

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 20th JANUARY 2015

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[9:30]

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

COMMUNICATIONS BY THE PRESIDING OFFICER

1. The Bailiff:

As this is the last occasion I shall have the opportunity of doing so I am delighted to welcome His Excellency. **[Approbation]** I am also very pleased to welcome back all Members. I trust you are suitably refreshed after the Christmas and New Year break and there was no over-imbibing.

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Nomination of Deputy J.A. Martin of St. Helier as a member of the Public Accounts Committee

The Bailiff:

I understand there is to be a nomination to the Public Accounts Committee, Chairman.

2.1 Deputy A.D. Lewis of St. Helier (Chairman, Public Accounts Committee):

I would like to nominate Deputy Judy Martin to sit on the P.A.C. (Public Accounts Committee).

The Bailiff:

How many members are you now going to have on the panel?

Deputy A.D. Lewis:

The intention is to have 7, as we are also hoping to announce in February the appointment of 3 lay members.

The Bailiff:

Is that nomination seconded? **[Seconded]** Any other nominations to the Public Accounts Committee? Then I have pleasure in announcing that Deputy Martin is elected as a member of the Public Accounts Committee. **[Approbation]**

QUESTIONS

3. Written Questions

3.1 DEPUTY A.D. LEWIS OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE DELIVERY OF GIGABIT JERSEY:

Question

In response to question 8540 on 25th November 2014 the Minister provided an update on the status of the delivery of Gigabit Jersey (Homes and Business) connections against the following three project elements:

- 1) Core Network Equipment – 100% complete
- 2) Premises Passed Network – 98% complete
- 3) Premises Connected – 33% complete

With the first 2 elements of the project now virtually completed will the Minister, as shareholder representative, confirm:

- a) The total amount spent on the project to date;
- b) The total amount spent to date on each of the three elements of the project as identified above; and
- c) Why the stated number of properties now targeted for connection under 'Premises Connected' totals, as given on 25th November 2014, of 34,875 now differs from the 44,000 homes originally targeted to be connected as part of the Ministerial funding approval in 2011 and the 52,000 homes referred to by the Chief Executive Officer of Jersey Telecom in the Jersey Evening Post on 17th August 2013?

Answer

Part a) and b)

Network element	Spend to date
Core Network Equipment	£8.3m
Premises Passed Network	£15.1m
Premises Connected Network	£8.6m
Total	£32.0m

Part c)

The Minister is advised that the difference between the original business case (44,000) and the updated 2013 business case (34,875) relates to JT's decision to focus on broadband connections and to leave JT voice-only subscribers until a later phase. The Minister is advised that the change in project delivery was explained in detail to States members at a presentation by JT on 4 March 2013 (at the Pomme d'Or Hotel) and to the Public Accounts Committee on 10 June 2013, as well as in answers to States questions since the programme was started.

JT has advised the Minister that the Jersey Evening Post reference of 52,000 is not a quoted remark of the Chief Executive Officer. It is clear from the article that the journalist confused the Premises Passed and Premises Connected elements of the rollout.

3.2 DEPUTY S.Y. MEZEC OF ST. HELIER OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING PARISH ASSEMBLIES:

Question

Could the Chairