that will be brought forward if the Council of Ministers approach this latest challenge in an open, consensual way. The second reason to support the amendments is that the people of Jersey deserve to know the truth about Haut de la Garenne or to be allowed to make up their minds what that is. Yesterday, one Member of the

Council of Ministers, the Home Affairs Minister, showed once again that he has already made up his mind what that truth is, certainly in respect of the former police officers involved. I am sorry that Senator Le Marquand felt it necessary to excoriate the retired police officers involved because every time he does that he discredits the victims. He also, incidentally, shows a slim understanding of natural justice. He tried to tell the Assembly yesterday that a draft report, the *Wiltshire Report*, delayed and over budget as it was, which was part of an unfinished and ultimately inconclusive disciplinary process that had to be abandoned, tells us all we need to know about the matters the Deputy of St. Martin is seeking to have included in the Committee of Inquiry. If the Deputy's amendments are rejected, rightly or wrongly, there will be a perception that all the Council of Ministers really wants to do is to maintain its position up there in its ivory tower [**Approbation**] at the top of Senator Le Marquand House, 9 floors above contradiction, out of touch with Back-Benchers and the public. I come finally to the matter of Jersey's reputation and ask Members to consider how it will play out. If the Council of Ministers, having refused to conduct a committee of inquiry in the first place, a promise by the former Chief Minister (and that should be enough, as Deputy Southern said yesterday in a refreshingly concise intervention), if the Council of Ministers says they will support a committee of inquiry, but not necessarily one that includes the matters raised by the Deputy of St. Martin, how will that play out with the international community? We know the terms of reference have to come back to this Assembly for debate and approval, but do our envious and hostile critics know that, or care? The message I want us to send out today may not reach the far-flung places the original news story did almost exactly 3 years ago, but let us send a message out that the inquiry will be one which, from the start, is marked by openness. The States of Jersey have agreed to a comprehensive, far-reaching committee of inquiry which will leave no stone unturned in an effort to understand what happened.

The Greffier of the States (in the Chair):

Does no other Member wish to speak? I call on the Deputy of St. Martin to reply.

1.1.6 The Deputy of St. Martin:

I think it is quite apt that I should begin my reply on such a high note, having listened to the Connétable of St. Helier. I think his speech to us really hit the nail right on the head. I thank him for it. [**Approbation**] I also thank all those Members who have spoken and one thing I would like to start off with, expressing my disappointment that so many were missing when I gave my address, and it really was disappointing because so many issues have been brought up by speakers which I had made clear during the course of my address and had they been in the Chamber, in short, they would have listened to what I had to say and maybe they would not have been quite so doubtful had they listened. However, I have the opportunity now of summing up and I will go over some of the issues that probably were missed out. Can I start off by commenting or summing up on the Chief Minister? I thought he had difficulty in defending the Council of Ministers' position, particularly as he was supporting the proposition from Senator Le Gresley, but he could not support the other proposition, the amendments, and I also think his difficulty was that we have just had a vote whereby, 27 votes to 21, this House has expressed its support for one of the amendments which could form the basis of the terms of reference. So I can understand how the Chief Minister had difficulty in responding and he raised concerns about the harm that a committee of inquiry might cause to victims. Again, it just shows, I believe, how out of touch the Chief Minister is with the feelings of the victims and I would remind him that there are 2 victims: there are the abused and there are the accused. I believe both have the right to have their expressions, their thoughts, brought to the attention. I think all too often we just think about the victims, and I know they themselves need every care and assistance that can be given, but there are also a number of people who have been accused. Some, I think, trial by media, trial in the States, and I think those people have the right to have their expressions shared, their views heard. So again there is every reason why we should have the committee. He raised concerns about the cost, particularly about the legal support. I have brought so many propositions to the House and amendments and I have heard so

many times: “Oh, it is too costly to do something.” That is an old red herring. If we want to do something, we will find the money to do it. We can find money for all sorts of things and this is probably one of the most important things, I suppose nationwide, worldwide, what happened about our historical abuse, and here we are; we are still trying to cover it up because we have not got the money. I would remind the Chief Minister of the former Chief Minister’s pledge about no stone being left unturned, no matter what the cost was, and again the Chief Minister was the former Deputy Chief, he was the Minister for the Treasury at the time. Did he raise any concerns? Did he express his dissent at the time, 3 years ago? He did not say so, but I doubt if he did. A promise was made under the 6 issues and the Council of Ministers has shown that the 6 issues have not been resolved. Every time someone has got up and spoken from the Council of Ministers, they have found an excuse why not to have it, but no one has addressed the 6 issues which were part of the considerations from 3 years ago. He claimed that the Committee of Inquiry could be detrimental to the civil claims. I would say that it will not make any difference at all. In fact, if it does make a difference to some people’s claims, it may well be they were not valid in the first place. No one should get any more than they deserve, but again I believe that is another red herring. He made an unfounded claim, I thought, that the purpose of the Committee of Inquiry was to find who was to blame. Again, I strongly refute that allegation. I have been consistent in seeking the truth, as indeed has the Chief Minister been in obstructing all those people who have been trying to establish the truth. He claimed that a committee of inquiry would be constrained by accepting my amendments. Again, that claim has been made by other Members. The 6 issues are not mine. They were the 6 issues identified by the former Council of Ministers, of which the Chief Minister and the Minister for Treasury and Resources were members. The Chief Minister knows that the 6 issues were to form the basis of the terms of reference which would have to be drawn up and they would have been drawn up by the former Council of Ministers had the police investigation been over before that Council of Ministers’ term of office had been concluded. Senator Perchard and the Constable of St. Ouen also touched on the subject and asked about the flexibility, my goodwill and were we constraining ourselves by accepting the issues which, although unresolved, might be out of date. I would refer them and other Members to Deputy Tadier’s speech and his amendment and also my opening speech when I said that I was just proposing the 6 issues identified by the former Council of Ministers. If Members were of the view that they were still unresolved, then they should form the basis of the terms of reference. Although I believe the 6 issues could be included in the terms of reference, if Ministers support the principle, then of course the terms of reference can then be drafted in accordance with what we think is best practice for a committee of inquiry. Deputy Tadier lodged his amendment because he thought it was more appropriate to do so during the initial debate. I believe now his judgment was spot on because Members approved his judgment which will be, of course, incorporated in the terms of reference if, indeed, Members support my amendments. To finish summing up on the Chief Minister’s speech, I would like to draw attention to his interesting remarks remaining about consultation. Unfortunately (Deputy Le Hérisser has alluded to it) the offer was made before we got into this and unfortunately the Chief Minister ignored it, felt it was inappropriate but now, at the last minute (and I welcome it) he is saying: “We could sit around the table, maybe with Senator Le Gresley, the Deputy of St. Martin, Deputy Tadier and the Care Leavers and we can find a way forward.” Certainly I think our offer will still be accepted and we would like to find a way in which we can find the best ways of getting good terms of reference for a committee of inquiry. I thank Deputy Le Claire for his support. He mentioned about leopards do not change their spots. I am an optimist and I would hope that the Chief Minister would recognise the importance of keeping a promise. The Constable of St. Ouen, who supported Deputy Tadier’s amendment, was not sure where we were going and were we tying ourselves in by accepting the amendments. I will keep repeating it. The terms of reference will be drafted on the basis of what we agree today and any other issues which may be relevant but, before we can agree to a committee of inquiry, we have to support my amendments first otherwise, there is no committee of inquiry. I thank the Deputy of St. Mary again for another analytical speech. He is of the view that the 6 issues are not out of date and, indeed, there are many other unanswered

questions to be asked and again I keep coming back; they will form the terms of reference if indeed my amendments are approved. He said: "What would you feel like if it was one of your children who had been involved?" Again, a very important thing to be stated. He also raised the issue of funding for the Committee of Inquiry and again I am thankful for the Attorney General's contribution, although I do not necessarily agree with everything he had to say, but I believe that the examples that the Deputy of St. Mary gave about how the confiscation fund has been used for other ways, there certainly are reasons why the Committee of Inquiry could be funded. I would draw Members' attention to the answer given by the Minister for Treasury Resources on 15th February. He says about the reason how the Committee of Inquiry could be funded, he says: "A final view could be taken when the terms of reference of any such committee of inquiry are published"; makes it clear. I know he is not listening, the Minister for Treasury and Resources, but this is his own answer to the question. So what we are saying here, depending on the terms of reference, it could be funded from the confiscation fund. Not my words; the Minister for Treasury and Resources'.

[10:15]

I turn to Senator Perchard's speech, for which he sought assurances from me, and I hope that I have given them by covering the issue and when I mention about covering the Chief Minister's speech, but if he is not, I am more than happy to give way to see if he would like me to give further reassurances, but I hope that he understands that the 6 issues are there to form the base of a committee of inquiry. They do not necessarily have to be all part of it. I think the Senator knows that I am pretty thorough in my work and I want what is best for the victims, the public and the States Members. Again, I thank Deputy Higgins who supported the proposition or the amendment and he questioned those who were questioning the cost of the Committee of Inquiry. I think this is important, but again I think it was mentioned by the Chief Minister; we have to bring in Q.C.s (Queen's Counsel) *et cetera* from the U.K. (United Kingdom). I do not think so. I think we can have a committee of inquiry, cut our cloth accordingly, but again that will be when the consideration is given to who will be part of the Committee of Inquiry and also the terms of reference. Senator Le Marquand's speech I thought was most uncomplimentary and most disappointing. As a Minister and former magistrate, he did not endear himself to many Members with his speech. I do not think he had any right to attack the integrity of a member of the public who could not defend himself and I hope that that name will be removed from Hansard. I thought the attack on the former Deputy Chief Officer was quite uncalled for. He said that life had moved on and safeguards were now in place, however, he tried to justify not having a committee of inquiry by 2 experts he had been contacted with. However, having said that, he then suggested there were other options. You cannot have it both ways. If you want to move on and you are still prepared to look back, well I hope we will be prepared to look back and I hope the Senator will be prepared to support a committee of inquiry. Deputy Tadier reminded Members of the 6 issues which were part of the terms of reference but they are not flexible, or they are flexible; we can have what we want. He said we should not be looking for excuses for doing nothing. If we do not address the matter now, nothing will be addressed until after the elections. I think we have to wait for the Chief Minister to come back in 3 months' time (I doubt it will be 3 months' time) but then we will be heading for the summer recess, then we will be heading for the elections. So if we do not do something now, nothing will happen. Again, he said that the Committee of Inquiry is not just about victims but it is about public confidence. The Deputy of Trinity is also the Minister for Health and Social Services and, as a corporate parent, should be looking for what is best for the victims. However, she played the party role and again we should not be looking back; we should be moving forward. However, the ink is hardly dried on her comments when she, along with the Minister for Home Affairs, is suggesting we should be looking at alternative options. Again I would say: why did she not lodge an amendment to Senator Le Gresley's proposition like I did and Deputy Tadier? The mention about the Scottish system, and I think Senator Le Gresley was quite right, it is in its

infancy. There are all sorts of problems on both sides, not just the survivors, but those people who are running it find it is pretty well a toothless machine and it is not really working. I turn now to ... I call him one of the wise men from the east and that is the Constable of St. Martin, although I thought yesterday he was a bit more like Doubting Thomas. We were both in church on Sunday; we know about Doubting Thomas'. He was raising some concerns. Quite right. I think we have all got concerns and I hope I can address them and hope I can persuade him to support the amendments. He was saying that abuse has changed; what was acceptable 50 years ago is no longer acceptable now, he is quite right. I hope we are not going to go back looking at 50 years but I would remind him that abuse has been quite current, and I have been checking up with the Minister this morning. I was a member of the Health and Social Services Committee way back in 1998, 1999. There we had a report made about a couple, and this abuse had been going on for 10 years and the Attorney General advised us that it was not in the public interest to proceed. Senator Le Claire is nodding his head because he became a Member soon after that and this is this issue so, the Constable of St. Martin, we are not looking at something 50 years ago, but I hope we will not; I hope we start looking probably from about the last 35 years, probably the mid-1970s. But there was abuse going on and indeed we heard at the Health meeting that this abuse had been going on from 1990 right the way through to 1999 and nothing had been done. So again one of the 6 issues is there: has the matter been resolved? No. I hope that the Constable of St. Martin can accept that what we tried to do is for the best of everybody. He wisely said that he had not made his mind up at the time so I hope he can be persuaded by, certainly, the Constable of St. Helier's speech. Deputy Southern made probably one of the shortest speeches on record but he did remind us that if a promise is made it should be kept. Deputy Pitman again spoke in support (and I am grateful of it) he gave a reminder to us of the Chief Minister's statement. I thank Senator Le Gresley, quite right, pointed out about the forum not being very favourable on both sides. I am thankful for Deputy Le Hérisier's support. The Deputy of St. John asked if I could split the issues. Well, they will be there, but I hope that bearing in mind that they will probably be considered for the terms of reference whether they are accepted or not but I think I would take it that he would be happy to accept them when we vote them individually. The Deputy of St. Ouen is a member of the corporate parent with the Deputy of Trinity and Senator Le Marquand. Not going back, let us move forward, let us push it under the carpet. Again, his speech was exactly as one would have anticipated. Senator Routier, I hope I could persuade him to support these amendments; he supported Deputy Tadier's, I believe he did. I think I have checked up and I would have thought he would have supported these 6 issues. If we are going to support Deputy Tadier, one would hope one could support the principle of supporting the 6 issues. I did touch on the Constable of St. Helier, I thought his speech was excellent. He said again, reminded everybody the 6 issues are to form the terms of reference. He says that the public is waiting for the truth to be out there or at least make up their minds and he again reminded us that the terms of reference would come back to the States. I hope that if Members could support my amendment, that when the terms of reference are drafted, we could involve people like myself, Senator Le Gresley, Deputy Tadier, the Care Leavers and those who feel they have a contribution to make before it comes back to the States for rectification. So what I would ask Members to do is to agree to the principle of the Committee of Inquiry and agree to the 6 issues which place a part of the amendments and remind everybody that a promise was made 3 years ago that if those 6 issues were not resolved, then we should have a committee of inquiry. I would submit that the 6 issues have not been resolved. Therefore, we should have a committee of inquiry. I would ask now, Sir, that we have the appel and we vote on each one.

The Greffier of the States (in the Chair):

Very well. The appel is called for and the Deputy has asked for the 6 questions to be voted on separately. So we will firstly vote on questions 1 to 5 and then we will take eventually the preamble words in question 6 together at that stage. So question 1 is the first matter for the Assembly. This is whether this question should be part of the terms of reference of a committee of inquiry: "How had the Island's children's homes been run in recent decades?"

POUR: 24		CONTRE: 25		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator S.C. Ferguson		Senator P.F. Routier		
Senator F.du H. Le Gresley		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator B.E. Shenton		
Connétable of St. Peter		Senator F.E. Cohen		
Connétable of St. Lawrence		Senator J.L. Perchard		
Connétable of St. Mary		Senator A.J.H. Maclean		
Deputy of St. Martin		Senator B.I. Le Marquand		
Deputy R.G. Le Hérisier (S)		Connétable of St. Ouen		
Deputy G.P. Southern (H)		Connétable of Trinity		
Deputy of Grouville		Connétable of Grouville		
Deputy J.A. Hilton (H)		Connétable of St. Brelade		
Deputy P.V.F. Le Claire (H)		Connétable of St. Martin		
Deputy S.S.P.A. Power (B)		Connétable of St. John		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Connétable of St. Clement		
Deputy of St. John		Deputy R.C. Duhamel (S)		
Deputy M. Tadier (B)		Deputy J.B. Fox (H)		
Deputy of St. Mary		Deputy of St. Ouen		
Deputy T.M. Pitman (H)		Deputy J.A.N. Le Fondré (L)		
Deputy T.A. Vallois (S)		Deputy of Trinity		
Deputy M.R. Higgins (H)		Deputy I.J. Gorst (C)		
Deputy A.K.F. Green (H)		Deputy A.E. Jeune (B)		
Deputy J.M. Maçon (S)		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		

The Greffier of the States (in the Chair):

We will continue. I will ask the Greffier to reset the system and the next vote is on question 2: “What procedures were in place to recruit staff and how is the performance of staff monitored? Should other steps have been taken to monitor performance?”

POUR: 24		CONTRE: 25		ABSTAIN: 0
Senator J.L. Perchard		Senator T.A. Le Sueur		
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Senator F. du H. Le Gresley		Senator B.E. Shenton		
Connétable of St. Helier		Senator F.E. Cohen		
Connétable of St. Lawrence		Senator A.J.H. Maclean		
Connétable of St. Mary		Senator B.I. Le Marquand		
Deputy of St. Martin		Connétable of St. Ouen		
Deputy R.G. Le Hérisier (S)		Connétable of Trinity		
Deputy G.P. Southern (H)		Connétable of Grouville		
Deputy of Grouville		Connétable of St. Brelade		
Deputy J.A. Hilton (H)		Connétable of St. Martin		
Deputy P.V.F. Le Claire (H)		Connétable of St. John		
Deputy S.S.P.A. Power (B)		Connétable of St. Saviour		
Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy K.C. Lewis (S)		Connétable of St. Peter		
Deputy of St. John		Deputy R.C. Duhamel (S)		
Deputy M. Tadier (B)		Deputy J.B. Fox (H)		
Deputy of St. Mary		Deputy of St. Ouen		
Deputy T.M. Pitman (H)		Deputy J.A.N. Le Fondré (L)		
Deputy T.A. Vallois (S)		Deputy of Trinity		
Deputy M.R. Higgins (H)		Deputy I.J. Gorst (C)		
Deputy A.K.F. Green (H)		Deputy A.E. Jeune (B)		
Deputy J.M. Maçon (S)		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		

The Greffier of the States (in the Chair):

Very well. I will ask the Greffier to reset the system for question 3 which is: “What measures were taken to address inappropriate behaviour from staff when it was discovered and, if those measures were insufficient, what other measures should have been taken?”

POUR: 25		CONTRE: 24		ABSTAIN: 0
Senator B.E. Shenton		Senator T.A. Le Sueur		
Senator J.L. Perchard		Senator P.F. Routier		
Senator A. Breckon		Senator P.F.C. Ozouf		
Senator S.C. Ferguson		Senator F.E. Cohen		
Senator F. du H. Le Gresley		Senator A.J.H. Maclean		
Connétable of St. Helier		Senator B.I. Le Marquand		
Connétable of St. Lawrence		Connétable of St. Ouen		
Connétable of St. Mary		Connétable of Trinity		
Deputy of St. Martin		Connétable of Grouville		
Deputy R.G. Le Hérisier (S)		Connétable of St. Brelade		
Deputy G.P. Southern (H)		Connétable of St. Martin		
Deputy of Grouville		Connétable of St. John		
Deputy J.A. Hilton (H)		Connétable of St. Saviour		
Deputy P.V.F. Le Claire (H)		Connétable of St. Clement		
Deputy S.S.P.A. Power (B)		Connétable of St. Peter		
Deputy S. Pitman (H)		Deputy R.C. Duhamel (S)		
Deputy K.C. Lewis (S)		Deputy J.B. Fox (H)		
Deputy of St. John		Deputy of St. Ouen		
Deputy M. Tadier (B)		Deputy J.A.N. Le Fondré (L)		
Deputy of St. Mary		Deputy of Trinity		
Deputy T.M. Pitman (H)		Deputy I.J. Gorst (C)		
Deputy T.A. Vallois (S)		Deputy A.E. Jeune (B)		
Deputy M.R. Higgins (H)		Deputy A.T. Dupré (C)		
Deputy A.K.F. Green (H)		Deputy E.J. Noel (L)		
Deputy J.M. Maçon (S)				

The Greffier of the States (in the Chair):

Very well. I will ask the Greffier to reset the system for question 4: “How did those in authority at political and officer level deal with problems that were brought to their attention?”

POUR: 27		CONTRE: 22		ABSTAIN: 0
Senator B.E. Shenton		Senator T.A. Le Sueur		
Senator J.L. Perchard		Senator P.F. Routier		
Senator A. Breckon		Senator P.F.C. Ozouf		
Senator S.C. Ferguson		Senator F.E. Cohen		
Senator F. du H. Le Gresley		Senator A.J.H. Maclean		
Connétable of St. Helier		Senator B.I. Le Marquand		
Connétable of St. Lawrence		Connétable of St. Ouen		
Connétable of St. Mary		Connétable of Trinity		
Deputy of St. Martin		Connétable of Grouville		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Brelade		
Deputy G.P. Southern (H)		Connétable of St. Martin		
Deputy of Grouville		Connétable of St. John		
Deputy J.A. Hilton (H)		Connétable of St. Saviour		
Deputy P.V.F. Le Claire (H)		Connétable of St. Clement		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Peter		
Deputy S.S.P.A. Power (B)		Deputy R.C. Duhamel (S)		
Deputy S. Pitman (H)		Deputy J.B. Fox (H)		
Deputy K.C. Lewis (S)		Deputy of St. Ouen		
Deputy of St. John		Deputy of Trinity		
Deputy M. Tadier (B)		Deputy I.J. Gorst (C)		
Deputy of St. Mary		Deputy A.E. Jeune (B)		
Deputy T.M. Pitman (H)		Deputy E.J. Noel (L)		
Deputy A.T. Dupré (C)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				

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

The Greffier of the States (in the Chair):

Very well. I will ask the Greffier to reset the system for question 5: “What processes were in place to assess the performance of the homes and what action was taken as a result of any problems that were identified?”

POUR: 23		CONTRE: 26		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator S.C. Ferguson		Senator P.F. Routier		
Senator F.du H. Le Gresley		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator B.E. Shenton		
Connétable of St. Lawrence		Senator F.E. Cohen		
Connétable of St. Mary		Senator J.L. Perchard		
Deputy of St. Martin		Senator A.J.H. Maclean		
Deputy R.G. Le Hérisier (S)		Senator B.I. Le Marquand		
Deputy G.P. Southern (H)		Connétable of St. Ouen		
Deputy of Grouville		Connétable of Trinity		
Deputy J.A. Hilton (H)		Connétable of Grouville		
Deputy P.V.F. Le Claire (H)		Connétable of St. Brelade		
Deputy S.S.P.A. Power (B)		Connétable of St. Martin		
Deputy S. Pitman (H)		Connétable of St. John		
Deputy K.C. Lewis (S)		Connétable of St. Saviour		
Deputy of St. John		Connétable of St. Clement		
Deputy M. Tadier (B)		Connétable of St. Peter		
Deputy of St. Mary		Deputy R.C. Duhamel (S)		
Deputy T.M. Pitman (H)		Deputy J.B. Fox (H)		
Deputy T.A. Vallois (S)		Deputy of St. Ouen		
Deputy M.R. Higgins (H)		Deputy J.A.N. Le Fondré (L)		
Deputy A.K.F. Green (H)		Deputy of Trinity		

Deputy J.M. Maçon (S)		Deputy I.J. Gorst (C)		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		

[10:30]

The Greffier of the States (in the Chair):

Very well. Deputy, I am just considering the procedural votes. We have taken votes on the separate questions but we have not yet voted on the substantial issue in the preamble of whether or not there should be the committee. I am just conscious if the vote is put together with Question 6 that some Members may wish to vote on Question 6 differently from the overall concept. So I think we need to take a vote on Question 6 first and then we will take a vote on the actual preamble words.

Deputy M. Tadier:

Can I ask about Question 7 which ...

The Greffier of the States (in the Chair):

Question 7 has been voted on, Deputy, so if the rest goes through it is there. So I think we must vote firstly on Question 6 which is: “Were there any mechanisms in operation to allow children to report their concerns in safety and what action was taken, if and when concerns were voiced?”

POUR: 31		CONTRE: 18		ABSTAIN: 0
Senator B.E. Shenton		Senator T.A. Le Sueur		
Senator F.E. Cohen		Senator P.F. Routier		
Senator J.L. Perchard		Senator P.F.C. Ozouf		
Senator A. Breckon		Senator A.J.H. Maclean		
Senator S.C. Ferguson		Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		Connétable of St. Ouen		
Connétable of St. Helier		Connétable of Trinity		
Connétable of St. Clement		Connétable of Grouville		
Connétable of St. Lawrence		Connétable of St. Brelade		
Connétable of St. Mary		Connétable of St. Martin		
Deputy of St. Martin		Connétable of St. John		
Deputy R.G. Le Hérissier (S)		Connétable of St. Saviour		
Deputy G.P. Southern (H)		Connétable of St. Peter		

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

The Greffier of the States (in the Chair):

Now, Members have so far decided that Questions 3, 4, 6 and the amended Question 7 from Deputy Tadier should be part of terms of reference if there were to be a committee of inquiry but I think we must vote on the preamble words which ask Council to lodge a proposition to establish that. So these are the first words: “For the word ‘that’ ...” *et cetera* and I will ask the Greffier if she can re-set the system so we can vote on that issue.

POUR: 27		CONTRE: 22		ABSTAIN: 0
Senator P.F. Routier		Senator T.A. Le Sueur		
Senator B.E. Shenton		Senator P.F.C. Ozouf		
Senator J.L. Perchard		Senator F.E. Cohen		
Senator A. Breckon		Senator A.J.H. Maclean		
Senator S.C. Ferguson		Senator B.I. Le Marquand		

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

1.2 Historical Child Abuse: request to Council of Ministers (P.19/2011 Amd.) - comments The Greffier of the States (in the Chair):

Very well. Technically, the Assembly now returns to the proposition of Senator Le Gresley, as amended by the amendments. I am sure Members are conscious of the time and will not wish to prolong the debate too long but Members are free to contribute if they wish. Does any Member wish to speak on the proposition as amended? The Deputy of St. Mary.

1.2.1 The Deputy of St. Mary:

People may sigh, but I think there are issues about the amended proposition that need to be made absolutely clear. I would like at the end to ask the Chief Minister about what his response is

because there has been some discussion about openness and how we proceed in reaching the right way forward now, and I think that is probably the issue that is left. I think in the last debate some comments were made that still might make Members think: "That is not the right thing to do." Remember, we are now talking about an amended proposition, so the Council of Ministers has to proceed and, therefore, the voting might be influenced by that in the next round, if you like. I just wanted to pick up on 3 particular things just to make sure that Members are really clear that these arguments should be put to one side. The first was when Deputy Reed said that because Williamson had reported on childcare in the Island that somehow this overall inquiry - and we still have to vote on it - is not necessary. My response to that, and I am sure Members remember, is he specifically did not look at past practice. He looked at the present situation and what it should look like in the future so, really, it is not relevant. The second point is this business of the public being seriously misled. Now that is still standing there in the comments and in the mindset of the Council of Ministers. Now, I have not heard them sort of turn round and say: "No, no, no, this is a serious issue" and so there is still that reservation, that wish to minimise. I just want to remind Members before they vote of the scale of what happened in our little Island and how serious that matter is, and to remind again that these children and young adults were in the care of the States and we cannot forget that. The third point that was raised, I think by Deputy Reed also, was that the police investigation (and we have heard this one again in this long debate) has fully investigated all these issues, the implication being that we do not need to vote for this proposition. Well I think the Constable of St. Helier pointed out quite clearly that the police investigation is, and remains, controversial. There are issues around it that are unresolved, for instance, the suspension process which was highly irregular: why was that entered into? The unqualified use of the Met (Metropolitan Police) interim report in the suspension and the rubbishing of the actual inquiry by the successor police officers at the top of the police. So there is this kind of reserve, there is this conflict, there are these issues around the police investigation and to say: "Well, it has all been dealt with by that", I am sorry, does not hold water. The difference in the attitude of the previous Council of Ministers in their draft proposition which they were going to bring forward, only there were, of course, delays ... I will just remind Members of what they said. It is in the R.8 at the back in the Appendix: "While it may be too late to right the wrongs of the past, it will be important for the people of Jersey that all relevant issues are brought out into the open so that the truth of what may have happened in recent decades can be established." Now that was quite clear and Senator Routier rightly said he is going to stick with that for the reason that I have just read out. Yet, in R.8 what the present Council of Ministers say at the foot of page 11: "It is accepted that not everyone will agree with the Council's decision [i.e. not to hold an inquiry] and some individuals may still have questions. It is hoped that those who may not agree will recognise the seriousness with which the Council has considered the matter." That is the point, is it not, as eloquently put by Deputy Le Hérissier? How satisfied can we be that the process which the Council of Ministers used to arrive at that decision was really open and consultative? We know that it was not. I just beg the Council of Ministers to comment on that whole aspect as we debate this. We are looking here for closure that is good enough; I do not think we are looking for perfection. Obviously, when we talk about the different ways of running an inquiry it is clear that there is no such thing in this field as perfection. We are looking for closure, for good enough closure, not just for the abuse survivors; we are looking at it for the care workers as well and others, some of whom have been publicly accused. We have heard from Deputy Le Hérissier about the process that should have been, and can still be, undertaken: an inclusive process where care leavers, perhaps particularly those who have already been to court so that everything, or a lot of it, is in the public domain as far as they are concerned, the Members of the States who are particularly concerned with this issue, the corporate parent, could be obvious contributors and experts perhaps at this stage of setting the parameters in deciding what kind of inquiry this should be. I implore the Council of Ministers to open up and do it in the right way and say that they are going to do this, setting the bounds, and working out what kind of inquiry it is to be and how it is going to run, to open up and be inclusive, because otherwise this will carry on. Finally, there is a wider meaning of closure and that is the Island being at peace

with itself. This has been a highly divisive and damaging episode, obviously, and not just for the abuse survivors. When the Minister for Treasury and Resources refers to the cost, although he does, to give him credit, say that is not the deciding issue, the fact is it is there in the background. May I remind Members, and I do not think it is untoward to mention this, that there may be an economic cost to not getting this right. I would just quote one of the things I have read on one of the discussion threads which I think is worth bearing in mind: “The finance industry, like it or not, works on trust and stability and the continuing allegations are destroying that.” There is a point there that I think is valid: we need to put this to bed in a proper way and resolve these issues. I mentioned in my previous speech about the community aspect, so I will not repeat that, but I think there is an issue around our own responsibilities in areas of whistle-blowing and seeing or hearing about behaviour that could be abuse and what we are supposed to do about that as individuals, and I think that should be covered by any inquiry. So, to conclude, please, Ministers and Chief Minister, can you assure us that this will be an inclusive process to set up an inquiry that will achieve what is needed?

1.2.2 Deputy P.V.F. Le Claire:

Today we are asking to vote for a committee of inquiry. I am trying to make the point that anything less than a committee of inquiry is not going to do the job. Any sort of “take away, let us look at it in the round” inquiry is going to be: “Let us take it away and let *us* look in the round.” We will have a committee of inquiry into a bus contract, we will have a committee of inquiry into a marina overspend, we will have a committee of inquiry into third party appeals, we will have a committee of inquiry into the Cavern and we will have a committee of inquiry into anything that costs money. Yet we have seen today the Council of Ministers getting dragged kicking and screaming all the way to the finishing line on a committee of inquiry into the welfare of children in Jersey.

1.2.3 The Deputy of St. John:

I hope the Chief Minister can give us a nod that he will now accept a committee of inquiry and I had sent him a note hoping that he would have replied sooner. Any committee of inquiry I think has to look, as I mentioned yesterday, into the actions of the officer in charge of that inquiry at Haut de la Garenne. Given the items I mentioned yesterday, we would not be doing a duty of care to this Island if they did not look at that. I sincerely hope when this is adopted - because it is going to be adopted this morning - that the Minister will take my comments of yesterday in that amendment to Deputy Tadier on board and make sure that that element is added to any inquiry that is to be held. I will not say more than that because I said sufficient yesterday, I think, to give people the impression that everything I said yesterday was in earnest, and I am not going to repeat it today. I sincerely hope the Chief Minister and the Council of Ministers take on board those particular comments that I made. I also in part would support what was said by the Minister for Home Affairs yesterday because he made some excellent comments in relation to that particular inquiry and to officers. He has seen a lot more information than we will ever see; a committee of inquiry I am sure will be entitled to see that information.

[10:45]

It is very difficult for somebody in the position of the Minister for Home Affairs to speak out in a number of areas because he has a duty of care to this Island. Having sat myself on Home Affairs I know how difficult it is not to step over the boundaries. I will not say any more, but I hope the Chief Minister takes this on board.

1.2.4 Connétable S.A. Yates of St. Martin:

I would like to say that when Senator Le Gresley brought his proposition I was quite pleased because in fact we were promised a committee of inquiry by the previous Chief Minister. I was

rather disappointed in the statement from our present Chief Minister to say that perhaps it was not necessary. However, in reading Senator Le Gresley's proposition, I am concerned that there is no mention of a terms of reference, nor is there any statement about the limitation of history we have ...

The Greffier of the States (in the Chair):

I am sorry to interrupt you, Constable; I think there is now, because the proposition as amended sets out the 4 questions that the Committee of Inquiry should look at that the States have just voted on.

The Connétable of St. Martin:

What I am concerned about is we have lived in a brutal society, and it is not so long ago, really, and I would like you to say how far back does Senator Le Gresley wish this to go. Because in my very, very not-so-distant memory, judicial corporal punishment, capital punishment ... I remember the last hanging in Jersey and I remember quite vividly that a very good friend of mine, the Constable of St. Helier, Mr. Keith Baal, was required to attend, and his reaction was not good. I really would like to press the Senator in his summing-up to address this issue and reassure me that the terms of reference will make some inclusion on how the proposed Committee of Inquiry will address historic events with today's criteria. I think it is important if perhaps the Senator could tell me when - for instance, I think capital punishment was probably abolished in the early 1960s; judicial corporal punishment I do not know - corporal punishment was abolished in schools because I think this is all very relevant. We are talking about children, the way children were treated, in the 1950s and 1960s. I know that if you went to school in the 1940s and 1950s you were certainly abused physically and possibly mentally by humiliation and ridicule, and I would like to have those answers from the good Senator, please. Thank you.

1.2.5 Senator B.E. Shenton:

Senator Le Gresley's proposition says that there are no financial and manpower implications. Obviously with the amendment being passed of the Deputy of St. Martin there are indeed financial and manpower implications. I would like the Senator in his summing-up to just confirm whether we are doing the right thing here. By passing the amendment of the Deputy of St. Martin, we have put a cap which was included in the Deputy's report on financial implications of £500,000. I would like the Senator to confirm that he believes a committee of inquiry could be held to the standard that people expect for a cost of £500,000 and whether I should accept this proposition on the basis that what we are voting for today is a committee of inquiry with a financial cap as opposed to a standalone proposition which may bring a committee of inquiry with a properly-funded and worked out proper structure. So is the Senator happy that today we will vote for a committee of inquiry that is limited in its financial resources?

The Greffier of the States (in the Chair):

Just to say from the Chair, Senator, I do not think the States are voting on that. That was the estimate of the Deputy of St. Martin. The States are not being asked to vote on that estimate. It is not part of the proposition.

Senator B.E. Shenton:

No, the proposition sought the Council of Ministers to bring a proposition constructed in line with his proposal whereby they would have to look at £500,000 as being the limit for whatever proposal they bring.

The Greffier of the States (in the Chair):

Yes, but the States are not voting on that as such. Deputy Tadier.

1.2.6 Deputy M. Tadier:

My mind may not stretch back enough to remember corporal punishment but I certainly feel like I have been subjected to a fair amount of cerebral punishment over the last few days. Seriously though, I think we are making too much of a fuss about the first part when it talks about “recent decades” which has now been dropped anyway. Clearly, the Deputy of St. Martin is in a bit of a tough situation here; you have to put something there. You cannot just say to look at the Island’s children’s homes and how they have been run. It is implicit that there is going to be a certain timescale to deal with that and I think any logical committee of inquiry is going to start from the most recent. I think the one thing for me, and it merits the Committee of Inquiry in itself, is what happened at Blanche Pierre and the Deputy of St. Martin highlighted that fact. What happened there was shocking, there were failures of mechanisms, whatever. Whether it was to do with human error, whether it was to do with people knowing that they were not going to be found out, there was a complete failure in the system there and that was as recently as the 1990s and it went on right up until 1998. As we have heard, an individual who was inappropriate in 1990 was moved on to an equally inappropriate position of trust, and that was in living memory; I was alive and I was at secondary school in those days, so that is the starting point. We are not here to try and resolve the whole history of human rights’ violations in Jersey in the last century. I think that goes without saying. We realise that that was a different world back then and while it was not good for those who were subjected to that kind of treatment in school - the Americans have a term which is called “cruel and unusual punishment” - there is a difference between somebody being given the belt or being given a ruler across the knuckles and somebody being forced to drink Dettol because they were perceived to not be behaving properly, or a 5 year-old kid being thrown across a room by an adult in a care home. I think there is an element of common sense and that is what any committee of inquiry will be looking at. I think we have a lot to be proud of and, in spite of Deputy Le Hérisier’s reservations about whether or not this is the best form, this is how government works. I am not going to say we are where we are but this is how government works. It has its imperfections and there were 53 of us who were elected. If we do not like the system we do not have to stand for election and we have, I think, come to a very good consensus. We have had a very good debate. There have been certainly, to a certain extent, polarised views but we have managed to come up with a certain consensus. I am slightly perplexed as to why it is that we have rejected parts 1 and 2 because we have gone for parts 3, 4, 6 and 7. I really do not know how we are going to establish whether those who had authority at political and officer level dealt with the problems that were brought to their attention if we are not going to look at how care homes were run in recent years; the 2 go hand-in-hand.

The Greffier of the States (in the Chair):

Deputy, Standing Orders prevent Members re-opening issues that have just been voted on. Members clearly knew what they were voting for and I do not think you could re-open saying that the decision was illogical of Members.

Deputy M. Tadier:

I take that advice. But the point is I think a sensible approach is going to be taken that we can get pedantic about looking at which particular decades we are going to analyse and what-not. I think the point I am making is that there is enough flexibility within this for those who have reservations to just go ahead now. We have voted on this I think to all intents and purposes and hopefully I do not anticipate any other result than the 27 - 22. So I would congratulate those who have put work into this and we know that the Deputy of St. Martin, for example, has worked diligently. I hope that we can really get on with this, whatever form it takes, the terms of reference, that it can be approved and endorsed by the Assembly as a whole, and that we can get something as near to closure for the victims and the accused in this matter.

1.2.7 Deputy R.G. Le Hérisier:

Just to briefly respond to Deputy Tadier. I am quite happy with the way things have progressed. I am saying it would have been a lot better had we had the options presented, had the stakeholders - the victims and those unjustly accused as they feel - been involved in formulating proposals and had we looked in a more systematic way rather than this pulling of emails out of a hat at how other jurisdictions have dealt with these very, almost intractable, issues. That is what I was saying. I really do object to the way that 53 people become 53 personnel officers, 53 planning officers, 53 committee of inquiry experts, *et cetera*. That is a major, major deficiency of how this Assembly works. The issues do expand sometimes, it has to be said, to fill the time available on the basis of a not terribly well-informed debate. Having said that, I was going to ask Senator Le Gresley in a more cautious way could he outline what he sees as the role of legal advice and lawyers in the process that he is putting forward. He has carried out good research, I should add, and I would hate to think, not only because of the cost factor which obviously jumps out in the Bloody Sunday Inquiry in the way that the post mortems that have occurred about that, but what it does to the process. Thank you.

1.2.8 Senator P.F.C. Ozouf:

I have not spoken in this debate and I will be very brief. I do not understand the choice of the Assembly in terms of the terms of reference; it has been decided. As a member of the Council of Ministers who was part of the original issue when the whole matter was raised, I understand the commitment that was given. I also understand and have been an observer as a member of the Council of Ministers with what has happened in the subsequent years, so I am going to remain consistent. I do not believe that a committee of inquiry is going to meet the needs of victims. I do understand, I hope, the needs of victims. Abuse has wrecked lives and they are going to need an opportunity of putting their point of view across and be heard. I do not believe that the narrow terms of reference that we have is going to deliver that. I am confused about exactly the wishes of the Assembly in that regard. It is not going to meet, I do not believe, the needs of victims to a very significant extent and we have got some difficulties in relation to that. The issue of funding has been raised and I just want to deal with that very briefly, if I may. I am grateful that Members are trying to identify a source of funds for its use because that is helpful and that is to be encouraged rather than just putting the problem to the Treasury. But the Treasury does have a problem in this proposition. As well-intentioned as Members' questions have been about the various different C.O.C.F. (Criminal Offences Confiscation Fund) and D.T.C.F. (Drugs Trafficking Confiscation Fund) funds, upon advice those cannot be accessed for the issue of the Committee of Inquiry. I have to take advice in relation to that and the Assembly has been advised by the adviser that the Minister for Treasury and Resources has about what can be used and what cannot. We must not kid ourselves that these funds can be used for that. I understand that this issue is more than just about money but there is a financial issue. Senator Shenton, I think, is correct to raise the problem that I do not believe a committee of inquiry can remotely be delivered within a budget of £500,000. I do not believe that these things should be done on the cheap. They have to be done with all the appropriate advice and it is unrealistic for the Assembly to make a decision with £500,000 in mind. I know that that is not what we are voting on but I do not believe that it can be delivered. I believe, as Senator Le Marquand explained yesterday, there is a need for an inquiry but I do not believe it is a public inquiry, particularly with these terms of reference, which are not going to meet the needs of victims. Members are in a difficult situation; I am going to be consistent. In debates sometimes we move and have early debates on narrow issues and then we think that we have to go ahead because we have had already the debate on it. I know you do not want another large-scale debate but I am going to remain consistent. Of course I will do as a member of the Council of Ministers what the States wants, but I am going to vote against it because I believe there is a better way in order to achieve what is a real issue. I hope I understand what that issue is about victims and how abuse wrecks lives.

The Connétable of St. John:

Can I just ask for a point of clarification from the Minister for Treasury and Resources? In the scenario if this Committee of Inquiry costs ran out of control, would that put financial constraints on any compensation for some of the victims?

[11:00]

Senator P.F.C. Ozouf:

I do not believe the 2 issues are linked to the extent to which... clearly, I think the case is, that a committee of inquiry would need to be lodged with a financial implication and Treasury would need to put forward a budget which the Committee of Inquiry would need to meet. But a committee of inquiry, as Members have rehearsed in this Assembly, needs to be done properly. I do not mean any disrespect, it cannot be done in an amateurish way, and it must be done properly. I think it is unrealistic to say that it is going to cost £500,000, and that is a problem.

1.2.9 Connétable M.K. Jackson of St. Brelade:

While I am cognisant of the wording of the proposition, I think I must allude to the words of the Minister for Treasury and Resources in that I have concerns where the money will come from. I was rather disappointed to hear the Deputy of St. Martin callously say: "We will find the money from somewhere." Now this has historically been a reason for the massive increases in spending experienced over recent years by the States and we cannot continue to do this. Clearly, it is a question of whether the Confiscation Fund can be used and it has been intimated this will depend greatly on the terms of reference. I really have difficulty in signing up to an open book of costs and we have not even discussed any possible compensation claims which may follow from all this. I am also uncomfortable, as a member of the current Council of Ministers, with having to accede to promises made by a previous Council of Ministers over which I had no influence. Circumstances certainly have changed since that time to the extent that I believe channels of communication between the States and those affected should remain open so that their respective concerns can be properly addressed. But I think I would pick up the point made by the Connétable of St. Martin when he said: "How far back do we go and does this turn into a massive witch hunt?" I am reminded that the late father of the Deputy of St. Mary was in fact Director of Education probably over this period, and how wide does this web have to go? In supporting this proposition I do not promise a specific committee of inquiry but notwithstanding that I would support any measure which will close this matter off once and for all, not only for those who have been regrettably involved but also for the good of the Island. Thank you.

The Greffier of the States:

Does any other Member wish to speak? Deputy Jeune.

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

Members will recall that throughout the term of this office I have made it quite clear that I am married to somebody who was brought up in the Home for Boys and went through the Jersey care system. When all this business to do with Haut de la Garenne first kicked off, all those who I know who had been at Haut de la Garenne said: "Okay, let them investigate, let them do what they are doing. They will have a committee of inquiry at the end of it and that is what I want to hear." But as time has gone on that is not what they are saying. Most of those (in fact, nobody has come to me to say otherwise) have said how pleased they were when they heard the Chief Minister make his apologies to those children who, through the care system, had not been properly treated. He apologised to them and drew a line under this issue. They no longer want a committee of inquiry, they believe the matter has been dealt with. I have waited until now to speak simply because I wanted to listen to what was being said and I must apologise to the proposer of this projet that I was not here to hear his opening speech, and Members were aware where I was. So what I am about to say is going to be slightly disjointed because it is trying to pick up on a number of issues but I

would ask the proposer does he not consider that what he is doing is raising the expectation of those who feel aggrieved. Is that fair? I would ask the Council of Ministers, if they accept this proposition, what is it they believe it is to achieve? I would ask the proposer does he not consider that history is something to look back on and learn from? What we should be doing is putting resources to the future and where appropriate ensuring that the mental health services are properly providing for the needs of those who are victims of abuse, however incurred, and also to those who do not seem able to move on. There was a letter I read in the newspaper from a wife of somebody who was falsely accused and the message was they needed to be able to have their say. But they can do that; it does not need a committee of inquiry. I thank the Minister for Health and Social Services for raising the issue of the reach of a committee of inquiry; what that reach would be. My understanding from the reply from the Attorney General is it will not have the ability to ensure people outside of the Island can be made to turn up and give their contribution. People are so worried about the political interference. Is it therefore correct that we are being asked as politicians to decide on whether there should be a committee of inquiry because the judicial system has already been there? What are the numbers that this proposition refers to? How many people are there who are really asking for this Committee of Inquiry? Certainly I had a constituent who said: "I genuinely hope that you are going to be able to support Senator Le Gresley's proposition" and when I explained why I could not, I asked him why he felt I should. But it was nothing to do with Haut de la Garenne, the Home for Boys, or Jersey's care system. It was about issues which had happened in the community. Deputy Le Hérisier mentioned empathy and immediately I recalled the occasion that Deputy Hilton spoke with so much passion about a particular family in the community. So I do not believe we lack empathy at all. The Constable of St. Helier referred to Haut de la Garenne, we seem to get hung up on that. Is that what the proposer is talking about? Is he talking about the community as a whole and how children, whether they are through the care system, or anybody in fact for that matter, are abused? Certainly, listening to Deputy Tadier, he is very focused on one particular area. Any committee of inquiry has to be absolutely open and transparent if it is to have any value at all. If anything is held behind closed doors, we most certainly are going to hear screams of "cover up". The Deputy of St. Martin mentioned those who had been accused and trialled by media, so I wonder whether the Deputy of St. Martin is more championing the issues in relation to a previous police chief and his deputy. The Deputy of St. John appears to have endorsed that. But the Attorney General says we cannot enforce their attendance. There has also been mention about the period of time being 1990, 1999. It is unclear. I feel the issue of what the proposer (and listening to other Members) is trying to ask us to do is so unclear and while I started saying that the initial statement way back that we will have a committee of inquiry was so relevant then, but is not relevant today. Thank you.

Deputy R.G. Le Hérisier:

On a point of clarification, may I ask the speaker, she said that the unjustly accused had other ways of pursuing the matter other than a committee of inquiry. What are these other ways, in her view?

Deputy A.E. Jeune:

People can talk of their experiences quite openly, quite publicly if they choose; they can write books. It would be as public as a committee of inquiry's report would be. Thank you.

1.2.11 Deputy T.M. Pitman of St. Helier:

I was not going to speak. I hoped to put the cynical side of me to the back and think we have come this far that this would be a stride forward but listening to that speech, and we all have to respect each other's views, I am not so sure. I have people very close to me who were in Haut de la Garenne. We hear this all the time, we all speak to different people, well they certainly are not saying to me what Deputy Jeune is clearly receiving from the people she speaks to. Of course it is painful and some people will always rather these things are buried because they do bring up painful memories, but some people want to go through that pain to get ultimate closure. I cannot remember

which Member said it, it was about empathy, but I think with the background I have, I think I understand the issues from 2 decades working with young people. I talked a bit yesterday how ironic it was that I bumped into an old friend at school and the assaults that took place on us, physical assaults.

[11:15]

I was lucky: I had 2 good parents; a really loving home, I was not a bad kid, I was not an angel. People probably would not believe it now but I have always been resilient and if you knock me down I will get back up again. I did not even go and tell my dad when those things happened. It is funny because my friend was saying he did not go and tell his mum about it. But the point is, I think what is relevant here is I had that loving home. Even with all the experience of my background work, what must it be like when you are already vulnerable and have been told or made to feel all your life that you are worthless, that you are garbage and you have plucked up the courage to tell someone, and they have not listened? What does that feel like? In 5, 10, 15, 20, 25, 30 years time people are still not listening, the Government is not listening, what does that feel like? Now, I can say I have a background, to a degree, in that area and I still cannot imagine what that must be like. It does, I am afraid, while trying to respect other Members, make me very angry when I hear this: "Let us move on. It is all about looking forward." Well I would say talking about the past, without understanding and reconciling the past you cannot guarantee a better future. I am afraid anyone who disagrees with that really does not know very much about life. You learn by looking at what happened, saying: "What went wrong? Was it my fault? Was it someone else's fault?" and you analyse that and you move forward, hopefully. I have been really impressed with the proposer, Senator Le Gresley, since he has come in. His politics are not that different to mine. Luckily for him he is not seen as a radical firebrand. "That is a bit of a worry", says Senator Perchard. Perhaps the Senator is lucky that the Senator is not sitting behind him; it might be more worrying. But what we need here I think is recognition of what is important. Now, if I stand for election and if I am not elected, that is okay; I have been true to what I have said but one thing that people will not be able to say about me is that when it came to something as important as this, that my name was on the list who put what is effectively an argument that is going to come down to pounds, like I have said, before people. None of us in this House wants to waste money but really, people do make the pounds. You can make more pounds but you cannot make new people. I do not want a biological lesson here but you cannot make those people new who have gone through this nightmare; they are looking to us now. The Committee of Inquiry, let us be honest, is the best chance. We all know it is not going to be perfect but we do ourselves no favours when we argue. How long have we been arguing about this now? For a day and a half, it seems; too long, absolutely. It should be no problem for Members to support Senator Le Gresley, I believe, and effectively to support him to support those young people, now adults, people in positions of power who should have been far more professional and far stronger but failed and betrayed. Yes, of course, Deputy Jeune is right, there are going to be people who came through that home in particular who have good experiences but we know that with abuse some will get picked on and some will not. Some will have good experiences, some will have a nightmare. This is the best opportunity to find out as much of the truth as we can and to bring about as much closure as we can. I know I have said it before and it is probably becoming a cliché now like the: "We are where we are" bit that so many Members use, but this is one of those that is not about Left or Right and we often argue in this House coming from our political perspective. This is not about Left or Right Council of Ministers, Back-Benchers, this is one of those where you should put those allegiances aside. I am really just about finished there with a quote. It might have been made by former Deputy Lyndon Farnham when asking the public to save him a Senator's seat but it was made by Che Guevara. Oh no, I am out of the closet; it is a very appropriate quote because it says: "If you can tremble with indignation every time an injustice is committed in the world, we are comrades" and that is what those victims need now. They need comrades, they need support. Senator Le

Gresley needs the support. He has done a good job, as have the 2 amenders. Support him, support them to finally do as much as we can to get as much as we can out in the open and give the best opportunity to put this to bed. Because one of the other speakers said it, it will not end, otherwise. I have had a huge response to saying I am happy to go along, work with people, to petition the Queen. That is the way we are going now apparently: we petition the Queen. Well, I will do it because this is too important, it has gone on for far too long already. We know that; promises have been made. Okay, it was the last Assembly, but let us make this one promise that the Government does not break. I will leave it at that because it does make me quite emotional and angry. As I said, I came from a lucky background; not a rich background but a loving home. To see what some of those people have gone through and are still going through, you only have to meet some of them and talk to them. They are not nasty people, they are not deluded people, and they are not people who think a magic wand is going to be waved. But they do want what they feel is necessary and I feel it is necessary, a committee of inquiry. We have come this far with the 2 amendments, so surely please do not let us be so cynical that we now do the unimaginable and do not back Senator Le Gresley. Thank you.

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

I shall try and be brief. We are surely at least three-quarters of the way there. This House through its Chief Minister some years ago, a previous Chief Minister, made a commitment to hold a committee of inquiry. We should stand by that commitment. The Council of Ministers have suggested that that commitment was not going to be followed through on and we, as a House, have carefully brought in a proposition to say that they must reconsider that proposal. Reconsidering could be a very brief thing and we have decided that the reconsideration must have some structure and must have some teeth. Now we have left some teeth in the beast, I think it is 4 out of the 7 factors, which we have said: "This should be the focus of this committee" and we have also voted that in principle there should be a committee of inquiry. Here we are, 11.25 a.m. on day 2 of this debate still arguing the toss about whether we proceed. Really, this is not the time to be doing that. It is not the time for a last ditch defence to stop this going through. The will of this House is perfectly clear: let us proceed to a vote as soon as we can and set this Committee of Inquiry in place. Thank you.

1.2.13 Senator T.A. Le Sueur:

Sadly, I thought that the way ahead now should be fairly clear but, in fact, for me I am afraid it is not as clear as all that. Clearly, I recognise the vote that we just had on the amendment of the Deputy of St. Martin which is to have a committee of inquiry but my support for the original proposition of Senator Le Gresley was because that proposition enabled us to keep our options open as States Members and to find the best way forward. In other words, I was quite content to support Senator Le Gresley's proposition in an unamended form. However, now that the proposition has been amended it has lost that entire flexibility where I think we are certainly in danger, if not definitely constrained into believing that a committee of inquiry will be the solution, the only solution, and will bring closure for the victims. I am sorry that in adopting this proposition now we will be in danger of losing the flexibility that we need to find what is the best option. I think that what we have here, sadly, is, to put it crudely, neither fish nor fowl. So, I think I have to be consistent. I recognise the vote of the last amendment but I want to find the best option. I want to work with Senator Le Gresley, with the Deputy of St. Martin and others, to achieve that best option. I believe that passing the proposition in this form will undoubtedly inhibit that ability. So, with regret, because I do like to follow the will of the House, in this particular case I have to continue and maintain my opposition to the proposition as it has now been amended in the way it has been amended.

1.2.14 Deputy J.B. Fox of St. Helier:

I shall, with some degree of sadness, vote for this final proposition that has been put by Senator Le Gresley. I am not convinced that the amendments that have gone through are going to provide the solutions to what is desired and required by both the victims and those families that are associated and, indeed, the people that have been involved over the years. Historic child abuse is subjective; we know it is subjective. What happened in the past is certainly not acceptable today and there are many of us that have lived through the past, having disagreed with the results, but that was the way it was at those points of the day. Nevertheless, the previous Chief Minister did make a promise although a lot of things have occurred since that time from the original promise that could alter the original reasons for the promise. Nevertheless there is a requirement for closure. My only concern is that, when you are trying to look at the past, the inevitable thing that will happen is that the time in finding the closure will expand and I suspect will be greatly increased in the time factor that will eventually be totally unacceptable to everyone, especially for those that have suffered and those that were involved, or surrounding, in that area. Nevertheless, in politics, it is not necessarily a decision of what is perfect but sometimes what is possible and at the moment that is, I think, where we stand.

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

I stand reluctantly but I feel that I need to share a personal example with Members. I had a very, very close friend who was a victim of abuse. People listened: his loving family, his friends, the police, Social Services and many others. In the end, it did not help him and nor did a committee of inquiry. Victims need help to find closure and we must offer that help but a committee of inquiry will not give them what they seek.

1.2.16 The Deputy of St. Martin:

I am grateful for the quick distribution of the sheet that has just been produced in front of us because, as Members know, I had drafted out something which I would hope to be very helpful to everyone. In actual fact, this now is a great deal where we are and what we are now debating is the agreeing now that Senator Le Gresley's proposition, as amended, should now go forward. As we know at the moment 27 votes are in favour of it and 22 against. What I would like to do is just to address a few of the issues that have come up because, again, I would hope that Members now realise that what we are going forward for is a committee of inquiry but nothing has been established, there is nothing set in stone. Where we will be going for now, I would hope, and I would hope again that the Chief Minister will (I know he will) keep the promise he has made, that the terms of reference can be drafted with the assistance, I hope, of the care leavers, Senator Le Gresley, myself, Deputy Tadier (or anybody else for that matter) but also the corporate parent.

[11:30]

I think the 3 Ministers: of Home Affairs, Education and Health, should be part of it and also I would like to think that Home Affairs Scrutiny Panel could be involved in drafting up a terms of reference for the Committee of Inquiry itself, including, I think, coming back to what Deputy Fox was saying. I do not think we want to leave a committee of inquiry going on for years. I think we ought to plan and say: "Right, this is the time factor and we are going to work within this time factor and, again, within a sum of money." Again, it has got to be realistic but that is to come from drafting the terms of reference for the Committee of Inquiry and also how the Committee of Inquiry works itself. The Deputy of St. Mary has quite rightly said we have got to get it right and I think we can get it right. I think where we have got it wrong is simply because people just go off on their own way and I have got to come back again to the Chief Minister: if only he had consulted with people when he was asked to before making a decision not going forward, it would have been so much better, I would have thought, but I still believe that what we are doing is the right thing. I would just like to cover the funding because it is the usual red herring. I would like to refer Members again just to a written question from Senator Le Gresley himself to the Minister for

Treasury and Resources, and you could hardly say the Minister for Treasury and Resources was not conflicted but, at the same time, he has given an answer. What Senator Le Gresley was asking was would the Minister, after consultation with Her Majesty's Attorney General, advise about the use of the Confiscation Fund which states the Fund shall be applied by the Minister in promoting or supporting measures that in the opinion of the Minister may assist in dealing with the consequences of criminal conduct. When one looks to see what it is, the answer is there. It says that under (a)(ii), in dealing with the consequences of criminal conduct. Again, it is in their own remit and again I remind Members what was at the bottom of this particular answer. The final view could be taken when the terms of reference of such a committee of inquiry are published. However, on the basis of the present information, anything with criminal conduct is likely to be indirect or intangible but it would depend on what the terms of reference are. Nothing is impossible if we wish to do so. Standing Orders require a Member who is putting forward a proposition to state how much he or she thinks the financial implications are, and I have given a figure £500,000. I have done as I was asked. I could have given £10 million, I have said £500,000. It could well be more, it could well be less. I do not know because the terms of reference were not drafted and that is probably why the former committee or Council of Ministers did not give a price or did not give any financial implications. Members probably will not have looked at all the written answers they were given yesterday but one written question I did pose and I wanted to know about the funding, how much Haut de la Garenne or the whole investigation has cost and we have got the figures here under written answer 9. But one of my questions was whether the Wiltshire Police Inquiry was funded by the Historic Abuse Fund and, if so, who gave consent and when was consent granted. Well, we know that the Wiltshire Police investigation has cost around £700,000, maybe £800,000; I think we could toss up a pound or 2, but it is around that figure. Where did that money come from? The States did not vote for it, so where did it come from? The answer says the *Wiltshire Report* was not funded from money allocated to the Child Abuse Inquiry but by Article 11(8) approvals. Now if we can get money for absolute waste of money as it turned out to be, around £800,000 paying Wiltshire Police over £250,000/£300,000, just on travel *et cetera*, without any Member of the States giving any consent other than the Home Affairs arranging something with no doubt the Treasurer. That money has come from somewhere. We have not agreed to it and yet we are arguing now where we can find the money for a committee of inquiry. Double standards. I have not much more to say except that I would ask that Members stand by the decision that has been taken, 27 votes to 22. I would hope some of those 22 will get behind now what Senator Le Gresley's proposal is, his proposition as amended. We have got to send out a positive message to everyone, not only in the Island but outside the Island that, when a promise is made, a promise is kept.

1.2.17 Senator J.L. Perchard:

It is true when Members say that many victims of abuse in Jersey's children's homes may be disappointed at the conclusion of an inquiry and that the answers they seek may not be found. There are people who have sat in this Chamber in past decades who were aware of these allegations. There are members of our Police Force in past decades who were also aware of these allegations. There are members of the judiciary in past decades who were aware of these allegations. I want to know why these people chose to turn a blind eye [**Approbation**] and ignore the cries of helpless children. I do not really want to go on a witch-hunt about what happened in Blanche Pierre in 1963 on January 3rd. There are deep issues and it is a terribly difficult subject for us but there are unanswered questions and we need to learn about ourselves and we need to learn moral lessons, and I think we need to have an inquiry to understand what it was that made people turn a blind eye to the cries of helpless children. I see the opposition to this inquiry today being promoted by the same type of people prepared to ignore the cries; not today of helpless children, but the cries of anyone with a conscience about what happened in Jersey in our past. We have to put this matter to bed. We have to ask these questions of ourselves, of our society. I know the

questions we ask will pose answers but we need to understand why people in authority chose to ignore and we need to learn that lesson and ensure that it never happens again.

1.2.18 Senator S.C. Ferguson:

Deputy Jeune mentioned the level of expectations and if you think back over the inquiries we have seen over the last few years, there was the Bloody Sunday Inquiry; I do not know that that satisfied everybody. The Iraq war and the reasons for going to war has not satisfied everybody. We have had 3 whitewashes for the Climategate Investigations. Are people satisfied? If I were one of the abused children, yes, I would want the perpetrators strung up but I do not know that a committee of inquiry will give that. The Constable of St. Martin said quite rightly that the further back we go, the prevailing culture was corporal punishment and was not itself criminal conduct. How many of us have had to duck the board duster or been smacked by our parents for misbehaving? There may be a cut-off point age-wise but I think I am well on the side that was subjected to corporal punishment, not excessive though, and I think that is where it goes over the line. Deputy Pitman was praising Che Guevara. He must have a different view of him to me because, from my reading of the history books, he was somewhat of a psychopathic sadist who used to machine-gun people for fun, so I do not think he is really a very good role model. **[Aside]** I do not like spending money, I think most people know that, but this is an abscess which needs lancing. Because of the alternatives that have been taken away from us, it is the only way that we are going to put the bulk of the conspiracy theories to bed. There are lots of conspiracy theories going round. There is the *Daily Mail* version. There are theories going round all over the place, I have heard them. We will not be able to put all of them to bed because it is quite likely that there will be a faction who are never satisfied and the conspiracy theorists on the fringe will, no doubt, continue. They still complain that 9/11 was an inside job and they do not really believe who killed Kennedy, *et cetera*. But I think, in view of the fact this is the only alternative, we do need to lance the abscess. I think we shall have to have a committee of inquiry but within limits expense-wise. Bloody Sunday went on to be something like £17 million, £20 million, I think, and quite frankly that is ridiculous. If we can run a good scrutiny report for something like £15,000/£20,000, I would have thought that we could do it for the £500,000. So regretfully, from the money point of view, but basically because of a sense of fair play (I do not need moral lectures from anyone in this House either, thank you) I feel that this is the only way forward and I will be supporting the proposition.

The Greffier of the States:

Does any other Member wish to speak?

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

I shall be brief because a lot has been said and I just wish to say that my concern is and remains for the victims but, now we have had the main proposition amended to have a committee of inquiry, are we now raising expectations of the victims? Not all the victims wish a committee of inquiry. Some of them thankfully have moved on but we have got to learn from other inquiries, from other jurisdictions who have been in this point here, that we know that the outcome has not answered the questions that the victims want and I think we need to stop and think about that. I would like to think that we need to address perhaps other alternatives, which is what the initial proposition was about, to stop and make sure that we do look at what the victims want. Regarding the expense side of it and the timeframe, if we embark on this Committee of Inquiry, we cannot do any half measures. We cannot say after we spend £500,000: “That is it, we cannot do any more” or: “It must take over 2, 3, 4 months”, years or whatever. We either do it properly or not do it at all. Whatever the outcome, I wish to say that the commitments to the victims to make sure that they have ongoing support, which they have had right from the beginning, will still and always be there for however long they wish it. This has happened from the outset. As I said, it will continue and my department is committed to continuing to give that support.

The Greffier of the States:

If no other Member wishes to speak, I call on Senator Le Gresley to reply. I point out to Members that, as the Deputy of St. Martin has already noted, the usher has circulated the proposition currently before the Assembly as amended.

[11:45]

1.2.20 Senator F. du H. Le Gresley:

It does seem a long time ago, almost 24 hours, that I stood and made the original proposition and it is unfortunate that Deputy Jeune was not in the Chamber to hear my speech, but we obviously appreciate the reasons why. We have heard a lot over the last 12 hours and a lot of very strong views and some very personally-held views have been expressed. My fear, when I decided to bring this proposition, was that this debate would descend into a slanging match and abuse and we would make fools of ourselves. But I think I can say that we have debated this well and we can be proud of what we have done in the last day, even if it has taken us a long time. It is such an important issue that it did deserve this length of debate. I think the Council of Ministers recognised that their report R.8 did require a proper debate and that was indicated in the comments to my proposition. I also realise that my proposition does not now look anything like what it was when I first submitted it to the Greffe. I am not surprised because, when I submitted it, I anticipated that there would be amendments. What I did do when I submitted it was I was so angry that the whole matter was going to be dismissed in just one report and I wanted the message to go out to the victims of abuse and the public of Jersey that it would be the States of Jersey who make this decision, not the Council of Ministers. **[Approbation]** I believe the Council of Ministers are now regretting that they did not bring this report with a proposition to the House so we could have had this debate without me having to bring that process forward. So I think that is a situation that is rather sad because it would have given them such credibility if they had done that and not relied on a Back-Bencher to do it. I guess people would like me to go through some of the comments that have been raised on my proposition. I do not want to labour this because I think we have all had a long time on this but, to be fair, I need to address the Constable of St. Martin who asked me a number of questions. I am not sure I am qualified to give him the answers that he is seeking, I merely wanted this debate to take place and I wanted the Council of Ministers to reconsider their decision. How far back we go with investigations into historical abuse if we have a committee of inquiry is for the terms of reference to decide and for whoever is appointed to sit on the Committee of Inquiry. It is not really for me to say to the States today how far back I think we should go and I am afraid I have to leave that as that stands. Senator Shenton challenged me about the cost of the Committee of Inquiry but I am grateful to the Greffier who said this is not in the proposition. The Deputy of St. Martin has explained that he had to put in a figure, and we all know we have to put in a figure when it comes to financial and manpower implications. I cannot tell, as the Deputy of St. Martin cannot, whether £500,000 would be enough. I suspect it probably will not be but really we will not know until we look at what will be the terms of reference if we have a committee of inquiry and to how far in depth we are prepared to go. So really it is an open figure which I cannot firm up for anybody in any particular way. Throughout the last ... I have to call it the last 12 hours because we did go to bed at some stage, there have been some fine speeches. And if I could just say that to me, being a new Member of the House, the fact that 3 Back-Benchers have come together with what is now an amended proposition ... we have not sat in a room and worked together but we have worked together and I think that that shows the strength of Back-Benchers looking at issues that maybe the Council of Ministers do not necessarily focus on, and I congratulate Deputy Tadier and the Deputy of St. Martin for their amendments and their speeches. Deputy Le Hérissier wanted me

to outline the role of legal advice in the process. I pointed out at some stage, I think it was yesterday after the Chief Minister had spoken, that our current Standing Orders allow for part of the process of a committee of inquiry for people to be interviewed in private. Although it is a public inquiry, there are obviously going to be sensitive situations, cases, people who want to talk in private and our Standing Orders allow for that. In fact, if you recall my opening speech, I talked about the Kerelaw Inquiry and the whole of that process was conducted in private. I am not suggesting necessarily that is what we do with this particular inquiry but we have within our Standing Orders that provision when it is appropriate. I suppose I really want to talk, through the Chair of course, to the Council of Ministers, who I know now will be not supporting this amended proposition. I feel that is such a sad situation really because what we need to do when we finally go to the vote is to say to the people of Jersey, to say to the victims, that we are united in supporting the need for a full, transparent inquiry. Here is an opportunity (and I have seen this in the House since I have been here) where the Chief Minister in particular, but also the Minister for Home Affairs, is continually questioned, in some situations I would say ridiculed, which is rather sad and here is an opportunity if we could all come together and vote in large numbers. I know that there will be some Members such as Deputy Jeune who could not vote for this and I understand that. We all have our own views but this is so important that we unite and vote for a committee of inquiry for something to be done. We cannot remain in denial. We must have answers. The victims deserve our full support. I think I am going to leave it at that and ask for the appel. **[Approbation]**

Deputy A.E. Jeune:

Excuse me, Sir. Just on a point of clarification. I did ask when I spoke whether the proposer could say exactly who his proposition was relating to, either the children, the criticism of police or the judiciary.

The Greffier of the States:

I think the Senator did say that was not a matter for him in relation to number 2 and if you want to add anything, Senator?

Senator F. du H. Le Gresley:

I do not think I can add anything really, no, thank you.

The Greffier of the States:

Very well. The appel is called for. The vote is therefore on the proposition as amended as set out on the sheet circulated and the Greffier will open the voting.

POUR: 37		CONTRE: 11		ABSTAIN: 1
Senator P.F. Routier		Senator T.A. Le Sueur		Deputy of St. Ouen
Senator B.E. Shenton		Senator P.F.C. Ozouf		
Senator F.E. Cohen		Senator A.J.H. Maclean		
Senator J.L. Perchard		Senator B.I. Le Marquand		
Senator A. Breckon		Connétable of Grouville		
Senator S.C. Ferguson		Connétable of St. Peter		
Senator F. du H. Le Gresley		Deputy R.C. Duhamel (S)		
Connétable of St. Ouen		Deputy of Trinity		

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

Deputy J.M. Maçon (S)				
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The Greffier of the States:

Very well. We come now to Projet 189, Housing Issues in Jersey.

Deputy I.J. Gorst:

I wonder if I could beg the indulgence of the Assembly. Members will be aware that P.26 is right at the end of the Order Paper today. I have not spoken with the movers of other propositions who are in front of it but I just wonder if I could test the mood of the Assembly to see if they would be prepared to take P.26 now?

The Greffier of the States:

Well, it is a matter for Members. **[Aside]** The Order was set out in the Order Paper with the Electoral Commission first, but it is a matter for Members if they wish to take it on a different order. **[Aside]**

Deputy I.J. Gorst:

I know this will not sway Members but I am out of the Island on States business for the next 2 days and I was one of the signatures to P.26.

The Greffier of the States:

Well, as ever, it is a matter for Members. Is the proposition of Deputy Gorst seconded? **[Seconded]** Does any Member wish to speak? Yes, Chairman of P.P.C. (Privileges and Procedures Committee).

Connétable J. Gallichan of St. Mary:

Clearly, as you said, Sir, it is a matter for Members and Standing Orders do allow the order to be changed. But I think it is quite extraordinary that, at the last sitting, there was a vote to bring this proposition forward to this sitting from the next sitting **[Approbation]** and it was mentioned at that time that it would be the last item on the Order Paper. We have really quite a substantial Order Paper here and I am sure I am not the only Member who has been prioritising my stuff I have been bringing forward to deal with the Order Paper. I think it is extraordinary, without any forewarning at all, that we should be asked to bring it all the way up from the bottom.

The Greffier of the States:

Well, it is a matter for Members. We do not want a lengthy debate on it. Is there anything Members wish to add? Briefly, Deputy Fox?

Deputy J.B. Fox:

We have a meeting on another matter at lunchtime at P.P.C. but we have also had a document produced by several other Members in relation to this proposition. I would have liked to have discussed this information summary document at the P.P.C. meeting at lunchtime before we progress with it. I think it would only be fair on the rest of the House, so I would vote against it at this time.

Deputy T.M. Pitman:

Yes, to echo the previous 2 speakers and one of the signatures on that document is Deputy Gorst, so you cannot have it both ways, with due respect. **[Aside]** I am sorry, Sir, but there are people who are sick and that is unfortunate. They would like to be here today. We have moved it forward already, as the Chairman of P.P.C. said. I just think this is totally wrong. Are we going to totally start abandoning Standing Orders? It is ridiculous.

The Deputy of St. John:

Yes, I must echo what has been said already but on top of that, this could not have been debated until the 2nd and we are only the 2nd today. They have already brought it forward. This has been done to try and force the hand of the Assembly [**Approbation**] and I think it is not acceptable. Yet again we are seeing the Council of Ministers, through one of their Ministers, trying to force the hand of the Assembly, and that cannot be acceptable. [**Approbation**]

The Deputy of St. Mary:

Just very briefly, I have to say that to ask us to take it immediately I think is not right and I agree with Deputy Fox. Obviously that little paper should be looked at by P.P.C. at lunchtime and I would urge the proposer to say that it should be taken perhaps after P.199.

The Greffier of the States:

Well, that is not what is being proposed, Deputy.

The Deputy of St. Mary:

Well, I just wish he could amend it or something because personally, from the Electoral Commission point of view, I do not think it matters either way where it is taken in relation to my own proposition.

The Greffier of the States:

Well, we must not take too long on this because we could spend all day debating when we are going to debate it.

Deputy C.F. Labey of Grouville:

I would just like to make clear that this proposition has not been raced forward as has been alluded to, no it has not; I lodged it 2 weeks ago. Today is the earliest that it can be debated. I would like to have it debated today or in this session. Deputy Gorst asked me if I would mind taking it today because he is away on States business tomorrow but it has nothing to do with the Council of Ministers. There is no sort of conspiracy theory to try and get it raced through, or anything like that. It is a perfectly ordinary request and I have respected all the lodging times.

Deputy G.P. Southern:

This is a blatant attempt to manoeuvre the House. [**Approbation**] Deputy Gorst is away tomorrow. Deputy Martin returns tomorrow, thereby swinging a vote by 2 if we take it today or tomorrow. The potential is there. It is an obvious move, so please reject it.

Senator P.F.C. Ozouf:

Very quickly, the strength of feeling of those Members who want to take it or not is clear. I wonder whether or not we need to debate. Members will have made up their mind perhaps, I hope not, but the fact is I have got a question for P.P.C. I do not think we are going to get to it tomorrow with the other debates we have got, and P.P.C. does need to address perhaps in their meeting at lunchtime what they are going to do with the remaining issues, of which I think this is going to be one of them.

The Greffier of the States:

I think Members can move to a vote. Is there anything you wish to say in reply, Deputy Gorst?

Deputy I.J. Gorst:

I do not think so. It was a straightforward request, I was merely testing the mood of the House. I think I have got their mood. **[Aside]**

The Greffier of the States:

Do you wish to proceed to the vote?

Deputy I.J. Gorst:

I might as well, Sir, now we have debated it for 5 minutes. If we could have the appel, then, please, Sir.

The Greffier of the States:

Yes, the appel is therefore called for on the proposition of Deputy Gorst that P.26 be taken as next item rather than last item, and the Greffier will open the voting.

POUR: 17		CONTRE: 29		ABSTAIN: 1
Senator T.A. Le Sueur		Senator A. Breckon		Connétable of St. Lawrence
Senator P.F. Routier		Senator B.I. Le Marquand		
Senator P.F.C. Ozouf		Senator F.du H. Le Gresley		
Senator B.E. Shenton		Connétable of St. Ouen		
Senator F.E. Cohen		Connétable of St. Helier		
Senator J.L. Perchard		Connétable of Trinity		
Senator S.C. Ferguson		Connétable of St. Brelade		
Senator A.J.H. Maclean		Connétable of St. Martin		
Connétable of Grouville		Connétable of St. John		
Connétable of St. Clement		Connétable of St. Saviour		
Deputy of St. Martin		Connétable of St. Mary		
Deputy of Grouville		Deputy R.C. Duhamel (S)		
Deputy P.V.F. Le Claire (H)		Deputy R.G. Le Hérissier (S)		
Deputy K.C. Lewis (S)		Deputy J.B. Fox (H)		
Deputy I.J. Gorst (C)		Deputy G.P. Southern (H)		
Deputy of St. Mary		Deputy of St. Ouen		
Deputy E.J. Noel (L)		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy S.S.P.A. Power (B)		
		Deputy S. Pitman (H)		

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

[12:00]

2. Housing Issues in Jersey (P.189/2010): comments

The Greffier of the States:

We therefore come to the proposition of Deputy Le Claire, P.189, which is some 2 and a bit pages long. I am sure Members will be content for the proposition to be taken as read to save the Greffier's voice. **[Aside]** Very well, if we could have some silence, we will ask Deputy Le Claire to make the proposition.

2.1.1 Deputy P.V.F. Le Claire:

As many people have said this morning, I have still got time to withdraw it. Maybe I will start off really slowly **[Laughter]** seeing as we are still going to have time limits on speeches. Yes, if I am going too fast for Members, they must let me know. I have brought this proposition today because in the past we used to have, on a regular basis, tabled by the States Housing Department a report which was a strategic policy report, the last of which I believe came out on 8th January 2002. There might have been some others but that is the last one I saw that I have anyway and that is dated 2002 to 2006. In that report, it gave a comprehensive overview of the situation in regard to housing. We know at the moment that we have seen some recent changes in the helm at Housing and unfortunately that has not really helped what has been a very significant issue for people in the community. I know Members do not want me to take long on this but I would ask them to focus on the fact that we are in a downturn, if not recession globally, and as pointed out by the *Jersey Evening Post*, I have a copy of their newspaper here, 24th January 2011: "One in 4 shelter youths are under 25 and youth homelessness reaches a record level." So while Members may not want to talk about this in great depth, I am sure that the community, whether it be housing associations, housing trusts, people that have been consulted on the Island Plan or the very large number of people that are homeless in Jersey at this time, want us, at the very least, to outline what we believe are important issues for them. My proposition is asking that we have a biannual debate on these matters in the Chamber. I was cautioned by a member of the Council of Ministers this morning that we do not need government by proposition but we have just spent a day and a half having government by proposition on the last one because the Council of Ministers was not prepared to sit around the table and discuss matters, even with the people that were directly concerned. So I make no apologies for the fact that, every once in a while, I do not withdraw propositions and I proceed with them and in this instance, I think it is only right and fair and proper, given the situation out there for the homeless people and those unemployed, that we debate this a little in the round, but

mainly in the principal, today. The unemployment numbers are growing. I have documents in my desk here dating back to 1974 all the way through different various documents. I do not need to go through them all; we will be here for ever if I do. But the unemployment level has been traditionally marked in midterm by an analysis under the International Labour Organisation figure so it takes into account the people that are out of work, not just those that are registered for Social Security, and I think it is wrong that we do this. We only talk about the homeless and it is only reported about the homeless as to those who are actively seeking work through the Social Security mechanism or at least seeking to be registered at the Social Security Office. There is no requirement for people that are out of work who do not want benefits to go down to the Social Security Office and register. So the number that they put on the unemployment in the middle of last year was 1,700. Now we have seen an increase of those people that we count of 200 so let us say there is another increase of 50 or so that we do not count, 1,700 plus 250, we are approaching 2,000 people out of work. It has been drawn to my attention this week that we have got some numbers that are emigrating because of the lack of work (and I have certainly experienced that recently where people have said they are returning home because the jobs are no longer her) so we have a downturn in the economy. We have a downturn in the affordability of housing which is beyond the reach of most people and we have a real issue in regard to homelessness. If I may, Sir, I will just take some time on this because, with your leave (and I will pull it back, Sir, if you want me to) at the moment, we are not required to stick to a time limit and I am hoping Members will bear with me. I am going to try to plug for about lunchtime finish, if not a little bit before, because I think it is a very important issue that I am trying to get over here. We could be specific and just reflect upon what I have written down in the proposition and debate that, which is to debate this issue on an annual basis, but I think, Sir, with a modicum of manoeuvrability, I might be able to get a clearer picture across as to what I am trying to achieve. But I will take direction, Sir, if you feel I am taking liberties. I would like to read a couple of things, if I may, from this property journal which I found in recent weeks that I thought had relevance for our situation because we are in a global downturn, and 3 of the articles that struck me I have highlighted areas from their submissions and I would just like to go over them. The first is from John Stewart who is from the Home Builders Federation in the United Kingdom and he is the Director of Economic Affairs at the Home Builders Federation. He says: "Clear evidence in the U.K. (United Kingdom) of a supply problem emerged in the 1990s when, despite sustained economic and real income growth and escalating demographic pressures, housing supply never recovered from the early 1990s recession. In 2001, total completions slumped to their lowest peacetime level since 1924. The Treasury's response was to ask Kate Barker to undertake her review published in 2004 in which she said that the current rate of house building would increase homelessness and social division, cause a decline in the standards of public service delivery and make doing business in the U.K. more expensive, hampering our economic success." Those cannot be without comparison in the Jersey context. He went on to say: "Under supply consequences, Barker concluded that housing shortages were responsible for U.K. real house prices outstripping those of other European countries." That is an interesting thing, is it not? U.K. prices are outstripping those of other European countries. The average price of a 3-bedroom house in Jersey is £500,000. The average price of a 3-bedroom house in the U.K. is £250,000, a £300,000 increase on a country whose house prices are outstripping the European Union. So things in context: "High prices mean market housing is unaffordable for many middle and lower income households which in turn inflates the need for States-subsidised affordable housing. High prices also make it very difficult to generate high enough rental yields to attract institutional investors into private rented housing. Homelessness is the most extreme manifestation of the problem. Council waiting lists have reached 1.8 million households for around 5 million people. More than half a million households and around 1 million children live in overcrowded housing, another sign of housing stress. First-time buyers have fallen to record low levels with 80 per cent of the diminished number reliant on family help. The average age of unassisted first-time buyers is now 27. Even before the housing crash, official figures showed that 29 per cent of males and 18 per cent of females aged 20 to 34 were living at home with their

parents; we are rapidly returning to the multi-generational households of the early post-war years. Inability to access decent affordable housing is also likely to delay first marriages and childbearing. Those young people who do manage to climb on the housing ladder are saddled with enormous debt, a burden that erodes only slowly when wage growth is low. High house prices also damage the labour market. Labour shortages are created in high-priced areas, especially in the public services. This in turn puts upward pressure on wages in these areas, making firms uncompetitive. High and very uneven house prices also reduce labour mobility which in turn aggravates unemployment, leaving households trapped in poverty and unemployment.” So there is the economic context from one U.K. economist in charge of the Building Federation. Let me go on to talk, if I may, Sir, I have got 3. The second one is similar and the third one is shorter but David Rodgers, who is the Executive Director of C.D.S. Co-operatives, President of the International Co-operative Alliance Housing Sector Organisation and Chair of the I.C.A. (International Co-operative Alliance) Housing Board and he says similarly: “The housing supply problem is not just drifting; it has hit the rocks. There are few communities now in which new households on average incomes can easily find a decent home they can afford. All of us: politicians, social housing providers, the construction industry, construction professionals and those lucky enough to be reasonably housed, have been guilty of selfish complacency.” I look around the Chamber, Sir, and there is hardly anybody in the Assembly and with so many people that are homeless right now, I find it remarkable that we cannot even fill this House today on this subject. That is not what he wrote, Sir, I was jumping out of context. Back into what he said.

The Bailiff:

I think Members have probably gathered that.

Deputy P.V.F. Le Claire:

Thank you, Sir: “The silent 70 per cent majority of us who are homeowners have been content to allow the gap between supply and demand to grow because it inflated the speculative value of our housing assets and fuelled unsustainable economic growth”; now, what an admission from a homeowner and a person that is involved in housing. A 70 per cent majority has been silent in the U.K. that own homes. Only 54 per cent of people in Jersey own homes, which is significantly high ... and I am sorry to say, on too many occasions when we have the opportunity, it does seem that we are not as vocal about this issue or as attentive on this issue as we need to be. We get quite emotional when it comes to rezoning land in the parishes and whether or not they should be assigned just to people that live in the community or have some relationship to that community but not if they lived 300 metres down the road. “The global financial crisis has made an already-bad situation worse. The social consequences are dire and already evident. Young couples unable to find a decent home at a price they can afford are delaying having children resulting in greater health risks for older mothers and their children. Only migrant communities are bucking this trend of delaying child-rearing but they most frequently live in poor, overcrowded housing with all the adverse social ills and costs that go with it. Social justice demands new radical solutions. If we fail, we risk a further cycle of property price inflation and an ever-increasing divide between those who own property and those who do not. As Einstein famously said: ‘We cannot solve problems by using the same kind of thinking we used when we created them.’ If we are to get out of the housing hole that has opened up beneath us, we need to adapt radical new solutions that enable communities to help create the housing supply they need. This is why there is growing interest in the potential of community land trusts. Communities frustrated by the failure of past housing delivery mechanisms are looking at how they might work together to increase affordable housing supply. They are looking to bridge the gap between housing for rent and the increasingly remote prospect of buying on the open market by creating a permanently-affordable, intermediate housing market on community-owned land. To ensure that such housing is affordable, communities must be able to capture in perpetuity the uplift in value when community-owned land is used to provide affordable homes. As Winston Churchill argued in his Liberal days: ‘Meeting the needs of a

community should not lead to unearned windfall gains for fortunate land owners, public or private.⁷ With mortgage funding remaining a dream for many, residents can have an equity stake in the homes they live in through co-operative and mutual forms of tenure. These have a unique legal and ethical potential to draw in investment from pension funds and other long-term investors looking to diversify their investment portfolios in a riskier financial world.”

[12:15]

Just briefly, one paragraph on co-ops, because I have mentioned this recently and it was not in the context that people should share baths or living rooms or run around together to keep warm; that was not in the context in which I mentioned it. The context I mentioned co-ops in is really borne out a little bit in this respect: “The U.K. has had a rigid bipolar tenure system of home ownership and rental for decades. Our European neighbours have used co-operative tenures in which rights of occupation arise from membership of a democratic resident-controlled organisation rather than the grant of a tenancy by a feudal landlord to increase the supply of affordable homes. Such systems of mutual ownership are dynamic, effective and have proved themselves sustainable over a century of use. For older people, they also combat isolation and, through mutual support, reduce dependency on State-funded care and support services.” It is a shame I do not see the Minister for Housing in here or the Minister for Treasury and Resources or the Minister for Planning and Environment in here at the moment to listen to this. No doubt they are listening very closely outside; **[Laughter]** there is always a home in here for them if they want one. “Such systems of mutual ownership are dynamic, effective, and have proved themselves sustainable over a century. How is this achieved? In its recently-published evidence-based report [I am looking at the Minister for Housing just to make sure he got that] the Commission for a Co-operative and Mutual Housing set out key recommendations for how the co-operative and mutual housing sector in the U.K. could be expanded. It is time to listen.” So hopefully the Minister for Housing will go back over Hansard and dig out that report with his officers. I will come along if he wants me to. We will all sit down together, have a cup of tea and see how it can be done. Then I go back to one last one, before I get back specifically on track, by Mr. Mick Kent from the Bromford Group who is Deputy Chairman of the Housing Forum. He is also on the National Housing Federation Board and the Audit Commission’s C.A.A. (Comprehensive Area Assessment) Advisory Board and, quite interestingly, he says (this is for the Minister for Social Security) at the end of this paragraph: “Lobby the politicians and the banks that we part-own to persuade them to keep funding new homes. Every pound spent on construction generates double that amount of spend elsewhere in the economy.” I look to the Minister for Economic Development’s chair and he is homeless: “Every pound spent on construction generates double that amount of spend elsewhere in the economy, keeps people in work and keeps real long-term physical assets. The National Association House Plan may be costly but the same amount is paid to private landlords every year in housing benefit with nothing long-term to show for it.” This is interesting, is it not, because I have got a report from when we started to introduce housing benefit and in the first report, it was something like 740 people who were on housing benefit in the private sector. I do not know what the actual number is today but maybe the Minister for Social Security can let us know when he speaks. However, I am assured that the private sector rent rebate is in the region of about £13.5 million at the moment from the Social Security budget. Now, that would build 55 3-bedroom homes every year in Jersey, at the price of the £280,000 per home given to me by the previous Minister for Housing. So we are taking money out of the tax bin and we are throwing it at the private sector with zero benefit to us. We have nothing to show for it: we have got no bricks, we have got no mortar. Amazingly and incredibly, probably every single States Member bar a handful that I have ever met who are States Members or who have ever been a States Member, have always said to me: “Bricks and mortar, Paul, that is where you have got to put your money. That is where you have got to invest in. Get yourself a home. Get on the property ladder.” I need to get a lift to get on the bottom rung of the ladder. We are spending £13.5 million on private sector rent rebate. We should be building homes. It is a

waste. It is not helping anybody except the private-sector landlord and that is not helping any of the homeless children or any of the people that are stuck in peculiar circumstances because of inability to move. I have been to the Housing Department on a number of occasions to argue for (g) hardship cases, and other matters and sometimes I have been unlucky but, generally speaking, I have always been treated by the department in a completely professional manner; they are a model, in my view, in the way that they have dealt with me anyway. I do not know if it is because when I first got into politics, I asked the Chief Executive to resign or not but, ever since then, they have been extremely polite to me and extremely helpful and even the previous Minister, Senator Le Main, threw his door open (as I am sure the current Minister will) and then his predecessor, threw their doors open for approaches to them on urgent matters any time, night or day, 24/7. That is remarkable. I would like to pay tribute to the Housing Department and their officers for what they have done but I have been there so many times and I am looking at other politicians who have been there many times as well and we have got ridiculous situations. I have just had one solved (hopefully, touch wood) by the Housing Department where a lady whose husband had passed away was stuck in a 3-bedroom house and could not move down to a 1-bedroom house because there was no availability; but now, I understand, that that is going to be solved. She is still stuck at the moment paying way too much rent on a property that she would rather move on from. I am asking us in general to raise the level of debate so that it is even debated. We often hear about raising the level of debate. I have got numerous documents dating back from 1992, RC.11, presented to the Finance and Economics Committee on 31st March 1992. In France, they call them the *gens sans abri*; in America, the bag people and here in Jersey they are simply referred to as the homeless. No one who has seen the plight of people sleeping in shop doorways, cardboard boxes or under the bridges in London or Paris could fail to be moved by this human tragedy. Yet paradoxically, it is a human condition on which many of us turn our backs, as the homeless are perceived as having been responsible themselves for falling into this pathetic state. Indeed, charity workers find fundraising difficult and unpopular. We have got no greater priority in my view in this community and we have never had a greater priority than housing the people that live here. It has got to be the fundamental. You can survive without air for about 30 seconds to a minute and a half, depending how much you can hold your breath. You can survive without water for a couple of days. You can survive without food, so I am told although I have never tried it, for even longer. But one of the first things you take care of, apart from your basic survival (and we were taught this in Marines) is shelter; you have got to be housed. We cannot have people sleeping in parks, on the sand dunes, on the beaches, in their cars, in the stairwells, on other people's sofas or even in this Chamber. **[Laughter]** We need to house them properly. I have got to try and keep them awake, Sir, sorry; I do not know if we are inquorate yet. I am anticipating it.

The Bailiff:

Oh, no, we are quorate at the moment.

Deputy P.V.F. Le Claire:

I read the Housing comments and I went to the Housing Department and they asked me to give them some time and I have got to apologise to the officers because I did pledge under the previous Minister's tenure, Deputy Power, that I would take time to talk with them about the different work streams. There are 75 different work streams currently coming together under the new Housing and Immigration Law Transformation Programme. I thought, with the greatest of respect, that having been under quite a bit of pressure recently, the previous Minister for Housing deserved a couple of weeks before I brought this; no such sympathy for the current Minister for Housing because he is young, fit and able, all of those, a charming man. **[Laughter]** The comments of his department must have missed his eyes though, I am afraid, because they were not too positive. They were not negative, they did not say: "Oppose it" and I know he is having difficulty with it. **[Aside]** I did say I would be up to lunchtime, Sir, and I know it is a difficult one. We are told in the comments by the Housing Department to my proposition: "The proposition calls for the

presentation to the States of a significant amount of information which is already in the public domain. As part of the States *Annual Performance Report*, the Housing Department published details of progress with the refurbishment of the housing stock, progress made in respect of sales to tenants and sales under the Jersey Home Buyer Scheme, the level of the States rental waiting list, progress on the strategic objective of increasing home ownership, affordability and the relative level of average incomes for average house prices.” Well, I have got a proposition about the States *Annual Performance Report*, as Members may have seen, because it has recently changed into something unrecognisable, yet it is defined by the Chief Minister as “the most public document”. It has lost all signs of the arrows. At first I thought they had just fallen off the screen when they were printed but no, it is a deliberate attempt, in my view, to reduce information about the wherewithal of issues and move away from an accountable and recognisable system. The comments go on to say: “On an annual basis, the Planning and Environment Department issue a monitoring report on the effectiveness of the Island Plan and planning policy in a document entitled ‘An Interim Review of Residential Land Availability’, formerly ‘Planning for Homes’. In addition, the annual accounts of the States of Jersey Annual Business Plan and Departmental Business Plan include much of the detail referred to, including the number of States housing loans issued in the legislative programme. Meeting the housing needs of the population is a strategic priority set out in the 2009-2014 Strategic Plan.” Well, if I am busy, as most Members are and maybe not even as busy as most Members, where is the time of day for us all to go and collate this stuff up, like a herd of cows that have gone through the gate? We do not have the time and when they come, we are all too often struggling to read it as it comes. I am sorry but Members do not even have the wherewithal to manage to sit through my speech on the opening of this debate let alone go off searching for answers to the age-old problem. There is another copy of the States Strategic Plan progress against priorities which I will ask Deputy Le Hérissier to recycle for me, for what it is worth, and I will move on to the proposition which will take us into lunch, hopefully. We have got a new Island Plan coming. I looked at the need within the Environmental Inspector of that Plan’s report for what the problem was and these are his words: “The nature of the problem. It is quite clear to us that there is a major problem of affordable housing in Jersey, there can be no question about this. In coming to this conclusion, we rely on a number of sources and we summarise the position very briefly as follows: according to the interim review of residential land, in mid-2009 the price of housing in Jersey was about 2 and a half times the U.K. average and just over one and a half times the Greater London average. The average price of a 3-bedroom house recorded in Jersey in mid-2009 was £516,000. It was the equivalent of 16 and a half times average annual earnings for fulltime workers at £31,000. This represents a significant change from a situation in June 2006 when the average price of a 3-bedroom house was £364,000 and the equivalent of 13 times’ average annual earnings of approximately £28,000. The equivalent figures for a one-bedroom flat in mid-2009, £225,000 and mid-2006, £176,000, would represent 7.2 times and 6.3 times average annual earnings. Multiples of 5 times income have been the maximum generally available from mortgage lenders in Jersey with higher multiples generally regarded as too much of a risk and burden. In addition to this, mortgage lenders have typically required deposits of 15 to 20 per cent. The *MacDonald Report* provides evidence to suggest that no properties are affordable in Jersey at standard income/debt ratios.” I am very grateful for the support I got from a person who shall remain anonymous for providing me with a bag of papers that were the late Norman Le Brocq and I would just like to pay tribute to him for his social stance and his social justice and thank him for keeping together some relevant documents. This one, P.97, lodged on 12th June 1979, goes on about population growth and the census that was just occurring and the need to achieve an annual rate of 400 houses to satisfy the demand.

[12:30]

What is the number we see in today’s reports? There are 400 houses needed to satisfy demand. What were the words of Einstein? “We cannot use the same logic to solve problems that were used

to create it.” It has been left not in the Minister for Housing’s department but in this Chamber. It has been left to lie so fallow for so long that the proposition is, by necessity, so lengthy and complicated. I cannot do justice to all of the issues that I want and have involved in the proposition but in the last 15 minutes, let us just check over quickly what it is I am saying and I will just cringe and I will say the word when I respond if Members who are not in this Assembly then come back and query what it is I am trying to do here. First of all, it is all a request so the Minister for Housing could say: “Get lost, too busy.” He has not really got a great appetite, nor does his department, for bringing this annual debate to the States, but neither does it have at the moment the money it is receiving in rents from its tenants which may give them enough money and enough resources to focus on the big policy areas and the new solutions instead of fire-fighting. All we are seeing is Ministers and the States spending time allocating finance to capital projects that are then withdrawn, to the surprise of Ministers, who are then replaced to new Ministers who bring propositions to get that financing back: Pomme d’or Farm, and what is hitting our table today. A statement by the Minister for Treasury and Resources saying: “I have got the money, I have got the money, it is okay, no problem. Here I come to the rescue, giving you the money that I took away from you in the first place that you had agreed that you should have.” The Pomme d’or Farm issue is just typical of the current situation we are in. We have £13.5 million to throw at the private sector. We have no money to refurbish our own housing stock and the tenants who have to live in it paying rents that are now being aggregated and valued and this notion that is coming out (and I am arguing this point at the moment) what is fair market rent? What is a fair market rent in Jersey? It is not a fair market rent in relation to other social housing provisions in the world as a global economy or within Europe. What is a fair market rent? Well, first of all, this market is not a fair market. That is the first principle. Second of all, if there is somebody in social housing that is earning £120,000 a year, I agree, what are they doing in social housing? Unless they have got specific medical needs, I do not see any reason for them to be there unless they are in the process of purchasing that property or unless they are in the process of moving out of that property because there is no space for those people. The waiting lists are too long. So there does need to be a body of work done in relation to the affordability of some tenants in this Island. But getting back to basics, the Minister for Housing and his Assistant Minister and the very capable and able Housing Department that used to be run by the Deputy to my left and by the Senator to my right have been saying for years and years and years and years: “Give us the money we pay you into the middle to refurbish our stock.” £20 million of rents thrown back into the middle. How much rent? What is the rent? **[Aside]** £35 million, and I say we need an informed debate. I have tried my hardest. I have been digging through documents back to 1974. I am grasping to understand the issues. I am not in the department but I am trying to find time as a politician to talk about it. £35 million. If we gave them £25 million for the next 3 or 4 years, what would that do for the economy? If we gave them £25 million, it would equate to £75 million invested in the economy, according to the people who do the economics for the Federation of House Builders in the U.K. Now, Senator Ozouf is a great fan of economists, okay. I am not so much a great fan of the economists myself but one of the best economists in the U.K. said that the Icelandic banks were a model of banking and should be emulated across the world, prior to their collapse. I think he was paid for that, though, so maybe that might have had something to do with it. But nevertheless, the economist that I am referring to has outlined quite clearly that every pound spent on housing is £3 invested in the economy. So let us take £25 million and give it to the Housing Department. Let them build up, maintain, promote and sell and sustain their stock and move their stock into a model example and we have invested £75 million not only into that building and those people’s lives to reduce the heat loss and everything else but we have also invested £75 million into the economy. Now in my mind, that is fiscal stimulus. That is short temporary target because we all know housing is going the way of the Dodo as a department and as a ministry, we all know that; it is a caretaking role for the new Minister. Diminishing responsibilities. We saw it with postal. We are going to see it in our lifetimes within housing. What I would like to see before it goes the way of the Dodo is that it is running with the money that it takes as rent as an example to the community of a well-run and

funded ministry because I am sorry to say every other ministry in this Assembly has not batted its corner for the funds unless it has had great political support within the inner circle.

Deputy R.G. Le Hérissier:

Can I raise an issue of clarification? I do appreciate the Deputy's commitment to this area and he must be much praised but I thought the whole intention of the proposition was to argue that information be placed before the House so that we could have a proper debate on housing issues, but we seem to be having that debate on housing issues whereas I thought this was intended to bring the information in a regular way to the House so that we could be better-informed and discuss the options available.

The Bailiff:

Well, it is a matter for the Member then as to how much detail he goes. It seems to me perfectly proper for a Member who wants to say that more information on housing matters should be given to explain why he feels that there is a problem at the moment which needs more information. So I think that the Deputy is entitled to pursue his course.

Deputy P.V.F. Le Claire:

Thank you, Sir. I did explain, when you took the Chair, that I had not been going long at that stage, Sir, I promise you. I did explain to Members that I would go in general and then bring it back to the proposition and finish by lunch. I have got about 6 minutes or so in which to address my proposition, which Members have had at least several days to read. Some of them may not have had time to read it and some may not understand it. Some may question what is in it. I will try to go over that in the 6 minutes and perhaps I have gone too broadly into housing issues. There we are, 6 minutes. I am requesting the Minister for Housing to bring back (and he does not want to, nor does his department, which is going the way of the Dodo) a progress report for his successor, a progress report on the initiatives, the situations, the problems, the policies, the issues, so that we can debate them in the round in an informed way. I will hold my hands up. Maybe some of my information is incomplete. Maybe I have not done a good enough job, guilty. I am asking in (b) ... and any of those conditions, throw them in, throw them out, it does not have to be more than a 4 or 5-page annual report on the progress of policies. We all debate it, we give him a steer (which I am hoping this is) what this is going to be for his outcoming paper on housing issues. I have voiced (and I think it is important for Members to voice) my support for the Housing Department and the receipts of rents that they have not been getting to come from the Treasury and the centre pot and go back into this as an investment. That is what I am arguing and I want to see how many other people believe the same. "(b) to agree as an ongoing strategic objective for the States of Jersey that the provision of housing in Jersey shall be made more affordable for residents and to request the Council of Ministers to bring forward appropriate policies and legislation to assist in achieving this aim, wherever possible." Well, who can not sign up to that? They may be able to, they may not be able to, we just do not know but I am hoping that there is some life left in the Council of Ministers. If not, we will have to do what you do with the horse. "(c) to request the Minister for Housing to publish on the States website appropriate information to notify the public about housing in Jersey and how to access it, together with details of the required criteria to access housing in all categories together with waiting lists updated on a monthly basis for all housing that the States has responsibility for and if possible similar details for the Housing Trusts." Now, I know from speaking with the Assistant Minister and the Minister for Housing and from the previous Minister, that that work is already underway and the housing list details are on the website. A collective list which was brought about (first being considered by Senator Le Main and is run in stream) is something that the Constable of St. John is working on and it is shortly, I am hoping, to be part of the mix. But what I am trying to achieve for people is when there is a homeless mother of 2 children on the streets of St. Helier this afternoon, she knows where she can go to see how it is she gets on to the property ladder or, if she needs to in the interim sleep for a little while with some

friends or go down to the shelter or the women's refuge before she phones me up and says at 3.30 p.m. on a Friday afternoon: "They are kicking me out. They are kicking me out. I have got 2 kids. I have got nowhere to go." If I have phoned Senator Breckon once, I have phoned him 20 times in 10 years on similar issues to that, those issues not similar, those issues they are being evicted ... and I do not need to push work his way from all corners of the Island. Senator Breckon is, in my view, the best and most capable person and I always tell them I am not brushing them off; I am trying to put them into the hands of the person most capable of caring for them [**Approbation**] so I pay credit to Senator Breckon. He has always been there for the people that have called upon my help and helped me. "(d) to request the Minister for Housing and Treasury and Resources to investigate and report back to the States within 6 months on a variety of issues." So within 6 months, he can report back to us on those issues and we can debate them. I have only got about 30 seconds left, Sir, from my promise; I do not want to upset Members, I have taken long enough. In (e) I asked: "To request the Minister for Housing and Treasury and Resources to investigate and report to the States within 6 months on the feasibility of introducing measures to curtail inappropriate property speculation for profit in Jersey" and I have given no examples. Well, I am not a fool and I am certainly no idiot, I am not going to put down examples even if I know of them. I am asking for a proper analysis. "(f) to request the Minister for Housing to bring forward for approval the States legislation restricting the future sale of housing in Jersey to residents of Jersey, wherever possible." Now, that may not be a starter but it certainly gets, I was hoping anyway, people talking: "My goodness. What is he on about now? What is he doing now? Let us talk about housing for a minute because have you seen that thing from Paul Le Claire? He is talking about restricting housing for people that live here." Why would we want to do that when so many homeless people are enjoying the services of the shelter? And: "(g) to request the Ministers for Housing and Planning and Environment to bring forward proposals to ensure that all property built and provided for first-time home buyers in the future shall be conditioned at the time of sale so that it shall remain within that market until and unless the States approve the release of the properties in question from that condition" and that has nearly been done. I am nearly right on that. I was given a specific example; I will do the Assistant Minister and the Minister a favour and not mention which example it was. When I turned around and mentioned this yesterday and said: "Oh, you know, when they flip property and when they do this off plan and sell it before they have even moved into it ..." and immediately the Assistant Minister said: "That does not happen unless you talk about that one there." I was talking about a specific case of where it happened and he knew about it and I just thought: "You know, see, that is the reality." We all know what we are talking about. Jersey has a housing crisis. I would like Members to put their support, if not in my proposition, firmly in the airwaves and on the pages of the *Jersey Evening Post* that it is time to address these issues, not only for the homeless but for those people that will never have a home; from a property perspective broken dreams, unachievable dreams of home ownership, diminished dreams. Also for those most importantly that are our tenants, that are clients of ours as Senator Le Main used to say, that are housed by us at the moment in some conditions, I am sorry to say ... we have fantastic conditions in some areas but in some other conditions (and the Minister knows this well) shockingly, appallingly, disgracefully evident today because of a lack of money from a man who sits 20 feet away from us all. I propose my proposition, Sir. Sorry, I took a minute too long.

[12:45]

The Bailiff:

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

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

Very well. The adjournment is proposed then so the Assembly will reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

The Bailiff:

Yes, so we return to debate on Projet 189. Deputy Green.

2.1.2 Deputy A.K.F. Green of St. Helier:

I do not intend to speak for very long, Members will be pleased to hear, but I know that the Deputy's proposals are well-intentioned. However, as the new Minister for Housing, I today find myself being asked to debate a number of issues, some of which will take considerably longer than 6 months to achieve. Members will know that I am a doer, I like to get things done, that I am motivated by outcomes and that I set objectives which are clear, concise but above all, deliverable. I want to work with my department to make changes that will assist those in our society in the greatest need as well as those trying to get on the first rung of the property ladder. This proposition deals in generalities. The housing market as a description is far too diverse and it is far too complicated to be referred to in one all-embracing phrase such as "housing issues". A debate under this title could not possibly do justice to the individual items which collectively fall within the description. I will come back to (a), (b) and (c) in a minute but I have to say that I am concerned with the ease that legislation is seen as a panacea to solve all our housing problems. If we are not careful, we could disappear down what could be described as a legislative cul-de-sac, consider introducing specific laws which are not needed which will bring precious-little benefit to anyone, and would quite likely require a larger public sector to enforce. This is not what we want. While I am talking about the public sector, I would like to pay tribute to the staff in the Housing Department in the 2 weeks I have been there for the support that they have given me in my new role. **[Approbation]** I can demonstrate that much of the substantive material requested under (a), (b) and (c) is, as Deputy Le Claire has already said, in the public domain. That which is not will be provided (and I will be specific in a minute) but many of the remaining issues are being covered as we speak with the new Housing Transformation project. This will culminate in the issue, as I said yesterday, of a White Paper later on this year. There will be a period of consultation and Members in this House will have a chance to debate some time in 2012, possibly April, all the things that Deputy Le Claire said he would like to bring out into the open. Decisions will be made by a new House with a fresh mandate based on current information. I would just like to say on first sight, when you look at the proposition, there are no problems with (a), (b) and (c) except that if you take the first part of (a): "To request the Minister for Housing to present to the States at least once every 2 years a report setting out the information of the current housing situation," how will that help us? How does that sit against the States Strategic Plan? If I identify an area where we need to have more resources, are we going to get it when the Strategic Plan has already been set for the Assembly? So there is a problem there. The States *Annual States Performance Report* publishes details of the progress with the refurbishment of States-owned stock and we have a problem there. We are working on it, that is part of the transition programme. Progress made in respect of sales to tenants and sales under the Home Buy Scheme, the level of States rental waiting lists, the progress on the strategic objective of increasing house ownership, affordability and relative levels of average incomes to average house prices, all the things that Deputy Le Claire wants, are already there. On an annual basis the Planning and Environment Department issue, as I say, a monitoring report on the effectiveness of the Planning Policy in a document entitled *Interim Review of Residential Land Availability*. In addition to all that information, we have the annual accounts and the States of Jersey Annual Business Plan as well as departmental business plans and other material, including the number of States housing loans issued and the legislative programme. In respect of the website, which is (c), much of the information requested is already published and I am quite happy to expand that to cover the items that Deputy Le Claire asks for but much of it is already there. The application forms are also available on line and details of the Housing Trusts and how to contact them are published. The proposition suggests that waiting list details should be published and, as I say, I am happy to see that this information is published. A significant part of the proposition deals with the issue of repossessions. Residential repossessions in Jersey I am pleased to say are

extremely rare, we have had an average of one a year over the last 20 years. There is absolutely no evidence in Jersey that repossessions have been a problem, either as a result of the current economic climate or those that came before us. I think when I was discussing with the Deputy yesterday that what he envisaged was a position whereby if the economy was to hit an even lower level, we could help house owners if they were about to be repossessed by buying the property for them, we do not have a problem. We have one a year on average. If the economy got that bad, if you take somewhere like Southern Ireland, could we afford to do it even if we wanted to do it? Probably not. The introduction of legislation to freeze repossession procedures and allow the States to acquire the homes would be totally, in my view, inappropriate. In respect of the need for legislation to curtail property speculation, there is no evidence as part of this proposition or company report to substantiate what level of problem exists. Indeed, the report relies heavily on information published on Wikipedia and on the topic of flipping and I do not know, ... I had to look up what “flipping” was because it was referred to, and that is basically profits gained by obtaining a contract to purchase from the seller and then selling it on for a higher price than you paid before you take possession of it, there is no evidence to suggest that is a major problem in Jersey. I would be naïve to say it never happens but I have no evidence to support that. I reiterate my previous comments. I do not want to reach a legislative solution with all that entails when there is no evidence that such legislation would be of benefit. What I think is far more pressing than legislating for repossessions is that we get on with the job of providing good-quality social housing, that all social housing providers are appropriately regulated, and that includes housing associations, that we have a clearly-agreed rents policy that is fit for purpose and goes into the future. I want to see a sustainable Housing Department which will be able to play its full part in the provision of homes for people to rent as well as providing opportunities for home ownership and we are keen as a department to get on with the job. The Housing Transformation Programme established by my predecessor, Deputy Sean Power, I intend to continue with it. It was set up to address the issues identified by Professor Christine Whitehead’s *Review of Social Housing* in the Green Paper that was issued last year. The programme is being worked on now and will consider the following key matters. Putting the social housing sector on a sustainable footing. As I said in my speech when I stood for Minister for Housing, there is currently a £6 million annual shortfall, £48 million backlog in housing maintenance and £17 million investment needed in new social housing if we are just going to stand still and keep the waiting lists down to the level that we would prefer to see. Professor Steven Wilcox of the York University, a specialist in advising the U.K. Government on social policy, has been appointed to lead a joint review of rent policy and the housing element of income support with my colleague, the Minister for Social Security. This review will identify the best means to fund the current maintenance shortfalls while ensuring those in real need are no worse off. As I said yesterday morning, there is no current regulation of social or affordable housing. That is the sort of work we need to be getting on with. The Cambridge Centre for Housing and Planning Research has been appointed to propose the most appropriate regulation regime for Jersey. I am keen that we have something that works, that is not over-burdensome, light touch, if you like, but works for Jersey taking into account all the social housing providers and the needs of tenants. In particular, the regulation will ensure that those most in need are allocated the available housing, that social housing is maintained to a decent standard and that social housing providers operate on a sustainable basis in accordance with States policy and good government. The current administration of the Housing Department was found by Professor Whitehead to be efficient, and certainly have been most supportive to me as I said earlier, but overall, the social sector was considered to be in need of change when she considered the demands upon it of higher financial regime, an ageing population, the need for increasing flexibility to meet changing demands from tenants, and the department fully concurs with those views. Within the Green Paper, Professor Whitehead proposed 4 options worthy of the consideration. The Housing Transformation Programme will review all those viable options to propose the option which will provide a flexible, businesslike approach to managing quality social housing while maintaining excellent relationships and best services for tenants and future tenants. An enormous amount of work is currently in

progress. I will brief Members in more detail later this month when I host a lunchtime briefing for colleagues but what I can say here today is that the issues that need to be addressed are actively being addressed and will be detailed in a White Paper and be released in the summer. This will allow for a period of consultation, as I have said earlier. As I said at the beginning, I am sure Deputy Le Claire is well intentioned and if I thought for one minute this would solve the housing problems in Jersey, I would just accept it but it does not. A lot of the stuff requested here is already in the public domain and as the new Minister, I want to get to grips with my portfolio, bring something tangible back to this House later in the year and bring something that is achievable but I need time to do it. I therefore ask Members to give me that time and reject this proposition.
[Approbation]

2.1.3 The Deputy of St. Mary:

I would like to start by saying a few words on the bringing of this proposition because really it needs to be justified and we have just heard from the Minister for Housing that some things are all right, and he is working hard and the department is working hard and so on, which is fine. I have heard the phrased used “government by proposition” but I think it comes from frustration, and I will list 3 areas where I think this proposition is coming from in a sense before going to the detail of what the proposer is rightfully...

The Bailiff:

Deputy, I am sorry, I am going to have to call a halt because we have gone inquorate. Usher, could you summon some Members back? Very well, we are now quorate again so please continue, Deputy.

[14:30]

The Deputy of St. Mary:

The first is the question of an issue that is really important. We all agree, I am sure, with the proposer that this is a critical issue and there is no resolution and it has been going on and on for years. People who have been in this Assembly longer than me will no doubt have their own examples of issues that have simply dragged on and on (and I have my own little list at home) and the only ones I can remember off the top of my head are the Ombudsman, which dragged on for years, and I think eventually we are there. Tenants rights, which again was an absolute no-brainer, years and years and years; I think we are nearly there with that. There was a taxation amendment of some kind which I remembered, I have forgotten the exact nature of it and that went on, I think, 5 years before it became implemented. This is a major collection of issues that the proposer is raising. We have just watched the prices go up and we have watched the unaffordability carry on and we have watched all these issues and somehow it is not solved. The Minister for Housing does indeed have all our best wishes to try and resolve these issues and he needs all our support in that but I think the proposer is helping him, and there are one or 2 things in that proposition which the Minister does need to take on board. So that is the first general point about why bring such a proposition which is more or less saying to the Minister: “Get on with your job” but it is not just that, is it? The second reason why this is being brought is that, effectively, it is making the Council of Ministers do what they should do. I will come to the detailed points that I think are justifiable in this proposition in a moment but I think the general point which people have said about dragging a horse to water about the Council of Ministers ... We have just had P.19, a debate which lasted for hours and hours because basically the Council of Ministers in their wisdom said no and did not consult with anyone, did not open the door, did not listen to the awkward squad, the views that they disagree with. They did not listen to the care-leavers themselves. They did not listen to the people who have been accused; it was just the Council of Ministers, as far as we know. They certainly have not told us that there was any consultation of any kind. Then they produced R.8 which said: “Well, we are not going there.” That leads to then a proposition rightfully brought by Senator Le

Gresley and amendments, and so we go. Those like Senator Routier who later on today will be saying: “Well, some speeches are a bit long” should reflect on what happened with P.19 where any number of speeches (I do not think many were over the 15 minutes) were made, and rightly so because it was a huge issue. But the fact is that it could have been circumvented in a different way if that had been tackled in a different way by the Council of Ministers. So I make that point as an aside but it is very relevant to this debate. Now, the objective for instance in paragraph (b) is affordable housing and the proposer calls for policies and legislation to achieve this and, well, of course, we agree with that but let us have some real open approach to this issue. How do you get affordable housing? Where are the no-go areas? The price of land but that is in the proposition, that we should look at the speculative value of land (or I think it is, and if it is not, let us add it to the issues under paragraph (a) which should be considered) but one has the feeling that that is a no-go area and that the astonishing cost of housing in Jersey compared to housing on the mainland which must be partly due to the value of land is simply not looked at ever in a thorough ... well, it has been looked at once by the Minister for Treasury and Resources, to be rejected. The third point is a regular debate. Now, the proposer is asking for a regular report and a regular debate and I would just add to that request a couple of things under his paragraph (a). He says: “Not limited to” these issues and I think he has left out a couple of important things but I am saying them now for the benefit of the Minister for Housing: measures to reduce the cost to the States of rents, both private and public and, of course, the proposer mentioned this astonishing haemorrhaging of funds into both the pockets of private landlords and in the form of income support of various kinds to people renting in the public sector. There must be a better way of handling that issue and of course, with C.S.R. (Comprehensive Spending Review) in everybody’s minds, it is very relevant. The other strange matter of the Minister for Treasury and Resources taking £35 million, as I understand it from Deputy Le Fondré earlier today, from Housing each year and then graciously today we see in his statement handing back £3.6 million to do the work on Pomme d’or Farm that Housing could have and should have done anyway.

Deputy I.J. Gorst:

Perhaps the Deputy would just give way for one moment on the figure that he was quoting there. I think what Deputy Le Fondré was saying earlier was that the total rental income was £35 million, not the amount handed back to the Treasury.

The Deputy of St. Mary:

And the amount handed back to the Treasury is ...

Deputy P.V.F. Le Claire:

£23 million.

The Deputy of St. Mary:

There we are, £23 million. Well, £23 million is still a lot more than the £3.6 million, which has been graciously handed back to the Housing Department today in the form of a statement. So I think this matter of having a debate on something as important as housing policy, a strategic level debate on a regular basis, is important and the Minister has said that he is going to bring a White Paper, I think it was, a strategy paper to the House for discussion in due course. That is fine, I welcome that commitment, but it is not exactly what the proposer is saying. The proposer is saying that it has to be built in that we discuss these things not just in the Business Plan, not just in the Strategic Plan, but on an update on an ongoing basis, and I think that point is well made. It is interesting that in the comments of the Minister, he says we are already doing this and we are already doing that to some of the detailed points but he does not comment on this request that is in the proposition about a regular report with everything in one place and a regular debate. I think that is the issue. The Minister has said in his comments that all this information is there if we can find it: if we go there, we will find that and if we go there, we will find that. But what the proposer is

saying is let us have it all in one place, housing report, on an annual basis. I remember my father writing the annual report for the Education Department. He holed up at home, no phone calls, 3 days, and wrote the annual report for the committee (who then presumably mangled it) but there was an annual report and I would expect that at that time, that would have been debated possibly. But certainly in our present era it would be debated, and quite rightly too. I think what the proposer is suggesting about a regular debate on important strategic issues ties in with the initiative of scrutiny coming out of scrutiny which is that scrutiny reports be subject to a range of options for debate. They do not just go on a shelf and the Members who might be interested read them and everybody else does not read them and they do not get good priority they deserve, the work that has gone into them. Scrutiny will be suggesting, I know, a range of ways of the House taking note of those reports and taking them on board and listening to what they have to say and that they have a value in them in the form of different kinds of debate. I think this kind of discussion of general issues: “Why is the scrutiny panel focusing on that? Why are they saying that? Why are they leaving that and they are saying that is okay?” Just to get this background feel for where we are going on a regular basis is a good thing on a strategic level. Finally, a few points that I have called to detail: I have already said the first one, the second one, investment in property. Now, the comments say something a bit curious on this which I just wanted to highlight. They say at the bottom of page 2 that the Minister questions the need for legislation to curtail inappropriate property speculation and he says no evidence is provided to support a position that investment in property does damage affordability as opposed to supporting liquidity and supply. Well, all right, there is no evidence. The proposer has not got a department to find that evidence, but it is an issue and I have referred to the issue of land values and why they go up and the fact of rezoning and speculation might have a role there, so I think that is an issue. I would also like the Minister to clarify on the second page of his comments on page 3. He has spoken already, which is unfortunate, but he describes the laws governing the sales of land and the sales of property and I am glad to see that sales of land are restricted to residentially-qualified persons only but the ownership of property can be with companies, and the companies presumably can be owned from anywhere and the unconstrained onward sale of shares in property. Now, his response to that is to say that the migration law will cover this issue by saying that the new migration law which we have not seen requires the Minister for Housing and I quote: “To have regard to the supply and demand of property” and he says we can amend that if we do not like that phrase. “Have regard to the supply and demand of property” is very, very vague and one wonders just how the Minister would have regard to the supply and demand of property when considering the sale of a property or a range of properties by a company. So I would welcome some clarification on that issue, maybe from whoever is responsible for bringing the migration law. That would be useful. So in conclusion, I do think that the proposer has done us a service in pointing out the importance of housing in our Island and in putting a light under the seat of the Minister for Housing, in effect, but I think his specific basic request is for this regular update and debate. I am little bit surprised that the Minister for Housing did not say: “That seems to me to be a good idea” or propose some alternative for having a proper discussion around strategic issues.

2.1.4 Deputy S. Power of St. Brelade:

I rise with a little trepidation on this debate because I did discuss with Deputy Green and the Constable of St. John and, indeed, the Chief Officer of Housing, as to whether I could say anything that might be of material benefit to this debate and all 3 were of the view that I should speak on this. The reason I decided to agree to that is because, having spent 2 years on Housing Scrutiny and then 2 years both as an Assistant Minister and Minister, I have an area of knowledge in this that perhaps Members may be interested in listening to for a few minutes. The first thing I would like to remind Members is that the Minister for Housing is purely a Minister for social housing and he has some control over the Population Office but he is not the Minister that is in charge of a Utopian Model of the whole housing market in Jersey. That person has no responsibilities in that area. It is purely quite a defined area of responsibility. The Minister for Housing referred to the fact that the

Housing Transformation Programme is going ahead. It is working in 75 different areas of work and in some of the comments that have been made, it will deal with means testing, it will deal with income support and it will deal with other areas. It is a massive piece of work and it is going to take the better part of this year to bring it to the next stage. That is a piece of work that I think Deputy Le Claire referred to 3 times in his speech. I listened very carefully to the proposer's speech and I found at times that he oscillated between social housing and the provision of social housing in Jersey and the overall housing market, which is a completely different debate. So while I give credit to Deputy Le Claire for trying to cover a very difficult and complex area, it might have been better in this report and proposition if he had broken it down into the differences between social housing and the overall housing market. All of it at some time, in my view, needs better regulation. I do not specifically refer to the open market but certainly the structure of the trusts as they are set up needs to be regulated. I think the parishes have a role to play and there needs to be a degree of regulation there and indeed the private housing associations. The Deputy of St. Mary referred to words to the effect that there was a big issue, or even an Island disgrace or a scandal (I cannot remember his exact words) with regard to the provision of affordable housing in Jersey and, indeed, the proposer said that as well.

[14:45]

There are those on this Island that are trying very hard to work on affordable housing. The Minister for Planning and Environment brought in his Home Buy Scheme. The Housing Department then delivered that Home Buy Scheme and I have to say to Members that it was the first dose of public flagellation that I had this year. Although the department delivered the Home Buy Scheme, it was heavily criticised in certain quarters and I feel sorry for the Minister for Housing's officers who put so much work into it and then find that they get a good kicking in public, through no fault of their own. Deputy Le Claire referred to the homeless on the Island. Again, the Housing Department does a major provision in the supply of accommodation for those homeless that are unfortunate to find themselves in that position on the Island and, indeed, last year, the department invested something like £600,000 in the provision of a new shelter in St. Marks Road to replace the James Street shelter, and it is a subject very close to my heart. The spread, whether it is those at the bottom of the socio-economic scale or at the top, the Housing Department does the very best it can and the Minister for Housing does the best he or she can. The majority of people in the shelters are rated (h). They have qualifications but, for whatever reason, they have hit a bump in life and there is now a better provision for those people. Deputy Le Claire referred to the fact that it is a disgrace on an Island of this wealth that people live rough. Well, I have to say that some people choose to live like that, whether it is the Five Mile Road or whether it is the town where the majority choose not to. Some do, and that is true whether it is St. Helier, whether it is New York City, or whether it is Dublin. We cannot force people into shelters or into accommodations they do not want to go. In the last 3 years, both in my time and before my time with Senator Le Main, I think the department has achieved a lot more in that area. I have to say though that when I reread Deputy Le Claire's proposition, the actual title of Minister for Housing is a misnomer because that title really should be the Minister for All Housing Matters on the Island of Jersey, or something like that, because to say that you are the Minister for Housing means that one has a very small brief. Indeed, the chariot that is the Housing title, the driver of that chariot sits behind 4 horses and those horses are the Housing Department, the Planning Department, the Treasury Department and the Chief Minister's Department. That Minister is trying to put his 2 legs in 4 camps and it is very much a mission impossible. That is why I would say to the new Minister that the Housing Transformation Programme is absolutely vital to get that department into an association status and at least get rid of one of the horses so that he will be driving 3 horses which will be his or her Housing remit, his interaction with the Minister for Planning or the Minister for Environment or the Minister for Environment Responsible for Planning or **[Laughter]** the person now known as the Minister for Environment. **[Aside]** Above all else, much integration is needed and indeed I think Deputy Le

Claire did not quite spell it out in the way I would have wanted him to but I think I will interpret what I think he was trying to get at and that is the need to integrate the provision of housing across the Island: that is social renters, association housing, affordable housing and any other type of housing under one person under one ministerial department or one Minister. I have been an advocate for some time that, as and when the Housing Department becomes an association and that perhaps there is a justification, an argument, a reason for a Minister to become perhaps a Housing and Environment Minister or a Housing and Planning and Environment Minister or an Environment and Housing Minister or an Environment Housing Planning and Population Minister, whatever meets approval on that august table ... but I do think that that is possibly the way to go. Titles are largely irrelevant but I think we must, I hope, as we reach the end of the term of this Assembly, give some thought to the restructuring of responsibilities within departments and I think this is one that needs to be looked at. I am not quite sure what else I would like to say. Finally, I would like to draw Members' attention to the fact that it is very easy to knock and criticise Housing per se on the Island, and the function of those that have political responsibility for Housing, but I might just point out 3 different things before I sit down and these are the points I would like to finally make. On the Housing Transformation Programme, there is no Shadow Housing Board. There is no provision to have people sit on a board remunerated for the Housing Transformation Programme. There is a management steering group and a political steering group, but it is done from within existing resources. I would also say that within the Housing Department and the Population office there are no Js. There are no people who are brought in as experts on the Housing portfolio or in the Population Office. I would also point that 4 of the 6 senior staff in the Housing Department are all locally born. So there are major plus points, Brownie points and credits to the way that the Housing Department and the remit of the Housing Department is run. Just on the social renting side: I think it is now about 38 men and women, turnover £35 million a year, manage 4,500 houses and flats, worth somewhere between £900 million and £1 billion. I do not think that is bad value for money to the Jersey taxpayer and I sometimes get slightly irate when people criticise it, but it is a very tightly run department and they do a marvellous job. I would also point out that Professor Whitehead compared Jersey's Housing Department directly with Kingston upon Thames and with Bristol. I think, in terms of Kingston upon Thames, we have about the same stock as Kingston upon Thames but they have got twice the number of staff. I would also say that we have got slightly less than Bristol but they have got 4 times the amount of staff. So when one talks about housing per se in Jersey one has to be careful as to what one is talking about. Is it the overall housing market? Is it the provision? Is it social housing? Is it the regulation of trusts? Is it the move towards housing transformation? I think Deputy Le Claire is to be given some credit for what he sought to achieve today but I would say that if I were writing that report and proposition it would probably be about 3 pages and it would be more specific and focused in the way you achieve an overall view of the housing market in Jersey. That includes social provision and everything else. I do give him credit for what he has tried to do. However, I am minded to agree with the Minister for Housing, that I do not think we need this right now. What I think we need is for everyone to roll behind the Minister for Housing and the Housing Transformation Programme and support them as they work towards this much needed exercise and this much needed project. The decision in the future as to whether a Minister in this Island does have a wider remit that might include population, housing, planning, the housing market, and take some responsibility from Economic Development, take some responsibility from Chief Ministers, is really one for this Assembly and it is for somebody to bring a report and proposition to see if that is acceptable. But with the comments that have been made so far by Deputy Le Claire, and indeed by the Deputy of St. Mary, I would say that much restructuring is needed as we head towards the autumn in the life of this Assembly and we move towards the beginning and the spring of the next Assembly. Much work has to be done in restructuring departments and this is a classic example of where this restructuring needs to be done. So I ask Members to bear some of these thoughts in mind. The provision and regulation of housing is a very complex area and it needs much thought. For that reason I have to tell Deputy Le Claire that I cannot support the proposition as it is structured. It is a very good attempt but I would like to

see, and I might give some thought myself, to a report and proposition that would head towards the restructuring area.

2.1.5 Senator A. Breckon:

Just a few observations. The proposition itself is a sort of a mix and match. There are all sorts of things in there and it is difficult to say you agree with all of it or even perhaps understand all of it. I say that for a number of reasons, because I think some of the confusion comes from: when was the last time we had a housing debate? I think that Deputy Le Claire is trying to do here is to flush out something to do some of that because we have a Business Plan and a debate on that; we have a Strategic Plan and we have budget debates. If you want to know where the housing policy is, it is somewhere among that. But then how do you bring it out and discuss it on its own? The answer is: we do not. We do not discuss policy matters in this House on debate unless it is about a particular issue and I do not think we should have a laptop presentation with somebody giving us some spin about how the department is doing; whether it is the airport, the harbour or economic growth or whatever it might be. What we should be doing is discussion matters in debate and we do not do that. So I think what Deputy Le Claire is trying to do is to try and do that because if you ask anybody what is the housing policy, do we have one? What is it? I do not know what it is. What is it? Does anybody know? Do you, Sir? I do not know. If we have one, an all-Island housing policy, I do not know. We have thrown lots of money at it over the years and, as somebody mentioned earlier, we said we needed to build 400 homes a year and we are still saying that 40 years later. So what have we done in between, apart from perhaps pumped up the volume? The other thing: in the detail there are lots of things in there and we did have a housing strategy debate, 6/200. We have had a *Whitehead Report*. But things have moved on; it is a different climate in those 3 or 4 years even. So somebody (and that is now with the new Minister) has got lots of work to do and I think, personally, at the moment we should give him the room to do that because when this was lodged I do not think he was Minister at that particular time. So we have moved on; it was not his responsibility then and it now is. But when you look at things, there are a few phrases in there and it is a simple phrase and when you look at it you say: "Well, okay, what does it mean?" If you look at (a)(v) it says: "Details of any proposed future legislation relating to housing matters." So that is only a short thing but what does that mean about things like rent control, security of tenure, deposits? There are things that sit under that that are quite substantial on their own. So for somebody to develop that from that phrase ... and there are other things, I am sure, to add to that. The other thing: above that, (iv) talks about the Minister for Planning and Environment, which Deputy Power has just touched on, and the Island Plan. But what is the strategy for elderly housing, I would ask, in the Island Plan? I think there is more in there about farm sheds than what there is about elderly housing in the Island Plan, if you have a look. I think there are 6 pages on farm sheds on one of the drafts and then there is hardly anything, a couple of paragraphs, about elderly housing. So maybe there is some work to do there. I can understand Deputy Le Claire's frustration and he talks about working with the States Development Company. Well, that is a major task for somebody, to get Housing out of some of that because I think the intention is perhaps to sell some of the sites and they will not be States housing at all; they will be something else I am sure. That is the plan that is rumoured. Also the loan and financing: again, it is a complicated area (as Deputy Power pointed out, it is not quite as simple as that), as is people buying a home. It is not a home if it is a few shares; so in fact things are dressed up so people can buy property and have done as an investment from outside the Island. This is something I think Deputy Ferguson looked at a while ago; about how many companies would be ready to do this and there were quite a few, I believe. So there are all sorts of issues there and there are other things about the financing things and I can understand Deputy Le Claire's frustrations but I am not sure, as this stands in its entirety, how I can support it at the moment. I have a great deal of sympathy with a lot of the issues but I think, somehow or other, we need to have these discussions and these debates.

[15:00]

Now, there again, for a Back-Bencher to bring forward something, there is a lot of information and detail in there and it is a case of: “Well, that is not there; that is not there,” but there is only so much anybody can do on their own. I think the Deputy is to be commended for bringing this but I am not sure how much support it will get in its entirety and I would ask if he would consider what he does if he wants to go to a vote on it, because as it stands I have a great deal of sympathy with what is in there but when I look at the various things I think: “Well, I need more detail about that and what exactly does it mean?” The report does not say that and what is said by way of introduction does not say that either. So with this, as I say, I do have a great deal of sympathy with it but as it stands at the moment I am not sure I could support it in its entirety.

Deputy P.V.F. Le Claire:

Sir, just as a point of information, I will be asking for the appel after I have summed up on each of the items; so Members can vote with me or not as they see fit.

2.1.6 Senator F.E. Cohen:

From an Assembly perspective, many of us would consider that the most important aspect in relation to housing is the provision of affordable housing. In my view, affordable housing is both shared equity in the form of home, by whatever market happens to be, and social rented housing. The provision of the deficiency, if there is one, of affordable housing is a matter that is of concern to us and for which we should take responsibility to resolve. For many years the resolution of the affordable housing delivery mechanism was down to rezoning, but the new Island Plan will be crafted without significant rezoning and it will be down to the public, through Property Holdings, to deliver the deficiency of affordable housing on publicly-owned sites such as the Ladies College, St. Saviour’s Hospital and South Hill. That does not mean that they all have to be affordable homes, but certainly there should be a reasonable representation of affordable homes on those sites. However, the majority of affordable homes will be delivered through the new affordable housing criterion which begins at 12.5 per cent and is ratcheted up. That is a policy that applies to all large development sites throughout the Island, whether they be in the built-up area or in any other area of the new Island Plan. However, it is important to realise that, while we must concentrate on the delivery of the necessary number of affordable homes, we also need to provide homes for the open market as well and there is, in that context, in excess of 1,500 homes that I have approved since I was appointed as Minister for Planning and Environment that have not, as yet, been constructed. They are approved either in principle or in detail. They will be commenced at some point but there is, some would say, a potential over-provision in the market and that is something that should have positive effects from our perspective of delivering housing because it will obviously have a price-suppressing element and also it ensures that we are adequately provided for in terms of sites for new houses for the open market for the near future. The provision of social rented houses on public sites and through the new affordable housing model in the Island Plan will presumably be delivered, at least in part, by housing associations. In this area there is a little housekeeping that needs to be attended to by the Assembly and that is, rather unusually, the present position is that trustees of housing associations are able to provide services to those housing associations. This is something that is contrary to the principles of the running of housing associations in other jurisdictions. I am not saying that there is anything that is presently being done that is wrong. I am sure there is not but, from an outside perspective, I think it is important that in the relatively near future we address that little piece of housekeeping. But I do stress that I am not suggesting that there is anything wrong with the current housing association trustees. I am sure they all do a first-class job. The future is, as I have said, a mixture of shared equity and social rented and, in the case of shared equity, we have delivered a number of houses, nearly 50, on the La Providence site and for that I must give great credit to Deputy Power who was previously the scrutiny chairman who dealt with this particular area; then went on to be Assistant Minister for Housing and then Minister for Housing. He has come in (unfairly, I believe) for criticism in relation to how he delivered, as he puts it, the policy of the Planning Department. I believe he did a really excellent job and those who

are living in those excellent houses that were delivered at an affordable price have Deputy Power to thank because it would not have happened without his tenacity in this area. It unfortunately is a case that the better something is the more it is often criticised and I think in this case that applies. It certainly would not have happened without the efforts of Deputy Power. The Statistics Office are currently finalising the publication of new affordable housing figures. These, for the first time, will bear the imprimatur of the Statistics Unit in their entirety and, for the first time, the House will feel that it has a reliable set of data of affordable housing demand upon which it can rely and those figures will be incorporated into the Island Plan. I must say that, while distribution is slightly different, I have seen the figures and they are not fundamentally different from the figures that were presented in Deputy Power's time as Minister for Housing. We have had a succession of excellent Ministers for Housing; caring politicians who were concerned about their portfolio: Senator Le Main, followed by Deputy Power and now we have Deputy Green. There can be no doubt of Deputy Green's determination to deliver excellent housing throughout the Island and to ensure that those who require affordable housing are properly accommodated. They are supported from the planning side by an excellent planning panel in whom, I repeat, I have 100 per cent confidence. I think that it is best to leave it to the new Minister for Housing to get on with delivering his objectives and I do not believe that additional reports will deliver very much or add to his undoubted future achievements.

The Bailiff:

Does any other Member wish to speak? Deputy Gorst?

2.1.7 Deputy I.J. Gorst:

Very briefly; I think the mover of the proposition mentioned my department and the part that we play in the provision of housing. I will say at the start that I am not supporting the mover of the proposition for the simple reason that I believe that the new Minister ought to have time to bring forward the proposals that he has for the department. There can be absolutely no doubt (and the Deputy is right) that there is a lot of work which needs to be undertaken at the Housing Department in consultation with a number of other departments. From my perspective, again, I think there can be no doubt that it is the single biggest issue facing recipients of benefits becoming benefit-free, if I might use that term, and that is the cost of housing. It is their single biggest barrier and we must move very carefully when we wish to consider how we might change the way that we help people enter into the housing market or begin to access more affordable housing. As Members know, perhaps the issue that they wish to have addressed, or previous Assemblies have wished to have addressed, was in some respects moved from one department to another and, while the cost of subsidy into the private rental sector has been reduced and curtailed by the Income Support System, it is still there. It is still in existence and I am aware that Members wish to see it dealt with in a different way from that which we deal with it today. We must make sure that we move carefully. We must consider those who require the access to help in the private sector. It is, of course, a result of (almost by default) a policy of this House that we have a small social housing sector and, therefore, we have expected those even with low incomes to be accommodated in the private rental sector. So we cannot really point the finger outside of this Assembly. It is an issue that we have created and it is an issue which we must come to terms with. If we are to move to a dramatically new way of considering providing help to those on low incomes across the housing market, we must make sure that we would have appropriate transitional arrangements in place. That would be extremely important. But I do think that the body of work that we need to undertake (and I know has already started at Housing) involves us looking at what size of social sector we want to provide. We must move away from an idea that there is some sort of stigma attached to the social sector. There should not be. It should be a positive decision made by a community and made by its Government to provide housing, particularly in our climate where we know that the cost of that provision is excessive and out of the reach of most members or a considerable number of the members of our community. Having said all that, I do thank the mover of this proposition for

bringing forward this proposition and I think he is absolutely right to air the issues. I hope that he continues to air the issues, as I know that the new Minister will be bringing forward changes and it is right that we have more appropriate discussion and consideration of this fundamental issue which faces our community in a way which very few other communities have to face up to because of the sheer restriction on the number of houses, the number of our populous and the cost. So, while I cannot support this proposition, I do support the underlying ethos and that is that we have an appropriate debate and we do move the housing situation and provision forward. But we need to do it with an open mind because I am of the opinion that we could have a much greater social sector. It does not need to be one owned by the Government, as it were, or owned by this Assembly; although it could be. We must not rule that out but, equally, we must not rule out a greater and wider association social sector as well. So I think we really need to say that nothing should be ruled in and nothing should be ruled out, but we do need to start to get to grips with these issues.

2.1.8 Deputy M. Tadier:

We are hearing a lot today of: “Deputy Le Claire, you are doing a really good job. What you are saying is correct. I am very supportive and the way in which I am going to support you is by not supporting this proposition.” Similar arguments were made in the previous debate. Thankfully that one did go through. There really is nothing in here which is rocket science. There is nothing in here that we should not be supporting and it is all quite viable. I will go through it briefly, but let us take it back a stage. I had a chat with some colleagues at lunchtime. We got slightly philosophical over a pizza and we got things back to the stage where ultimately life can be quite simple. We live in a very complex society but, when you boil things down to the essentials, what you need to survive is food, water, shelter. That is essentially it and then you go one step further. You need clothes, certainly in a civil society you do; although Deputy Duhamel reminded us you can even survive without clothes because we have brown tissue. You can shiver and your hairs can sometimes stand on end, not always for the correct reasons. Then on top of that, in a more civilised society, you have emotional needs, *et cetera*, and you develop music and you develop friends. But the basics are food, water and shelter and that is the one I am underlining: shelter. It is a social need. I hope everybody would agree with the following statement: that everybody should be able to have access to affordable housing. Because it is a social necessity, it is a very basic primordial need if that is the right word, then I think everybody should have access to adequate housing and it should be affordable because, if you cannot afford it, it is not sustainable. You will not be able to do it. You will not be able to live anywhere in the long-term. That is why it is remarkable that in our Strategic Plan it says that affordable housing should only be targeted at those who need support.

[15:15]

So we are saying: “Okay, those who are really desperate in society, they should be able to have affordable housing but everybody else who does not need support should not be able to have affordable housing. So they should not be able to afford housing.” That is the reality of it in Jersey. Many people, certainly in my situation but lots of people, cannot afford housing. It is too expensive. We drive up debts because either we cannot afford the very high price of rentals or we cannot afford the very high price of a mortgage, or even necessarily a deposit for a very basic starter home. So when I hear Ministers or States Members or former Ministers saying: “It is not the Minister’s job or it should not be the Minister’s job to look at the private sector, to look at that market; it is primarily their job to look at social housing and providing that” I would say that it complete nonsense. That is why I am particularly supportive of part (e) of Deputy Le Claire’s proposition: “To request the Ministers for Housing and Treasury and Resources to investigate and report to the States within 6 months the feasibility of introducing measures to curtail inappropriate property speculation for profit in Jersey.” There seems to be this idea going around that the 2 markets are completely discrete; we have social market on one side, which is not really a market in fact because it is a social provision, and on the other side we have got the open market. The 2

clearly do have an impact. It is because we have a free market economy, which is driven by speculation ... the motive in the free market is to make profit. It is not to house individuals and, in fact, housing the individuals adequately is completely peripheral to the purpose of the market. That is why we see, even in Jersey in 2011 (and this is going to be one of Deputy Green's problems that he has to resolve), we still have substandard accommodation for a massive section of our society and not simply, although primarily, in the unqualified sector. So the link between the 2 does have to be taken and looked at seriously and I think it is only until we grasp the element of speculation that we are going to seize the nettle and to make progress. There is also an issue, I think, that sometimes we call social housing "subsidised" and that is incorrect. It is only subsidised relative to the open market because the Housing Department is a profitable organisation. Housing could quite easily wash its face several times over if they retained all of the money that they got from their rent. So it is not subsidised at all; they are a profit-making organisation. I think, if I have got my figures right, it costs about £10 million to run and they have got £25 million surplus and that is the figure which gets ... I will give way to someone more knowledgeable.

Deputy S. Power:

The Housing Department's turnover is £35 million a year in its rental income and it returns £23 million a year to Treasury. It is trying to run on £10 million a year but it has a backlog of £7.5 million a year on housing maintenance.

Deputy M. Tadier:

Thanks for the clarification. So, absolutely, we are seeing a profitable organisation. It makes a huge return to the Treasury. It has to go down on bended knee to ask for a small amount, we have heard, for the likes of Pomme d'Or Farm, which the Minister for Treasury and Resources will graciously hand over, even though the money should be there in the first place. So let us not be under any illusion that social housing is in some way subsidised. The tenants there are paying over the odds for what is marketed as a social provision. So these are the issues that need to be looked at and there is absolutely no reason that we should not be adopting it. First of all, part of this is already done anyway. A lot of this information is out there; so it is not going to be that difficult for these updates to be put on websites. Deputy Le Claire (and I am sure he will reiterate this in his summing up) is only asking for these things to be investigated. If we look at part (d) for example: "To request the Ministers for Housing and Treasury and Resources to investigate and report back to the States within 6 months on ..." Then if you look down to part (ii) it says: "Whether or not it would be prudent to investigate the introduction of legislation," and it goes on. So what he is asking us to do is to investigate and to report back to the States whether or not it would be prudent to investigate the introduction of legislation. So he is asking us to investigate the possibility, in this case, of investigating something. Probably not the most appropriate turn of phrase but I think the point there is it is fairly flexible; we are just asking to have a little bit of a debate. I think this argument about the fact that Deputy Green has only just taken over the reins of housing (or maybe, more appropriately, Housing has just taken over the reins of Deputy Green, depending on what your view of the civil service is), I think to say that 6 months is too much for that is not a valid argument because there is continuity within departments. We know that Ministers change; they come and go. The civil service is there and it carries on working. So it is not going to be something that is completely undeliverable. I think 6 months is a perfectly legitimate timeframe. Just one other thing to add; I think we are also ignoring the fact of what happens to the vast amount of Islanders who are unqualified. I think it is roughly 10,000 of that ballpark figure who are paying very high rents; as I have said, often not very good-value rents. That money is simply going into the back pockets of landlords when that money could be used in a much better way. It would find its way into the construction of new houses if they were able to pay that in a meaningful way, either into our funds for construction or if they were allowed to build and buy their own houses. Clearly it is not that simple. The problem is that we have allowed the non-qualified period, the 11 (now 10) years to be used as a way to control the population and that is part of the issue here. I would say

any right-minded, fair-minded politician will say if you have got a reason to come to Jersey and to live in Jersey you should be entitled to affordable accommodation. So I think that Deputy Le Claire is quite right to bring these things to the front. There is no reason that we should not be adopting this today. It is not rocket science. He is not asking for any specific changes but it is just to allow us and the public to give us a greater level of scrutiny and for the Government to be a little bit more accountable and I have no problem with that. So do keep the proposition, Deputy, and do go for the appel and I wish you success.

The Bailiff:

Does any other Member wish to speak? Deputy Southern.

2.1.9 Deputy G.P. Southern:

Yes, just briefly, Sir. I, too, would dearly love to be able to support a good proposition on housing which points clearly to the way forward. However, I do not believe Deputy Le Claire has produced such a report. So I doubt that I will be able to support very much of it except perhaps (a)(i): “An annual progress report on how the Minister’s current housing strategy is delivering its aims and objectives.” In principle, absolutely; yes, with a debate and something to get our teeth into would be wonderful and would be an improvement. If this proposition merely said that, I might very well be supporting it. However, it is surrounded by verbiage so that (a) already starts: “Have a clear and ongoing understanding of the issues concerning all areas of housing in Jersey so that Members can be fully appraised of any plans or legislation that will or may impact on the housing situation in the short, medium and long-term, with the report to include, but not be limited to, the following areas.” As soon as you put that on the front of it my enthusiasm is somewhat diminished because that sounds like something that is not possible and not useful. Then, as others have mentioned, we appear to have this already. We have a Strategic Plan that we debate, which has future gains, some of which attach to housing. We have a Business Plan specifically, which we debate and accept or amend; again, which gives us the opportunity to debate housing. We have got an annual report and accounts produced by every Minister or every department, including Housing, which we could, should we choose to, debate and assess in terms of what progress we are making. Elsewhere, rolling into paragraph after paragraph, as the Minister has quite correctly said ... and I would not be afraid of loading him up with as much work as possible if I thought it was appropriate but I do not think these necessarily are. When I start to look at the report I see pages 11 to 91, 80 pages of appendix, which are lifted straight from the Island Plan. That says to me that is part of the Island Plan. That work is already going on and, rightly or wrongly, will be debated in some form or other and either passed or rejected or amended or whatever. That work is happening. That says this is not fresh work. This is stuff that is already happening. Then, as the Minister said (and I think he is right to say so), as we get to this paragraph on property flipping (that I had never heard of before, which may be my fault and it is a serious failing on my part and I should have heard of it), again, very little evidence that it is a problem in Jersey. As we go on, (f) and (g): again, no evidence. Without the evidence I cannot support either those paragraphs or indeed, I think, probably, any of the paragraphs. While there are things that need doing and there might useful ways in which we can steer this new virgin Minister for Housing in correct ways, I do not believe this proposition is that.

2.1.10 Senator P.F. Routier:

I just wanted to comment on a point raised by the Deputy of St. Mary during his 13-minute speech. He commented about what was in a migration law early draft about how the Minister for Housing would be able to make decisions. He quoted a line from the draft which talks about the supply and demand of property but he did not go on to talk about the rest of what was in the draft, about when a Minister for Housing is making decisions he also has to have regard to the ownership of property by persons with entitled status, which in today’s language means people with qualifications. So I think the Deputy of St. Mary may have had the worry that it was just going to be focused on that

one section of that paragraph, which could open it up to availability of housing to general people who do not have what we currently call “qualifications” at the present time. In the new language it will be “entitled”. So I just really wanted to put the Deputy’s mind at rest with regard to that. Of course, we will be having a major debate on access to housing very soon when we talk about the new access to housing and work legislation which is going to be coming forward, which is going to be lodged very soon by the Chief Minister. So part of what Deputy Le Claire is trying to achieve and have a better handle of for this Assembly will be debated in this House very, very soon; obviously subject to scrutiny having time to do their work and to look at everything. For all Members, we will be having lots of briefing sessions for Members to come along to be able to assess the new legislation. So there will be a major debate about access to housing and I hope Members will all look forward to having that debate.

The Bailiff:

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

2.1.11 Deputy P.V.F. Le Claire:

In no particular order, I thank all of those who spoke. I am sorry that some Members are not in the Chamber, maybe because I read out from too much material and bored them. I got an email from a member of the public who said I had bored them by reading out and I thought that was possibly why. The member of the public also commented that Deputy Wimberley and I are probably the cause or the main reason why the States has become inquorate more than any other reason in the Assembly. Well, it might be that and some Members stamp their feet. But it would not matter how long we spoke or what we read from; people in the Assembly, when it comes to personalities, do not care to have an open mind on some issues and that is unfortunate. I thought it was quite interesting to listen to the Minister for Housing. He is a strong character. He has weathered adversity. He will not mind me saying that I thought his speech was a little bit lacklustre, if anything at all, and disappointing really. I thought it was summed up by Deputy Tadier who said he has not been behind the reins of Housing long and then Deputy Tadier said: “Well, perhaps now the reins of Housing are behind the Minister for Housing.”

[15:30]

This proposition certainly was lodged ahead of Deputy Green. It was lodged 20 days after Deputy Green lodged his proposition on a little estate in St. Helier called Pomme d’Or Farm and I will just get that proposition because that is interesting. Pomme d’Or Farm proposition, lodged by Deputy Green on 1st December 2010; quite interesting but notably, in the sixth paragraph it talks about the problems that tenants are facing in Pomme d’Or Farm: the leaking windows, the obnoxious foul smells from nearby sewerage, the dump problems, the mould, inadequate but expensive heating systems. It was accepted by all that the problems are real, unhealthy and unacceptable: “It was also accepted that promises to take action had been made for many years but never fulfilled. The Minister for Housing categorically stated that this situation was unacceptable and that he would ‘bring forward’ the planned refurbishment. I remember particularly that the residents were promised that they would only have endure one more winter (2008/9) in these conditions. The winter had passed and we are now in the winter 2010/11, but as yet no action.” It is the next paragraph that really sums it all up for me because the Minister for Housing is sitting there saying: “I could accept this. I could accept that. But really the best thing to do is, now that I am behind the steering wheel,” or as Deputy Tadier says, the department is behind the Minister: “Just let me get on with this and let us not discuss this.” This is the next paragraph: “During the last summer, rumours indicated that there was no funding available, that funding was dependant on house sales. Contact was made with the Minister and the Department, and residents and Deputies alike were again assured: ‘do not worry, it is all in hand’.” Then the Deputy goes on to point out that the survey work had indicated that the money required, instead of being £3.5 million, was going to cost

in the region of £7 million. We have got a statement on our desks today, which is yet to be read by the Minister for Treasury and Resources, that says, miraculously: “Now that we have got Deputy Green in charge of Housing we have found £3.6 million,” but with the caveat in that statement: “which will be refunded by Housing as sales receipts improve.” When they rack up the rent. The reason why I included 90 pages into this document is because there is a lot of wealth in looking back as to how people voted and what people said and in this document it relates to meetings with the Island Plan officer and the Minister for Housing. Deputy Power and the Minister for Housing were at odds with each other; Planning and Housing were at odds about the need. The Minister for Planning and Environment has said today that we have passed about 1,500 private sector units that have yet to be built and at the same time the Minister for Housing said the Island is short of about 1,340 further units of social rented accommodation. I think one of the best speeches was from the Minister for Social Security. I know sometimes I do say: “The Council of Ministers, blah-blah-blah.” It is politics. I have to eat my own words. Most of the time most of the Ministers, individually, are acting very properly. The Minister for Social Security’s speech hit the nail on the head for me. We do live in a difficult and different society. It is the fundamental issue. Nothing can be ruled out and nothing can be ruled in, but what we know for sure is that a Deputy that brought a proposition 20 days before mine was lodged was complaining about the fact that people were living in totally unacceptable accommodation and that he thought it was inappropriate for us to be told, year upon year upon year, not to worry; everything is in hand. He comes to the Assembly, gets elected and within a couple of months, the first speech he makes as Minister for Housing, I think, on housing, is: “Look, we do not really need Deputy Le Claire’s bright ideas. Everything is in hand.” So I would like to ask this. Why is it that we are generating £35 million of income? We are throwing £13 million of income at the private sector and we are having to move housing off and sell it off into some separately run body when it is evidently worth £900 million to £1 billion worth of money, let alone the fact that it is providing shelter and affordable housing for the social needs of the Island; whatever those social ceilings need to be set at. We are taking something that is producing vast amounts of income, providing vast amounts of security for people and we are packaging it up and getting ready to give it out like a gift horse. How can you possibly say, Sir, through the Chair, that you have got a business that makes £35 million and you do not let it even sustain itself because you take the vast majority of that money, £23 million, and you put it into something else? It is a vastly profitable business and if we invested in it properly and if we ran it and managed it in the same way ... Deputy Noel is shaking his head. I do not know if he is disagreeing with me but I certainly think it is well run. The *Whitehead Review* thought it was well run; as pointed out, half the staff in one jurisdiction and one-quarter the staff of another. All my proposition was doing, and Senator Breckon said it all, was trying to raise the debate and I knew, no matter how I worded it, it was not going to have a hope in this Assembly of getting through because (1) it is me, (2) it is me, (3) it is supported by the Deputy of St. Mary [Laughter], (4) it is me. Secondly, it is not supported by Deputy Southern, which I thought was amazing really. He is going to support part one. I would not have liked to have been in his school classroom that is for sure. I did not like school as it was but I certainly would not have preferred it under his tuition. There is a way of telling somebody they have done something not very well without putting them off the subject completely. I used to at least get clipped around the ear with an encouraging: “Come on, lad; try harder.” With Deputy Southern as a teacher I think I would have given up the subject all together.

The Connétable of St. John:

I wonder if the Deputy would give way. Just for a point of clarification, the Deputy made mention of the statement that the Minister for Treasury and Resources going to make later and he talks about the money coming back to Treasury from sales receipts. I do not see anything in the statement where it says “racking up the rent”. I wonder where he got that.

Deputy P.V.F. Le Claire:

I was reading between the lines, as one needs to do when one is in politics. It is said: "The £3.6 million will be refunded by Housing as sales receipts improve." How on earth are sales receipts going to improve when we are selling off housing stock to pay for the maintenance of the housing we have got unless we are going to increase the rental? What are we going to do: keep rental as it is but just charge them rent twice a month? Some politicians need to open their eyes, in my view, and see the real world that is going around and not be fooled by the abilities of their departments, or mesmerised. They have got a very profitable business. It is providing an essential service to people in Jersey. It needs to stand on its own 2 feet before anything happens with it and I said during the start of my debate that I was hoping Members would stand up and agree with me that the core issue is that the funds that the department generates are not within the department's grasp and I got very little support from that. The Assistant Minister for Housing did not speak until now to question where I got "racking up the rent". It would have been good, I thought, at least, if he had stood up to support the general thrust of what I am trying to do, which is to try to get his department, his ministry and his Minister's ministry, some cash to do their job. It is pretty simple. We can vote on them all independently, Sir. I would like to do that. I do not think Members need to be explained as to what they are. I have got quite a clear belief that it does not matter how I would have worded them; some Members would not have voted with them anyway. The first part is to request that we have an annual debate and that is what it is about. A *White Paper* can come and go but we do not debate it. A *Green Paper* came and went. We did not debate that. All I am saying is that once a year or twice a year (or once every 2 years at the least) we debate housing in the round in Jersey. Now, whether that needs to be a ministry with Planning and Environment, Housing, Population and who knows what, that is not my decision. That is the decision-makers' decision over there in this part of the Chamber. They are the ones who are the doers. We are just the ones that come here to speak. So the first part, I am going to request that Members support me in asking for a debate; to give us progress on what is happening; to tell us about the housing lists. It was interesting, the Minister for Housing did say that he could not support my proposition but he was willing to do the things that were contained in certain elements of it. So I am hoping that in those certain elements he will at least support me, especially on the one where it says: "Bring the information about the waiting lists forward on to the website." This is certainly the case for me, from my experience. I do not care who is in charge of Housing and I do not care who has been elected for Housing. If I am homeless all I care about is: "Where is the website? How do I get on the Housing one? What are the qualifications?" We have got to make that information front and centre. I went on there today to look for it and I could not find it and I am a States Member. Now, I have printed off the Housing Transformation Programme which was ready to find and loads of other P.D.F. (portable document format) documents that I could have downloaded and everything else but I do not want to read about: "The States are doing this, the States are doing that." When I am homeless (fundamental in the words of Deputy Tadier: "air, water, shelter") I want, on the front page of the States website: "If you are homeless this is what you need to do. Click here. This is how you get help and this is where you go to get help and this is where you go to get social security if you need help." When you are homeless the last thing you want to read about is how well we are doing in press releases on this, that and the other or how the department is doing on future work. So the Minister, I am hoping, is going to be able to support me on that. If the States cannot agree that we should make more affordable housing provision in Jersey a strategic aim then, I am sorry, that does not work. We are only requesting the Ministers for Housing and Treasury and Resources to investigate and report back to the States within 6 months whether it would be advantageous for the States to enact appropriate legislation to enable the States to condition property purchase in Jersey. I do not hold out much hope for that but at least we got to talk about it for 10 minutes. Retention of the property for the owners if affected: I was not talking about buying their home. I was talking about securing their mortgage. In June of 2007 the world was a different place; not so very long ago. Not so very long ago registered unemployment stood at 330. Today it is nearing 1,900 to 2,000; nearly 5 times higher. From this global recession 15 million people in the United States of America are going to lose their homes; 9 million people have already. I am not sure if I

am allowed to use “heaven”; I know I am not allowed to use “hell”. Heaven forbid that it would come to pass that we would be in that situation but I am saying: “Let us prepare for the worst, plan for the best and things will be okay if we are prepared.” It certainly is not going to do us any good at all to get to that position and say: “Well, we could not have done anything even if we were Ireland.” Let us not go there. Let us be prepared. Let us be in a position where if 2 or 300 people ... there is one a year at the moment we are told. Well, there is no evidence in front of me to provide that information.

[15:45]

If there is only one or 2 people losing their houses at the moment, let us see that evidence that I have been accused of not providing and if it gets to, in 3 years’ time, 5 times as many and in 5 years of that 5 times as many again, then maybe we want to think about doing something about it. It is really hard work. Inappropriate property speculation: I did not want to mention one but the Assistant Minister told me Zion Property is getting flipped: “It is just a one-off.” Even the Minister himself said: “I had not provided the information,” but he would be naïve to say that there would not have been at least one issue or one occasion. There is one. I did not know about that one; the Assistant Minister for Housing told me about it. That is all I am asking. Half the debate was spent around Members getting clarification from Deputy Power as to how much money the department got; how much the receipts were; how much the rent rebate was; what went back to the States and what portion of it was kept in Housing. Half of everybody’s questions about money, meant to be informed to States Members, had to be informed by the previous Minister for Housing because he has got a good grasp on the issues. Why do not we all have a good grasp of the issues? I know it is sometimes a bit difficult with me and sometimes I make propositions easy and sometimes I do not. With the greatest of respect, if I have made it difficult today over this issue I do not apologise. I am normally quite polite about these matters but in this instance I am afraid I cannot apologise for making Members have to go through a debate perhaps with too many papers, perhaps with me being long-winded and perhaps not entertaining all of those listeners on the radio. But if it helps one homeless person and if it helps one person who is living ... I was told today at lunchtime by somebody, a lady and a child living in one room, 16 months they have been waiting for accommodation; 16 months in one room and they have had a Deputy helping them all the time. So if this helps a little bit then I will have done my best anyway. I do not know if it is possible, Sir, procedurally; if we can take them in as many votes as ... I am not going to go subsections. If we can just take them as (a) ...

The Bailiff:

Yes, so paragraph (a), paragraph (b), paragraph (c) and so on.

Deputy P.V.F. Le Claire:

If possible, Sir. Thank you.

The Bailiff:

Yes. No, they all stand alone; so there is no reason why, if you wish, they should not be taken separately. Is the appel called for, Deputy?

Deputy P.V.F. Le Claire:

Yes, please, Sir.

The Bailiff:

The appel is called for then in relation to the proposition of Deputy Le Claire. The first vote will be on paragraph (a). I invite Members to return to their seats and the Greffier will open the voting.

POUR: 14		CONTRE: 31		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Connétable of St. Mary		Senator F.E. Cohen		
Deputy R.C. Duhamel (S)		Senator J.L. Perchard		
Deputy of St. Martin		Senator S.C. Ferguson		
Deputy R.G. Le Hérisier (S)		Senator A.J.H. Maclean		
Deputy G.P. Southern (H)		Senator B.I. Le Marquand		
Deputy of Grouville		Senator F. du H. Le Gresley		
Deputy P.V.F. Le Claire (H)		Connétable of St. Ouen		
Deputy M. Tadier (B)		Connétable of Trinity		
Deputy of St. Mary		Connétable of Grouville		
Deputy T.M. Pitman (H)		Connétable of St. Brelade		
Deputy M.R. Higgins (H)		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy J.A. Hilton (H)		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		

		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Bailiff:

Very well then; the Greffier will reset the machine and then we will come to paragraph (b). The Greffier will open the voting.

POUR: 21		CONTRE: 24		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Senator F. du H. Le Gresley		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of St. Lawrence		Senator F.E. Cohen		
Connétable of St. Mary		Senator J.L. Perchard		
Deputy R.C. Duhamel (S)		Senator S.C. Ferguson		
Deputy of St. Martin		Senator A.J.H. Maclean		
Deputy R.G. Le Hérisier (S)		Senator B.I. Le Marquand		
Deputy G.P. Southern (H)		Connétable of St. Ouen		
Deputy of Grouville		Connétable of Trinity		
Deputy J.A. Hilton (H)		Connétable of Grouville		
Deputy P.V.F. Le Claire (H)		Connétable of St. Brelade		
Deputy S.S.P.A. Power (B)		Connétable of St. Martin		
Deputy K.C. Lewis (S)		Connétable of St. John		
Deputy of St. John		Connétable of St. Saviour		
Deputy M. Tadier (B)		Connétable of St. Clement		
Deputy of St. Mary		Connétable of St. Peter		
Deputy T.M. Pitman (H)		Deputy J.B. Fox (H)		
Deputy T.A. Vallois (S)		Deputy of St. Ouen		

Deputy M.R. Higgins (H)		Deputy I.J. Gorst (C)		
Deputy J.M. Maçon (S)		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		

The Bailiff:

Very well then, the Greffier will reset the machine and we come then to paragraph (c) and the Greffier will open the voting.

POUR: 29		CONTRE: 16		ABSTAIN: 0
Senator P.F. Routier		Senator T.A. Le Sueur		
Senator F.E. Cohen		Senator P.F.C. Ozouf		
Senator J.L. Perchard		Senator S.C. Ferguson		
Senator A. Breckon		Senator A.J.H. Maclean		
Senator F. du H. Le Gresley		Senator B.I. Le Marquand		
Connétable of St. Ouen		Connétable of Trinity		
Connétable of St. Helier		Connétable of Grouville		
Connétable of St. Martin		Connétable of St. Brelade		
Connétable of St. Saviour		Connétable of St. John		
Connétable of St. Clement		Deputy J.B. Fox (H)		
Connétable of St. Peter		Deputy of St. Ouen		
Connétable of St. Lawrence		Deputy S.S.P.A. Power (B)		
Connétable of St. Mary		Deputy I.J. Gorst (C)		
Deputy R.C. Duhamel (S)		Deputy A.E. Jeune (B)		
Deputy of St. Martin		Deputy A.T. Dupré (C)		
Deputy R.G. Le Hérisier (S)		Deputy E.J. Noel (L)		
Deputy G.P. Southern (H)				
Deputy of Grouville				

Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

The Bailiff:

Very well then, we come next to paragraph (d) and the Greffier will open the voting.

POUR: 10		CONTRE: 34		ABSTAIN: 0
Connétable of St. Lawrence		Senator T.A. Le Sueur		
Deputy of St. Martin		Senator P.F. Routier		
Deputy R.G. Le Hérisier (S)		Senator P.F.C. Ozouf		
Deputy G.P. Southern (H)		Senator F.E. Cohen		
Deputy of Grouville		Senator J.L. Perchard		
Deputy P.V.F. Le Claire (H)		Senator A. Breckon		
Deputy M. Tadier (B)		Senator S.C. Ferguson		
Deputy T.M. Pitman (H)		Senator A.J.H. Maclean		
Deputy T.A. Vallois (S)		Senator B.I. Le Marquand		
Deputy M.R. Higgins (H)		Senator F. du H. Le Gresley		
		Connétable of St. Ouen		
		Connétable of St. Helier		
		Connétable of Trinity		

		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy J.A. Hilton (H)		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Bailiff:

Then we will come next to paragraph (e) and the Greffier will open the voting.

POUR: 15		CONTRE: 30		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Connétable of St. Mary		Senator F.E. Cohen		

Deputy of St. Martin		Senator J.L. Perchard		
Deputy R.G. Le Hérisssier (S)		Senator S.C. Ferguson		
Deputy G.P. Southern (H)		Senator A.J.H. Maclean		
Deputy of Grouville		Senator B.I. Le Marquand		
Deputy P.V.F. Le Claire (H)		Senator F. du H. Le Gresley		
Deputy K.C. Lewis (S)		Connétable of St. Ouen		
Deputy M. Tadier (B)		Connétable of Trinity		
Deputy of St. Mary		Connétable of Grouville		
Deputy T.M. Pitman (H)		Connétable of St. Brelade		
Deputy T.A. Vallois (S)		Connétable of St. Martin		
Deputy M.R. Higgins (H)		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Deputy R.C. Duhamel (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy J.A. Hilton (H)		
		Deputy S.S.P.A. Power (B)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

The Bailiff:

We come next to paragraph (f) and the Greffier will open the voting.

POUR: 15		CONTRE: 29		ABSTAIN: 0
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of St. Helier		Senator P.F. Routier		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Deputy of St. Martin		Senator F.E. Cohen		
Deputy of Grouville		Senator J.L. Perchard		
Deputy J.A. Hilton (H)		Senator S.C. Ferguson		
Deputy P.V.F. Le Claire (H)		Senator A.J.H. Maclean		
Deputy S.S.P.A. Power (B)		Senator B.I. Le Marquand		
Deputy K.C. Lewis (S)		Senator F. du H. Le Gresley		
Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy of St. Mary		Connétable of Grouville		
Deputy T.M. Pitman (H)		Connétable of St. Brelade		
Deputy T.A. Vallois (S)		Connétable of St. Martin		
Deputy M.R. Higgins (H)		Connétable of St. John		
Deputy J.M. Maçon (S)		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy R.G. Le Hérissier (S)		
		Deputy J.B. Fox (H)		
		Deputy G.P. Southern (H)		
		Deputy of St. Ouen		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		

		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		

The Bailiff:

Finally, we come to paragraph (g) and the Greffier will open the voting.

POUR: 28		CONTRE: 16		ABSTAIN: 1
Senator P.F. Routier		Senator T.A. Le Sueur		Deputy M. Tadier (B)
Senator F.E. Cohen		Senator P.F.C. Ozouf		
Senator J.L. Perchard		Senator A.J.H. Maclean		
Senator A. Breckon		Connétable of Grouville		
Senator S.C. Ferguson		Connétable of St. John		
Senator B.I. Le Marquand		Connétable of St. Peter		
Senator F. du H. Le Gresley		Deputy R.C. Duhamel (S)		
Connétable of St. Ouen		Deputy J.B. Fox (H)		
Connétable of St. Helier		Deputy G.P. Southern (H)		
Connétable of Trinity		Deputy of St. Ouen		
Connétable of St. Brelade		Deputy K.C. Lewis (S)		
Connétable of St. Martin		Deputy I.J. Gorst (C)		
Connétable of St. Saviour		Deputy A.E. Jeune (B)		
Connétable of St. Clement		Deputy E.J. Noel (L)		
Connétable of St. Lawrence		Deputy T.A. Vallois (S)		
Connétable of St. Mary		Deputy A.K.F. Green (H)		
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy of St. John				

Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				

Deputy P.V.F. Le Claire:

Can I thank all Members, Sir? Thank you.

The Connétable of St. Mary:

Sir, I wonder if I might just take this opportunity, with your leave, to advise the Assembly: unfortunately, Deputy Shona Pitman has learned of a serious illness in her close family and has had to leave the Chamber and she has asked if her proposition, P.3, could be moved down the Order Paper in the order of debate. She hopes to be back in the Assembly tomorrow, Sir.

STATEMENTS ON MATTERS OF OFFICIAL RESPONSIBILITY

The Bailiff:

Very well. I am sure Members would agree to that, in the circumstances. There are 2 statements, so would Members agree this is a convenient moment to make the 2 statements where the time limits have been complied with? First of all, I invite the Minister for Treasury and Resources to make a statement on fiscal stimulus.

3.1 Statement by the Minister for Treasury and Resources regarding fiscal stimulus

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

I am grateful to Senator Breckon for a copy of the statement. The purpose of this statement is to inform Members about a decision in relation to Pomme d’or Farm. Members will recall that in 2009, following advice from the Fiscal Policy Panel, the States voted in P.55/2009 Economic Stimulus Plan, to allocate £44 million from the Stabilisation Fund to the Consolidated Fund to provide funding for the proposed Discretionary Economic Stimulus Programme. Since that time, the Fiscal Stimulus Steering Group has overseen the programme and has ensured that the fiscal stimulus criteria, namely the 3 Ts: temporary, targeted and timely, have been met. The programme has been very successful with a package of initiatives which have provided an extra stimulus to the economy and supported individuals, employment and businesses in Jersey through the downturn. Earlier this year, I made the Assembly aware that I was allocating £2.2 million in fiscal stimulus funds to skills and training and that I would return to the Assembly with a further statement. My statement today is to notify Members that I intend to make an exception to the timeframe for fiscal stimulus allocations that were set out in P.55/2009 in order to extend the funding of the Housing Maintenance Programme. This will enable the important refurbishment works to go ahead on Pomme d’or Farm Estate between September 2011 and 2014. After consulting the Corporate Affairs Scrutiny Panel, I plan to allocate £3.6 million for this purpose. This will mean that the £44 million has been allocated to fiscal stimulus projects. The Fiscal Stimulus Programme has invested £5.2 million in the Housing Programme of maintenance of heating, roofs and windows, in addition to the £8.1 million capital build of Le Squez. The maintenance programme of Pomme d’or Farm Estate is one of the Housing Department’s top priorities. This allocation of £3.6 million taken together with existing resources in Housing will further improve States assets, provide much-needed improvements to States tenants and reduce backlog maintenance, which has already come down from £75 million to £40 million. Housing has planning permission for this scheme and is well-advanced with preparations for its delivery. This will facilitate a September 2011 start date.

Given the current financial climate, sales of States housing properties under P.6/2007 are difficult, which means that the Housing Department has had to reduce the works that they are planning to undertake. This additional allocation allows them to continue their programme while also taking advantage of lower tenders within the current marketplace. The £3.6 million will be refunded by Housing as sales receipts improve. The funding of this scheme would have fallen outside the time period for approval of funding by the steering group that advises me, however, I hope Members agree that this is a wise and effective use of resources. I have made this decision after an initial proposition, P.177/2010, which was brought to the Assembly by Deputy Green and following extensive consultation with the Assistant Minister for Housing. The new Minister for Housing has not been involved in this consultation since such time as his appointment was proposed. Further to this, I will consult with Corporate Affairs about this measure. This project provides excellent value for money, it continues to serve as a boost to the economy and provides an extremely welcome improvement to the living conditions for the persons living at Pomme d'or Farm. I hope Members will join me in recognising that this is an appropriate use of funds. **[Approbation]**

The Connétable of St. John:

I would just like to offer for the 88 tenants of Pomme d'or Farm and for the Department thanks for the co-operation of the Minister for Treasury in this matter. We are a good way towards funding this now and we will be looking to put things in place. We already having planning permission on that, so it is just to offer a thanks to the Minister for Treasury.

The Bailiff:

We will discount that from question time, then. Deputy Le Claire?

3.1.2 Deputy P.V.F. Le Claire:

Notwithstanding that the work was identified as being in the region of £7 million and now it has been identified as £3.6 million (it must be a remarkable reduction in the quote) the statement says ... I will pick up on the Assistant Minister's advice here: "The £3.6 million will be refunded by Housing as sales receipts improve." What does that mean, how will that happen?

Senator P.F.C. Ozouf:

In relation to the cost, the £3.6 million is the fiscal stimulus funding, there is an additional allocation from Housing itself; from memory, it is £1.2 million from their capital and a further £500,000 from its revenue expenditure. Of course, we expect that the tenders for this could be below originally what was anticipated because of the slowness of the housing market. In relation to the repayment of this, Housing is selling units, as the Deputy will know, and that has not continued at the pace that it was expected because of the downturn and we will have discussions with Housing about the extent to which the sales which they were expecting to be made, which would have facilitated this capital spend, can repay this amount in the same way that Le Squez is.

3.1.3 Deputy J.A. Hilton of St. Helier:

I was going to ask a very similar question but a question I will ask is: in the statement, the Minister makes reference to the backlog of maintenance of £75 million down to £40 million. Can he tell the house how he intends to assist the Housing Department in carrying out some more of this maintenance?

Senator P.F.C. Ozouf:

That is the total amount of money that would be required to put the entire housing stock into the condition that we would want and there is going to be a challenge going forward about how we identify this with the limited amount of money that we have in the capital programme. My own view about how this could be solved is the moving of the Housing Department's social-rented landlord function into a standalone body that would give it much more flexible funding mechanisms just as social housing provision is provided in other places, and particularly in the

United Kingdom, in a much more innovative way. We need to be more innovative in relation to the funding of social housing, and that is how that will be solved.

3.1.4 The Deputy of St. John:

Can I say how appalled I am that yet again money is coming from the stimulus fund and not going into other areas of our infrastructure. Some months ago, or 18 months ago now, we saw large sums of money going on Victoria Avenue when it could have been broken into smaller portions across the Island. Yesterday evening on TV we had a ...

[16:00]

The Bailiff:

If you would, Deputy, a reasonably concise question because there are a lot of Members wanting to ask questions?

The Deputy of St. John:

Yes, Sir. Will the Minister agree that the £300,000 mentioned by officers of T.T.S. (Transport and Technical Services) yesterday on television for repair to road potholes, is a minute part of the money required for the state of our roads, which are very poor, and when will the Minister get it into his head that we must look after all our infrastructure, in particular our roads, before people are injured on them?

Senator P.F.C. Ozouf:

I agree with the Deputy that we require more money for our infrastructure. I would remind the Deputy that we have done a great deal in order to find money for infrastructure: we have solved the waste issue with the energy from the waste plant, we have put more money into roads. This is the problem that we are going to have to tackle in this Assembly of how we do fund, in the medium term, infrastructure requirements. I recognise the Deputy's concern, liquid waste is on our agenda for resolution, but there are other issues that we need to deal with and the Assembly is going to have to assist me later on this year in finding solutions to these issues.

The Bailiff:

I am sorry, Deputy but there are so many people wanting ...

Senator P.F.C. Ozouf:

I want to deal with that ...

The Bailiff:

No. Deputy Southern?

3.1.5 Deputy G.P. Southern:

Does the Minister for Treasury accept that he is, in a way, robbing Peter to pay Paul since he is insisting that the money is paid back and therefore money generated from sales, which should go to refurbishment and maintenance, will not in future go to them. Pomme d'or may be okay, the next project down the line or the one after that is not going to be okay because he is insisting that the money be paid back.

Senator P.F.C. Ozouf:

No. I think that the Assembly in the Annual Business Plan needs to make decisions in total about capital spending and so the fact that the fiscal stimulus is going to come back to be repaid, it will mean that this Assembly makes the decision. If you like, the fiscal stimulus is a cash-flow issue and the Assembly will make the decision about the long-term allocation of whether or not capital

receipts are going to the Deputy John's issue of infrastructure or the issue of Housing. So it empowers this Assembly to make the decisions of where capital money is going.

3.1.6 Senator S.C. Ferguson:

Is the Minister aware that such forms of quantitative easing have a multiplier of less than one, about 0.75? Is there not a danger that this will be inflationary, and how does this all fit with the objectives of the C.S.R.?

Senator P.F.C. Ozouf:

Those are good but very wide-ranging questions.

The Bailiff:

To which you are going to give a concise answer. **[Laughter]**

Senator P.F.C. Ozouf:

Yes. I will attempt to but quantitative easing ... there is a direct benefit: if we spend money on construction in the Island with the criteria of fiscal stimulus in local jobs, multipliers or otherwise, it will keep people in work in an otherwise depressed construction industry and, frankly, academic debates about quantitative easings are not relevant; this is C.S.R.-compliant because we are going to get better value for this construction contract which is needed to be done because of the depressed state of the construction market.

3.1.7 Senator F. du H. Le Gresley:

I would just like to ask the Minister when was it agreed that money paid out of fiscal stimulus would have to be repaid and were any other allocations subject to that same condition?

Senator P.F.C. Ozouf:

Yes, indeed. The other big project which was being repaid, and this is not repaid for the benevolence of the Treasury, this is repaid for the good order of the States Assembly in deciding where capital ultimately is being spent on the political priorities, so I do not think we are being unfair to Housing in relation to this particular issue. They do have a revenue stream, for example, from Le Squez, which can be capitalised, which should be repaid, which allows this Assembly to reallocate that money for other important infrastructure projects or, indeed, other Housing projects as well.

3.1.8 Deputy M.R. Higgins of St. Helier:

As the work is being phased block by block, I am concerned by the fact that the sum being provided is less than that estimated and relies on tenders coming in, some almost £2 million less than the original figures. Can the Minister assure me that we will not find some residents being let down and their homes not being completed because the money runs out? I must also add that, while I was against the £7 million being borrowed or purloined by the Minister for Treasury from the Housing budget in the first place, I would like to thank him for coming up with this money for the residents of the Pomme d'or Estate, who have been badly let down in the past.

Senator P.F.C. Ozouf:

First of all, for the avoidance of doubt, Le Squez was the only one that was repaid. This money was not purloined from the Treasury, it is as though the Minister for Treasury is in this unique position: the Minister for Treasury in conjunction with the Council of Ministers, reprioritised the capital programme, put this as a lower priority and in advance put the urgent matters that were needed in the Health Department, things like the intensive care unit, to be a higher priority. We have been trying to find solutions to different departments' capital requirements and the fiscal stimulus has allowed us to do that. As far as the residents not being able to see their

accommodation upgraded, we are reasonably confident, effectively, if we get the refurbishment done in the next few months, we will have sufficient resources in order to complete the programme.

3.1.9 Deputy M. Tadier:

How does the Minister respond to the argument we heard in the last debate that if the £23 million profit that the Housing Department made was not transferred to the Treasury, they would not need to be having this money applied in the fiscal stimulus, they could use that money themselves to provide and to prioritise Housing repairs as they saw fit themselves?

Senator P.F.C. Ozouf:

I think that is a very good question and I have got some work to do to explain the reality of this. It is not a profit-making business in terms of the Housing Department, this was a budget which was internally, in Housing, collecting rent and providing money to support people in social housing. The fact that we introduced income support and put that in a different department means the accounting entries are now showing that there is a credit for Housing which is effectively going across to Social Security. This is not a dividend from Housing Jersey Limited, this is accounting treatment reflecting the very high cost of providing social-rented housing in 2 different departments. Nothing has changed, but it appears to me that history is being attempted to be rewritten in terms of this bonanza of money for the Housing Department; it is not quite that, if I may say.

3.1.10 The Deputy of St. Mary:

Very interesting answer. Yes. The Minister's statement makes the case for investment when he says: "This allocation of £3.6 million, taken together with existing resources in Housing will further improve States assets, provide much-needed improvements to States tenants and reduce backlog maintenance." It sounds very good. Can the Minister assure Members that this commonsense approach to public expenditure will be continued in some form, even though the F.S.P. (Fiscal Stimulus Package) is now concluded?

Senator P.F.C. Ozouf:

I think it is the C.S.R. as opposed to the ...

The Deputy of St. Mary:

F.S.P., Fiscal Stimulus Package.

Senator P.F.C. Ozouf:

I think the Deputy wants me to bring forward proposals to just spend a lot more money and I understand the tensions that we have in all sorts of different departments, scarce resources mean difficult decisions, and that is the allocation of capital resources. Ministers want lots of money for their capital projects, I understand that, but we have to make the best priority allocations and this Assembly makes them annually in the Business Plan.

The Bailiff:

I know there are other Members who have got questions but, unfortunately, that is the end of questions to the Minister on his statement. But then there is also a statement to be made by the Chairman of the Corporate Services Scrutiny Panel. Chairman?

3.2 Statement by the Chairman of the Corporate Services Scrutiny Panel regarding the Fiscal Strategy Review Report

3.2.1 Senator S.C. Ferguson:

The Chairmen's Committee has decided, in fact, that in order to make sure that our reports perhaps have a little more publicity and encourage Members to read them, that we will adopt a number of methods in order to bring them to the attention of the States and, in this case, we decided to have a

statement. Members have today received their copy of the review of the Fiscal Strategy Review, S.R.2/2010, which has been presented following the work of the Corporate Services Scrutiny Panel on the F.S.R. (Fiscal Strategy Review). I would like to draw Members' attention to our report and, in particular, to our primary conclusions. As Members are aware, the F.S.R. was itself undertaken in 2010 and led to the inclusion of proposals within the 2011 budget. However, while the 2011 budget was adopted in December last year, the debate on the Island's Fiscal Strategy must, and will, continue. The primary issues that arose during our review were broad in nature. It is our view that the Island's Fiscal Strategy should be long term and should be comprehensive. It should not merely aim to address issues of immediate importance but should look at the development of Jersey's tax regime over a span of 10, 20, 30 years, or even beyond. It should include questions such as the balance of direct versus indirect taxation. It should also incorporate both personal and corporate taxation and yet the Business Tax Review implemented to consider options in light of the E.U.'s (European Union) examination of our Zero/Ten corporate tax regime, was seen by the Minister for Treasury and Resources as a separate entity and, indeed, has yet to be completed. While there may be logic in the Minister's perspective, it is our firm view that the Island's fiscal strategy must cover all forms of taxation, to do otherwise will only strengthen the perception that already exists that a "business first, people second" approach has been taken. Members will read in the report our conclusion that, taking into account the matters I have just raised, last year's F.S.R. did not amount to the long-term comprehensive exercise that the title of Fiscal Strategy Review would suggest. More work is therefore required before it can be said that we have a true fiscal strategy. We received a clear message that the F.S.R. was only one tool that would be used to address the Island's financial and fiscal situation. We learnt that, alongside the F.S.R., one would expect to see an economic growth plan and efforts to reduce spending. However, last year's F.S.R. was conducted without a current economic growth plan in place. The last one agreed by this Assembly ran out in 2009. Although we understand that a new plan is currently in development, its absence during the F.S.R. is, at the least, regrettable. Furthermore, while the C.S.R. has begun, it is not clear that spending is yet under control, this is despite the clear message given by the public that the first priority should be the control of expenditure. The Minister is aware of the work that remains to be done and, indeed, work has started. This can be seen, for instance, in the establishment of the tax policy unit and work on the C.S.R. also continues. Our review has shown, however, that there remains a good deal to be done and our recommendations suggest ways in which the Minister can improve matters. To this end, we have recommended that he consult the Fiscal Policy Panel on long-term strategising, that he revisit the F.S.R. and that he and his successors present an annual fiscal strategy report to the States. It is also more than apparent that further increases in the rate of income tax, G.S.T. or social security should not be mooted unless the second part of the C.S.R. is delivered. I would like to encourage Members to read our report and I commend it to the Assembly.

3.2.2 Deputy G.P. Southern:

Did the panel examine whether income tax revenues from companies have been reduced to an unsustainably low level and did the panel examine or find any evidence for economic growth as yet?

Senator S.C. Ferguson:

That is an interesting question. As the Deputy will know, the Business Tax Review has not yet been completed. We would like to see it as part of the overall fiscal strategy; a fiscal strategy should be looking at the direct tax, the indirect tax, the balance of taxation; the whole gamut of corporate tax, consumption tax, property tax, income tax and so forth. We are awaiting the results of the Business Tax Review which is, basically, to look at the Zero/Ten position and once we have those we will be looking at it. I am sorry, I do not remember the second part of the question.

[16:15]

Deputy G.P. Southern:

Did the panel find any hard evidence of economic growth in the economy as yet?

Senator S.C. Ferguson:

Not particularly. This was not particularly what we were looking at specially, we were looking at the F.S.R. We have looked at economic factors, for example, the O.E.C.D. (Organisation for Economic Co-operation and Development) work ...

The Bailiff:

I think a reasonably concise answer ... I think the question was whether you had seen signs of economic growth and you say it was not within your review plan.

Senator S.C. Ferguson:

It was not within our remit, Sir.

The Bailiff:

Deputy Le Hérisssier?

3.2.3 Deputy R.G. Le Hérisssier:

The panel appears to say, and I congratulate the Chairman on her statement, that there had not been the requisite determination and enthusiasm in terms of controlling expenditure hence the premature move towards more taxation. Where does the panel feel, in a general sense, that expenditure can be more tightly controlled or that cut-backs can occur in the public services?

Senator S.C. Ferguson:

We will be returning to the C.S.R. in a new review starting shortly. As the Deputy will remember from his days on my P.A.C. (Public Accounts Committee) the Comptroller and Auditor General's Review looked at the cross-cutting issues and, so far, we have not really seen many signs of solid progress on that but we have a briefing with the Minister for Treasury next week and we will be asking for an update on this. But we will be returning to it as a panel report to see what the progress is in implementing the C.S.R.

3.2.4 Senator A. Breckon:

The Chairman has made reference in her statement to no further increases in income tax, G.S.T. (Goods and Services Tax) or social security and that is also contained in paragraph 2.5 of the report. Can I ask her, from that statement, does she mean from increases that have already been agreed or from where we are now?

Senator S.C. Ferguson:

From where we are now. I think we have agreed increases as of 31st December 2010 but we would prefer to see genuine progress with the C.S.R. before we start looking at increases in taxes. But, in fact, we would like to see this broad fiscal strategy that I have mentioned developed before we start fiddling at the edges and doing things piecemeal. We have got to look at the whole thing in a strategic manner; as I say, we have got to look at all the types of taxes, we have got to look at their interplay with the social security system and the benefits. I know Deputy Southern is very keen on changing the disregard, or at least getting it and encouraging people back to work, and I know the Minister is equally keen to get that piece of work done. As for increasing them, no more.

3.2.5 Senator P.F.C. Ozouf:

The last question has been partly confirmed but I think I just would like to know: does the Chairman still give her support for the fiscal strategy that was brought to the Assembly last year? Is she surprised that the Minister for Treasury agrees with the focus of a long-term fiscal strategy

and does she agree with me that the fiscal strategy should be part of the strategic plan that the Assembly agrees at the start of its term of office?

The Bailiff:

Chairman ...?

Senator S.C. Ferguson:

Sorry. Pause for thought, Sir.

The Bailiff:

Yes, but do not use up too much of your ten minutes. **[Laughter]**

Senator S.C. Ferguson:

The mills of the brain grind exceedingly slow but they get there. Last year's fiscal strategy in December, to be fair, we considered that those were necessary short-term measures in order to meet a particular situation. As far as the strategic plan goes, it is a little broad, it says we want: "Balanced budgets, we want sustainable finances." We were thinking more in terms of the New Zealand approach which, if Members have the report, you can find under paragraph 5.21: "New Zealand publishes an annual fiscal strategy report and measures how the government is doing against its overall goals." The strategy report ...

The Bailiff:

I think, Senator, a concise answer to the question.

Senator S.C. Ferguson:

I have cut out the middle, Sir. **[Laughter]** I am just encouraging people to read it. I see that the Minister for Treasury is already looking for it, it is page 22. This strategic report is meant to have a horizon of at least 40 years and is reviewed at least every 4 years. I think that is a very good model that we should be looking at.

3.2.6 Deputy M. Tadier:

If only more Ministers would pause for thought, they maybe would not speak at all. My question is to do with ...

Senator S.C. Ferguson:

I am not a Minister.

Deputy M. Tadier:

Yes. I know you are not a Minister ... I know the Senator is not, that was not the implication. **[Laughter]** Back on track. The question is the Senator seems to have suggested that there has been a short-term approach taken in the F.S.R. Can the Senator advise why she thinks this short-term approach has been taken?

Senator S.C. Ferguson:

The short-term approach was necessary for the particular situation we found ourselves in. Yes, my panel and I are very keen, as we said in our C.S.R. report, for very much more work on policy, on looking ahead. In the Strategic Plan it says: "Balanced budgets and sustainable finances"; that is fine, and we are here and those are there and how are we going to get from here to there? This is what we are trying to encourage the Minister for Treasury to continue to do, he has already started on this work, and we are just trying to encourage the Ministers to get along the road and just have a better plan of where we are going.

Deputy M. Tadier:

May I have a supplementary, Sir?

The Bailiff:

Well, the 10 minutes tends to allow one question so that many Members can ...

3.2.7 Senator J.L. Perchard:

Does the Senator really believe it is a good idea for chairmen of scrutiny panels to give a statement when they publish a report?

Senator S.C. Ferguson:

We were hoping that it might encourage such luminaries at the Senator to read the report beyond the ... [Laughter] executive summary.

3.2.8 Deputy G.P. Southern:

In the final lines of this statement, it says: "It is also more than apparent that further increases in the rate of income tax, G.S.T. or social security should not be mooted unless the second part of the C.S.R. is delivered." Based on what evidence is it: "More than apparent" that that should be happening? From where did the evidence come for that statement?

Senator S.C. Ferguson:

The evidence comes from the report from economic adviser and from anecdotal evidence and evidence from Jens Arnold of the O.E.C.D. and Alesina and Camper Mellor(?), I think it is, in that economies that have fiscal adjustments using spending reductions and more efficiency, have a very much better record of economic growth afterwards than governments who ... and let us face it, we all know that governments have wonderful ways of managing to increase taxes; it is the easy way out, it is not the way to get sustained economic growth and the evidence proves it, not just the anecdotal or "this seems like a good idea from the text book", the evidence shows this.

Deputy G.P. Southern:

A supplementary, Sir, if I may? No, too late ...

The Bailiff:

I am sorry, Deputy, we have run out of time.

Deputy A.K.F. Green:

Sir, I am not sure if this is the right time to do it, but could I give formal notice that I am withdrawing P.177, Pomme d'or Farm? [Laughter]

PUBLIC BUSINESS - resumption

4. Draft Gambling (Remote Gambling Disaster Recovery) (Amendment) (Jersey) Regulations 201- (P.199/2010): continuation of second reading

The Bailiff:

Very well. That will, no doubt, come as a great surprise to Members. There is a matter which has been lodged, Projet 32, lodged by the Minister for Treasury and Resources, on the subject of States of Jersey Development Company Limited, appointment of chairman and non-executive directors. Then we return now to the Order Paper and the Draft Gambling (Remote Gambling Disaster Recovery) (Amendment) (Jersey) Regulations 201- (P.199/2010), lodged by the Minister for Economic Development. This is a matter where the principles were approved in second reading and therefore we continue, I think, straight on with the Articles. Greffier, I am not sure there is any need for you to re-read the principles. Minister, do you wish to propose some of the individual regulations?

The Deputy of St. Mary:

Sir, may I raise a point of order, with a little bit of reluctance? The Scrutiny Panel has lodged quite extensive comments, even though we had one week to do them in, and many of the comments apply, really, right the way through the articles. The thing on the Code of Practice comes up again and again and the comments are, in a sense, a general overview of the issues that are buried in these regulations. So if we do not look at those, in a sense, in the round before, then we are going to be redoing the same kind of argument with each Article, as the Minister mentions Code of Practice, we will have the same thing again and again. I just wonder how to take that because the Chairman has prepared a statement and it might be wise to take the general issues around the regulations in that way.

The Bailiff:

Thank you, Deputy. The Chairman has, in fact, sent a note to me through the Greffier. I do not think it is permissible under the procedures for there to be a statement as such, but what I said was that I would give considerable latitude to the Chairman, when he talks about the first regulation where these matters come up, to raise the general points and then in future regulations he can just say: "This is the Code of Conduct point again" or whatever it may be, something of that nature. Minister, how do you wish to proceed?

Senator A.J.H. Maclean:

Sir, bearing in mind what has just been said, I think it might be wise if I took the regulations en bloc, one to 40, but I was intending on talking about the key ones where there are substantive changes and others that might be relevant to Members; that accounts for about 9. So if I talk about those, Sir, that would then give the Chairman of the Scrutiny Panel or his assistant an opportunity to make any other references they wish, or ask questions (or any other Member for that matter) about any of the other regulations that they wish to have more detail on. Would that be acceptable, Sir?

The Bailiff:

Very well. Are Members happy to proceed in that way or would Members prefer to take the regulations more slowly?

The Deputy of St. Mary:

I think we really do not know, until we have heard the explanation, whether it is wise to do them en bloc or whether there are issues that are more pertinent to some ...

The Bailiff:

They can be voted on separately so what I suggest then is that we will proceed, as the Minister wishes, to propose them en bloc and then people can speak to any of the individual regulations, or more generally, as they wish. Then the voting can be as Members wish.

Senator A. Breckon:

Sir, I wonder if I may ask a question of the Chair before we do that? The debate was deferred for a scrutiny review. Is it not in order for the Chairman to make some sort of statement to give us some steer on what they found before we get into the detail, as it were, or will that, do you believe ...

The Bailiff:

I think what we have said is he can do that, really, when he stands up to speak on the regulation. Very well, Minister?

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

As I hopefully explained, I am not going to deal with every regulation in detail but I will make comments as I go through. I will start with the first amendment. In fact, it does, as a matter of fact, deal with one of the major concerns or initial concerns that the Scrutiny Panel had. Amendment 1,

under the title “Interpretation” proposes a change of title to reflect the adaptation of the regulations to allow a full licensing regime. This is picked up again further on in the proposed revision of the regulations and provides a new title and that new title is Gambling (Remote Gambling) (Jersey) Regulations 2008.

[16:30]

Regulation 3 amends Regulation 1 which contains the definitions in the principal regulations; importantly, it distinguishes 2 types of remote gambling operator’s licence, namely, a Disaster Recovery Operator’s Licence for those who wished only to conduct remote gambling in the circumstances catered for by the current principal regulations and a new Remote Operator’s Licence for those who wish to conduct remote gambling on an ongoing basis. It also defines “Jersey person” as: “A natural person, partnership or body corporate with specific links with Jersey.” It makes various minor and consequential changes to other definitions and signposts new definitions in the substituted Regulation 2. It deletes paragraph 2, power to designate remote sites, because this power has been relocated to Regulation 2.8. Regulation 4 substitutes Regulation 2 and expands on the definitions of “remote gambling” and related concepts. It defines “remote gambling” as gambling by means of electronic communication through a website or other designated remote site. In so doing, this removes the need to bulk out the licence with definitions relating to gaming and those which would refer to betting. However, the number of gambling offered will be prescribed in the licence itself. Moving on to Regulation 10, Regulation 10 amends Regulation 8. It continues the requirement that a foreign corporation applying for a Disaster Recovery Operator’s Licence should have current authorisation in the form of a licence from its home jurisdiction. This requirement does not apply to an applicant for a General Remote Operator’s Licence as that applicant must be a Jersey person, the definition of which I have just described. In considering applications for Disaster Recovery Operator’s Licences, the Commission must be satisfied that the proposed operation should not instead be covered by a General Operator’s Licence. The licence grant fee is removed principally on the grounds that it is an arbitrary charge that falls between the application fee and the licence fee and cannot be justified as proportionate. The Commission has a new duty to publish and take account, a statement of its policy on the granting of licences, including the independent testing of games. The Commission must also take into account and publish any form of gambling for which licences will not be granted. This is a new requirement for satisfactory independent testing of certain equipment, including software. Accordingly, provisions for checking systems are strengthened. Moreover, customers can be limited in their gambling as well as completely excluded from it. The financial and fitness checks are focused on the prospective licence holder and the foreign corporation behind a disaster recovery application. But a duty is added to take account of whether there are any other persons who should be subject to financial or fitness checks if they can influence the licence holder, not just directors or holding or subsidiary companies. But the amendment now includes any others such as employees, shareholders, business partners or relatives, if they could be seen to have any form of influence. The general reference to fairness and security is replaced with a more specific reference to the Commission’s guiding principles, in other words, responsible conduct, safeguards for children and vulnerable people, prevention of fraud, money laundering and other crime and verifiably fair to consumers and codes of practice. Where a licence is being renewed, and as previously mentioned, the Commission must review the information it already holds from any current licence which was applied for with the original application or obtained during the life of the licence to see what it can safely rely on as current information rather than making continued and repeated checks. Regulation 12 substitutes Regulation 10 and adapts the annual fees to the 2 types of operator’s licence, the substance of which I have already outlined in my opening speech, albeit that that was at the last sitting. On the grounds of consistency and because some time has elapsed, I will just briefly detail the substance of this amendment. While the Disaster Recovery Operator’s Licence remains at £5,000 annual fee for a General Remote Operator’s Licence under disaster recovery, all first-year

fees are charged at £35,000. The fee starts at £35,000 but increases to £70,000 if the operator's yield from remote gambling reaches £1 million, and then it increases to £140,000 for a yield of more than £6.5 million. The fee is charged by reference to the previous year's yield under the licence or under any General Remote Operator's Licence held in the year before a new or replacement licence is issued. The regulation sets the procedure for establishing the yield, which is the amount brought in from customers by gambling after deduction of the amounts paid out to them. The Commission can estimate yield if the operator does not provide details and to charge the highest fee, or a lower if appropriate, if an avoidance tactic has been used to reduce the amount. The Commission must notify the licence-holder of the amount of the fee at least 14 days before it is due or only the lowest fee is payable. If an annual fee is not paid, the licence is automatically revoked but the Commission can still enforce payment of the fee as well. An appeal against decisions on yield is provided under Regulation 35(a), inserting Regulation 43.1(a) in the principal regulations. Moving on to Regulation 13, this inserts a new regulation 11(a) to amend provisions on conditions on operators' licences and to separate out provisions for the 2 types of licence. A holder of a Disaster Recovery Operator's Licence must be a subsidiary of a foreign corporation licensed by its home territory. The conditions of the home regulation are applied to the Disaster Recovery Operator's Licence. The Commission may substitute or add to these licence conditions to ensure compatibility with Jersey Law. A holder of a General Remote Operator's licence is no longer required to hold any other licence other than under Jersey legislation on gambling, though it must also have a Facility Provider's Licence if it operates from its own premises and does not need any foreign corporation behind it. So the relevant conditions are those imposed by and under the principal regulations as amended. The new regulation also provides for supplementary conditions, they can refer to and require compliance with codes of practice; the Commission must publish standard conditions which are to be imposed, unless there is a particular reason otherwise, but may also impose non-standard conditions. Supplementary conditions must cover the issues set out in Regulation 11(a)(viii) as to systems for informing customers about help with problem gambling, about chances and about regulation by the Commission and systems for checks on customers, record-keeping, including monitoring of excessive use of disaster recovery, and timely provision of details of annual yield for calculation of fees. Use of remote sites and controlling devices, including connections with other providers for remote gambling, equipment including software and its testing, systems for employee checks and maintenance of systems. They also cover any other issues including, but not limited to, those set out under Regulation 11(a)(ix) such as stakes, prizes, information for customers, approved equipment suppliers, staff training and provision for an address for service documents. Moving on, Sir, to Regulation 20, this substitutes Regulation 22(3) with 2 new paragraphs: the replacement of paragraph 3 gives the purpose of licence conditions and sets out a non-exhaustive list of possible conditions. It caters for cases whether an operator can or must use its own premises which requires it to hold both an Operator's Licence and a Facility Provider's Licence and whether other operators may also be hosted at the premises. The new Regulation 22(4) requires the Commission to publish standard conditions along with its policy on when they will be imposed. Although all forms of gambling, such as betting, gaming and lotteries may have remote equivalents, the Commission's published policies under this paragraph and under Regulation 1(c) will set out which forms of remote gambling may be licensed. Moving to Regulation 39, this applies to transitional provisions in relation to the current hosting provider's licence granted prior to any change to these regulations. The effect is that the licence remains in force and the amended regulations are adapted to ensure the right to the licence remains the same, but limited to permission to only host holders of a Disaster Recovery Operator's Licence. As these Disaster Recovery Hosting Licences retain their original rights, they are not subject to the new duty to pay annual fees or to the 3-year expiry provisions of the licence for hosting a fully-operational e-gaming company. If the holder of the original hosting licence wishes to be able to host holders of full General Remote Operator's Licences or to vary a condition in a way that is only possible under the amended regulations, then it can apply to the Commission to allow for this provision but only on the basis that annual fees and expiry dates will apply to the licence from then on. Sir, I would

like to maintain the Regulations 1 to 40 en bloc, if I may, Sir. I hope that was not too long-winded for Members, I was trying to accommodate the Scrutiny Panel's wish to be able to comment more freely rather than having a stilted debate, but I do realise that my comments have been rather lengthy and I thank Members for listening.

The Bailiff:

Very well. Are Regulations 1 to 40 seconded [**Seconded**]

4.1.2 Deputy M.R. Higgins:

Thank you to the Minister. As Members are aware, the Economic Affairs Scrutiny Panel reviewed the draft regulations over the last 2 weeks and we did so as part of a holistic review of P.62, Modernising Jersey's Gambling Legislation (The Gambling Commission) (Jersey) Law 2010, and P.28/2010 The Establishment of a Regulatory and Licensing Regime for E-gaming in Jersey. The reason we did so was so we had a total picture of what e-gaming legislation would entail. That report was given to you in the Chamber yesterday and I hope you have had the time to read it, as I believe you will find parts of it extremely interesting, in particular, our comments on consultation, conditions on licences, codes of practice, social harm and economic benefit to the Island. Our main findings and concerns are, first of all, that the regulations that were going to approve today will come into force in 14 days' time. Secondly that, under Article 6(12)(iii) of (The Gambling Commission) (Jersey) Law 2010, the Minister must, by order, require the Commission to consult in a specified manner before it approves the Code and (b) may, by order, prescribe any aspect of the manner in which an approved code must be published and impose any other requirements of the Commission in relation to the approval of codes. Article 6(13) says also that: "The Commission must take account of an approved code in performing any of its functions to which the code is relevant and particularly" and I stress this: "when considering the application for or revocation of any licence, permit, approval, certificate, registration or other permission." I have to tell you that no such consultations have taken place so, therefore, we have a situation where many of the regulations that we are going to be looking at, and I will refer to some of them in a moment, have reference to codes of practice which, quite simply, have not yet come forward or even been seen by the Board of the Gambling Commission and certainly have not gone out for consultation. As we all know, consultation normally takes 3 months at least to do a proper consultation so we are passing a law that will come into effect in 14 days and the codes will not have been even discussed. Going through that a little bit further I would say that what it means, and this is where it does give us concern, is that e-gaming entity applications could be determined or conditioned by the Commission with references to codes of practice which, as I say, have not yet been completed, consulted upon or seen or approved by the Gambling Commission Board which means that neither the regulator nor the applicant will know with any certainty what the codes are that they are supposed to be abiding by. This will lead to a total farce when the Commission tries to enforce some of the codes as the courts have probably not enforced them because of uncertainty; you cannot bind someone in such circumstances to a vague agreement. You are going to be bound by the codes, but we do not know what the codes are. To give you some specific examples, Regulation 8.2 states: "Without limiting matters that the Commission may take into account in determining whether to grant a Remote Gambling Operator's Licence to a person under Regulation 7, the Commission will take into account (c) the adequacy of a person's systems, including equipment, software and of any testing carried out on those systems that are in place in relation to remote gambling, to ensure that the person conducts the gambling in accordance with the guiding principles and in compliance with any relevant code of practice, including but not limited to whether the systems are adequate to deal with such things as the following ..."

[16:45]

The sort of things that this particular regulation is dealing with are such matters as segregation of funds, that the customers' winnings are to be paid out accurately and promptly, that deposits and wagers are accurately and promptly paid out, that adequate data protection safeguards are in place, that requests of customers to have gambling limits or to be excluded from gambling are covered. Safeguards of customer funds held by the gambling concerns are kept separate from the gambling concerns' own funds to keep them safe from creditors in the case that the gambling concern goes into liquidation. They are all part of Regulation 8(2) Regulation 11 and 11(a) relate to conditions and to supplementary conditions that may be imposed on remote gambling licences. Regulation 11(4) states that: "Supplementary conditions, whether standard or otherwise (a) may apply to all forms of remote gambling or to all licences or may vary by form of remote gambling or other licence or other circumstances and (b) may be framed by reference to a code of practice and may require compliance with a provision of such a code." 11(8) also states that: "Supplementary conditions shall cover the systems to be used to make information available to customers" about: "The availability" (and this is a very key one because I am going to come to it again shortly): "under Article 9 of (The Gambling Commission) (Jersey) Law 2010 of the assistance with problems related to excessive gambling" and also: "What may be lost or won in relation to the remote gambling and the chances of winning and losing", and also: "The systems that will be used to check on the age and vulnerability of customers." Article 11(9) states that: "Supplementary conditions may cover amounts payable to customers, amounts payable by customers, the display of information to ensure customers are not misled, issues relating to the fairness of remote gambling and the display of information on computer screens." I will just quote one last regulation here, this is Regulation 24(4): "Requires the Commission to publish standard conditions along with its policy when they are imposed." It goes on and on. What we are saying is all these are matters of importance and should have been open to the widest possible public, and not just industry, consultation. Here we have a law that is going to come into force in 14 days and prime elements, important elements of the codes have not even been produced and certainly not been consulted upon. Those codes are relating to many of the things that Members were concerned about, which was the social harm aspect of gambling. In fact, my panel recommended that: "No application in relation to a full e-gaming licence should be determined before the codes of practice have been approved and subject to full public consultation." We also found, on the question of social harm ... and as I say, we have gone through Hansard and we have looked at what everybody has said, and the amount of concern that was expressed about social harm and about having procedures and practices and help available, and we were surprised, therefore, that the regulations were being brought in before any (and I stress "any") effective measures had been brought in. The Panel does not think it is acceptable that the law is being brought into force and that applications are being approved before measures to deal or alleviate for the social harm are in place. For example, the Social Responsibility Panel has not yet met (the first meeting is to be early this month) nor does it currently have a representative from the Education Department, I am not even sure if the Minister for Education knows that they may be asked to have a representative. There is no adequately-resourced social fund in place and the purpose of a social fund is to finance initiatives: whether it be awareness or research or even to help fund counselling and addiction specialists. The fund at the moment has a total of somewhere between £9,500 and £14,000 in it, which is not going to go very far, and has only been raised through voluntary donations from the industry. We have been told that they need to raise more money before they can embark on an educational awareness campaign in schools or in the media, or arrange for website referrals to information, advice and counselling online or for local problem gamblers. They would offer face-to-face counselling by gambling addiction specialists. None of these things is there at present and yet the argument is: "(1) we have not had the time" remember the Commission was established in December 2009, and: "(2) we have not got the money" and in 2009, the States voted some £230,000 to the Commission, and we just hope that it has not all been spent on salaries and that they could use some of this money for this particularly important benefit. They certainly have the power to use that money for that purpose. We also heard that no adequate research had been undertaken in Jersey as to the size of the

gambling problems that we have. We were told that the Economic Development Department had rejected a request for some research by the Shadow Gambling Committee some years ago and therefore the Department and the Commission have simply extrapolated from U.K. data the extent of problem gambling in Jersey and that extrapolation indicates there are some 450 people in the Island with gambling addiction problems, but that applies to all forms of gambling. However, a 2008 report commissioned by the U.K. Gambling Commission, which was based on the 2007 British Gambling Prevalence Survey, has stated that online gambling is more of a problem than any other form of gambling for particular age groups. In fact, in their report it states: "Overall results, including the regression analysis, showed a number of significant socio-demographic differences between Internet gamblers and non-Internet gamblers. When compared to non-Internet gamblers, Internet gamblers were more likely to be male, relatively young adults, single, well-educated and in professional and managerial employment." Just think, with our finance industry and all the other sort of professional-type industries we have got, it is a prime category. "Problem gambling was also significantly to be more likely among Internet gamblers when compared to non-Internet gamblers." That is coming out of U.K. studies. Our second recommendation was that: "The Minister for Economic Development should make a statement to the States before the summer recess in 2011 on the progress made in relation to education and health strategies and programmes addressing social harm concerns covering research into the incidence and impact of gambling, manpower requirements, costs and funding." We really do believe that, basically, the Department has put raising money ahead of the social concerns and the social effects of the gambling. One thing I will just mention as well for Members: it might help you with the debate, at the back of our comments paper, we have given you a copy of a marked-up copy of the draft regulations. It shows the amendments put into the context of the original regulations, and you can see other changes, and it will give you a much better picture. Certainly, it is the only way to study any amendment to regulations or primary law; you must always look at the marked-up copies. Those are the main things that I have got, and I have got some questions now for the Minister on a number of questions, so I will go through them slowly. Regulation 3(7) and (8), I would like the Minister to outline the general licence conditions that will be affixed to licences to govern the use of overseas devices and connections with overseas operators. I would like him to relate that to Regulation 22, which relates to the oversight of overseas remote gambling facilities that may be used by remote gambling firms. The reason I am asking this question is that we discovered, as I will go on to talk about in another question, that the firms do not have to have all their servers in the Island, their operation can be overseas as well. They may have to have a Jersey person, but they do not have to have everything here, the servers can be elsewhere and so on. That is Regulations 3, 7 and 8 and we are leading into 22, and any other regulation that covers it. My second one is again concerned with Regulation 10, which the Minister went through, and it is: will the Minister explain, under Regulation 10 and other regulations relating to it, how the Commission will ensure that they will be able to fully determine the yield of the remote gambling operators, especially if they are not fully moved or have established their service or other remote gambling devices in the Island, and they are thus not as easily accessible? Basically, it was mentioned in the Minister's opening remarks that, although they pay a £35,000 licence fee, after a number of years, that fee will be increased because they will take account of the yield of these companies and it goes up substantially if they earn over £6 million. But the question is: if they are not in the Island, how are you going to guarantee you are going to be able to find out what their yield is? Also, very importantly, how are they going to apportion it, how much was generated in the service in Jersey or the service in Alderney or the service in, I do not know, Hong Kong? Lastly, almost, I would like to know how the Minister would answer the charge which some people may levy that, because gambling enterprises do not have to have all the remote gambling servers, *et cetera*, in the Island and therefore available for inspection and oversight, he is setting up a brass-plate operation whereby gambling firms can claim to be Jersey-based and regulated by simply having one contracted Jersey person (it can be an individual, remember, as well as a company) and by paying the annual licence fee? I might also add that one of our findings was that if many firms do this, we will not get the

massive boost in telecoms infrastructure that the Minister stated that we would have when the principles were coming forward to enact the law. There is just one last question: Regulation 27. The original regulation was repealed; it had imposed statutory conditions restricting the hosting of source codes and, according to the explanatory note, it said that: "Supplementary conditions may be imposed instead." I would like to understand what the source codes are, why this particular provision has been repealed and why supplementary conditions are a better way of dealing with this issue? Finally, I would just like to thank our Scrutiny Officer for his hard work, much of it carried out outside normal office hours and at the weekend. **[Approbation]**

The Bailiff:

Does any other Member wish to speak?

4.1.3 The Deputy of St. Mary:

Yes. I have waited a little bit to see if any other lights would go on, and I think that does bear out one of our main contentions on the Scrutiny Panel which is that if we have not looked at it, nobody else would have. We will see if there are more contributions (and I hope there are) but I do find that quite serious because, although we passed the principles some time ago, the fact is that the nuts and bolts are in these regulations, this is what determines what the person will see. In fact, the regulations do not determine what the person will see on the screen who is gambling on the Internet, but they set the framework for that and, as we have said, we have no idea what the Gambling Commission will eventually order people with licences to put on the screens, but that is another issue. But it does concern us that, if we had not spent the last week looking at this intensely, these regulations would have risked going through virtually on the nod and yet this is a very controversial issue in Jersey, the whole issue around gambling excites quite a lot of interest and quite a lot of concern. I want to, I suppose, kick off my remarks (and after that it will follow-on from there) by referring Members to Article 10 which is about the fees that will be levied, if we pass these regulations, on operators with licences. At the back of our comments we have provided marked-up copies to Members and one of our recommendations is that this is standard practice because it is so much easier when you can see the amendments in red. There are no pages, but Article 10(7): "The fee notified by the Commission shall be the amount referred to in paragraph 8" ... I beg your pardon, I am getting confused: "If the Commission does not notify a different fee, like the default fee is £35,000 ..." and I do not want to discuss that, that is the minimum fee if they do not get round to notifying in time.

[17:00]

But the fees basically are if the gambling yield does not exceed £1 million ... I am looking for the £1 million ... I see, sorry it is in paragraph 8(a): "The fee shall be £35,000 if there was no remote gambling yield in the relevant period or if that yield was less than £1 million, £70,000 if the remote gambling yield equalled or exceeded £1 million but was less than £6.5 million." By my maths, that second one is a levy rate, which effectively is a tax rate, of 7 per cent and, if they go right up to the limit of £6.5 million, 1 per cent. So the levy on a gambling operator in Jersey is proposed to be somewhere between 7 per cent and 1 per cent of profit. I take: "Gambling yield", which is a strange phrase, but I take that (and the Minister can correct me if I am wrong) to mean profit, 7 per cent to 1 per cent. The next sub-paragraph: "£140,000 if the remote gambling yield equalled or exceeded £6.5 million." Once again, that would be 7 per cent if it was bang on £6.5 million, roughly, and if it is way over, it is still £140,000, so the levy rate or the tax rate goes down and down the more money they are making. That, to me, raises some questions because that sounds a low take from a gambling operator. I want to ask the Minister how he can justify those low figures and, in asking that, I want to remind Members of what we were told in the hearings about the "race to the bottom", because we were assured that that phrase does not apply in this case ... if I can just find my copy of the transcript of the ministerial hearing. Because, you see, the Minister may say:

“Well, we have to be competitive, we have to set somewhere between 7 per cent and 1 per cent because, if we ask for more, then these companies will not come to Jersey.” That is, in effect, a “race to the bottom” on the levy imposed on the would-be operators. I asked in the hearing ... my problem, and I think this is probably one for the Minister, is we are in competitive industry, if Gibraltar or Bermuda or wherever says: “Well, our conditions are less onerous, come to us” ... and the reply from the Chief Executive of the Jersey Gambling Commission was: “Well, if I jump in, the opposite is true.” He then talks about the fact that these are blue-chip companies and they want to be in a highly-regulated environment and so on. Then the Minister said: “We expect the Gambling Commission to be set up and to operate in exactly the same way” as the Jersey Financial Services Commission: “we are looking for high-quality business, low footprint, high value. We are not looking for a race to the bottom to attract business by cutting standards and cutting costs. That is not the principal behind it and that is not the way in which the Gambling Commission would operate.” I would be interested to hear why the Minister has set a levy rate of 1 per cent and whether that decision was not influenced by the need to be competitive, in other words, by the race to the bottom, even though he said that did not apply in the hearing. Because I am very concerned about that, what looks like a very low rate. Then I asked why, if companies were already in Jersey, why might they move here, why would it be more attractive in Jersey if you have got the same codes following the same standards? The Minister said: “It is not just about e-gaming in isolation, it is taking into consideration all the other associated benefits: the professional services that exist in the Island, the banking, fiduciary, legal accounting, and so on, services and connectivity in terms of getting on and off the Island into the U.K., multiple transport hubs.” I am not quite sure how that connects with the desirability of coming here to set up a gambling operation, but any way: “Jersey is a more attractive location than many others and its reputation and high regulatory standards in other areas make it even more so, availability of resource for staffing and so on, the list is much longer. Industry is telling us, and certainly the Gambling Commission has been approached by organisations, significant brand-name organisations, that want to move here.” So there are benefits in coming to Jersey, there are huge benefits, we are told, in terms of reputation, in terms of the infrastructure that is here, in terms of the connectivity, all these reasons for coming to Jersey, and then we have a levy rate of 1 per cent. It seems very low to me and I ask for the comments of the Minister. The second main point I want to raise is about, of course, the ...

Deputy R.G. Le Hérissier:

On a point of clarification, did the panel compare these rates with other jurisdictions?

The Deputy of St. Mary:

I am afraid we did not, but I would hope that the Minister can clarify this because it is obviously a very important point. We, in a week, did a lot but we did not cover that point. I think it is a very germane point because those figures are set in the regulations and so let us look forward to the explanation of the Minister as to how they were arrived at. On harm reduction, this is the key issue, is it not? To summarise what my chairman said, although he made one mistake which I will come to in a moment, but just to bullet it so that people get it clearly, he was laying out the whole story, but what he said was and what we discovered in our hearing, was that the Commission does not know how many problem gamblers we have in Jersey. The Chairman’s little error was that, although they did not have the funds to do a longitudinal study, which apparently is the best way to assess it, that they had done an extrapolation from the U.K. figures. In fact, they had not done any extrapolation from the U.K. figures, they did not know, they had not applied the 0.6 per cent figure of adults in the U.K. who are problem gamblers to Jersey, I had to do it for them, I had to point out what that figure might be. 0.6 per cent of the gambling age, or of adults in Jersey, is around about 480 (although I said 450 in the hearing) if you do the sums. They did not know that figure. The second thing they did not know was the caseload that a counsellor could handle in this field. We were told that you might need a part-time counsellor on grade 7. When I asked what the case load would be of such a person, how many cases they could handle, the answer was: “I do not know” in

so many words. The answer was, and I do quote it specifically ... I asked what the cost of treating one person to the point where they are gambling-free would be: "I think it varies completely on a case-by-case basis. I could not possibly give you any figure." A couple of years into a Shadow Gambling Commission and the Gambling Commission itself was formally set up a couple of months ago, but I think the point is we have been voting a lot of money to the Gambling Commission for some years now and we do not know how many problem gamblers there are, we do not know what the case load might be, we do not know what the cost might be. We do not even know the correct grade for such a counsellor, because it is not grade 7, it is grade 9, our research showed. There is no education programme planned, although there has been one meeting with teachers and there is no counselling available. The budget is £14,500, as mentioned by my chairman. That is an appalling indictment of our failure to look at the harm aspects in tandem with pressing ahead with the regulations and the Code of Practice. It is in that context that the panel is saying: "Where is the consultation, where is the Code of Practice? Why has there not been any consultation?" In case the Minister says: "Well, the Code of Practice is not necessarily part of the conditions", the way I read these regulations is that in 11(a)(viii), the supplementary conditions, my chairman covered what those might cover in the sense of the danger and how you would regulate what is on the screen and the identity of the licence-holder and so on, all those details, they can be covered by supplementary conditions or by a code of practice, it is immaterial; the point is that we have not seen those details, the public has not seen them, and so this matter of concern is completely non-transparent, and it should not be. A couple of matters of detail now, again, questions for the Minister on things that have caught my eye in the regulations, so I think he is going to have quite a little summing up. On part 2 Article 5, Application for Remote Gambling Operator's Licence: "An application may be made to the Commission" in paragraph 1: "by a body incorporated outside Jersey." I beg your pardon, that is for disaster recovery ... "By a Jersey person for a General Remote Operator's Licence." Then, in paragraph 1(a) ... I think it might only be the Disaster Recovery Operator's Licence. Sorry, yes ...?

Senator A.J.H. Maclean:

It is, Sir. I was going to say it is remote only.

The Deputy of St. Mary:

It is disaster recovery only. The thing is, it is in pink, so I assumed it was part of the amendments, but my question can still be put: are companies that achieve a licence and that are based not in Jersey, or in Jersey, liable to tax? If so, exactly what tax are they liable to under the various provisions of our tax laws? I think that is quite an important question, side by side with the questions I have asked about the levy. On Article 8, I find paragraph E(a) confusing and I would ask the Minister to have a shot at explaining it. I will not read it out, I just say that I do not find it clear and it would be nice to know what it meant.

Senator A.J.H. Maclean:

I do not wish to interrupt the Deputy, could he just repeat what he finds confusing, I missed what he wanted me to clarify later?

The Deputy of St. Mary:

Yes. Sorry. Article 8 paragraph (1)(ea) and it is printed in red in the marked-up copy because it is an addition. Sorry, while I just go through my notes ... it is Article 11. I am concerned about this harmonising of provisions, of conditions between Jersey and another territory. In Article 11(4): "The Commission shall not substitute or disapply a condition under paragraph 3 unless it considers that it is reasonable to do so in order to make appropriate provision for a difference between Jersey and the home country of the foreign gambling corporation." That concerns me because one of the things we know is that there can be distributed use of computers and servers and so on, and somebody could be gambling in Jersey and, in fact, they are gambling in Guernsey, and so on.

Also, possibly more important, is if a corporation is licensed in another jurisdiction and then licensed in Jersey, there is an issue of harmonising their conditions. What this suggests is the possibility of licensing the conditions downwards, and I would like the Minister to comment on whether that might be the case or whether Jersey will maintain its reputation and say that that corporation licensed elsewhere would have to up its game, so to speak, to apply its trade in Jersey. Excuse me while I ...

[17:15]

Yes, Article 31(5) is about the breach of condition and revocation of licence and this is another case where it is really not clear. Article 31(3) ...

Senator S.C. Ferguson:

Sorry. I am totally lost. Does the Deputy mean Regulation 30 or Article 30, because I am confused?

The Deputy of St. Mary:

I am sorry, I have been using the wrong term, it is Regulation 30, I was using the term in a law ... sorry, so all the way through, it has been "Regulation."

The Bailiff:

Effectively, these are all regulations, as I understand.

The Deputy of St. Mary:

These are all regulations, but they are the ones printed in bold. Regulation 31(5) is breach of condition. Paragraph 2 says that a person who contravenes ...

Senator S.C. Ferguson:

I am sorry, would the Deputy please tell us exactly which Article and which regulation?

The Bailiff:

Deputy, if I understand the problem right, of course, there is a number in these regulations which then amend another regulation in the original regulations so you just need to be clear which number you are referring to there, I suppose.

The Deputy of St. Mary:

I am using all the time the marked-up copy, which is attached to the comments. I am sorry, I did not realise ...

The Bailiff:

Right. Then Members can follow on that basis.

The Deputy of St. Mary:

Right. Therefore the numbers might not correspond. Thank you for that clarification; somebody is following, that is good, as well as the Minister ... and the Bailiff. Article 31 then ...

The Bailiff:

Regulation 31. [Laughter]

The Deputy of St. Mary:

I stand corrected, Regulation 31 in the marked-up copy, paragraph 2. I did suggest that we take these one by one, but anyway. Paragraph 2 is the one about the punishments: "A person who contravenes paragraph 1" in other words, have they contravened a condition of the licence, if they contravene that: "They commit an offence and shall be liable to a fine of level 4 on the standard

scale.” My first question to the Minister is what is that fine? Because I have, as a lay person, no idea what a fine of level 4 is and how it corresponds to the likely yield of a gambling corporation. Then paragraph 3 says: “Paragraph 2 does not apply to a contravention of a condition if the condition requires compliance with a provision in a code of practice and the contravention of the condition consists solely of a failure to comply with that provision in that code.” I am very confused, because those 2 things seem to be the opposite, (a) and (b) seemed to be the opposite of each other, and I would welcome the Minister’s clarification probably tomorrow. But it really is less than clear because one minute we are saying we will punish them and the next minute we are saying we will not. Finally (I think this is finally) part 7 in the marked-up copy, Regulation 42 ... I am getting there, the Commission may issue compliance directions ... sorry, that is the same question about level 4, it is the same thing: a breach would be subject to a level 4 fine and I would welcome the Minister’s clarification on that. I just want to conclude by drawing the Minister’s attention, and asking him for his response, to the recommendations of the panel. My chairman referred to this, but I just want to be absolutely clear what is going to happen to these recommendations. I know these are comments, and the reason they are comments and not ... what is the other thing, a scrutiny report, is that we did not have the 5 days, there just was not time to send things out. We did send things, obviously, to the Minister and Deputy Le Claire, who gave evidence, but there was not time to have them formally checked in the 5-day format, so we issued them as comments. But there are findings and recommendations. I want, first of all, a commitment from the Minister whether he will reply to our 2 recommendations on page 5 of our comments, in due course; not necessarily as part of this debate because they are general recommendations about the presentation of regulations and amendments and how they are titled and so on. So a response later is fine, but I would welcome a commitment that the Minister will respond to those recommendations. Then, we come to the more important recommendations in our report on page 11, we have our recommendation which the Chairman mentioned, but I just want to have the Minister’s commitment in his reply to this debate, where we say that no application in relation to a full e-gaming licence should be determined before the codes of practice have been approved and subject to full public consultation. As we have laid out the case in our comments and in what the Chairman has said about just how important the codes of practice are, they are what implements, what binds, the operators and there has been no public consultation whatsoever. So will the Minister reply as to his response to that recommendation on our page 11. On, finally, to our recommendation on page 18, where we ask the Minister to make a statement to the States before the summer recess on the progress made in relation to Education and Health strategies and programmes addressing social harm concerns, covering research, manpower requirements, cost and funding. We have together made the case that such work is woefully lacking to date and that is why we asked the Minister to provide a report before the summer recess on those strategies and we would like the Minister to make a formal response to those 2 recommendations when he comes to sum up.

The Bailiff:

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

Senator A.J.H. Maclean:

Bearing in mind the time, I am wondering if I am going to be able to answer all the questions or shall I just make a start and take a break?

Deputy G.P. Southern:

Sir, can I call for the adjournment?

Senator A.J.H. Maclean:

Sorry, I had assumed that there might not quite have been so many questions from the panel, bearing in mind we spent half a day with them, but they have thought of a few more since then. It

is clearly going to take me some time to sum up, Sir, so I think it is probably more appropriate to call for the adjournment at this stage.

The Bailiff:

Very well, the adjournment is proposed then. Is that agreed? Very well, the Assembly will adjourn then till 9.30 a.m. tomorrow, at which time the Minister will sum up.

[17:23]

ADJOURNMENT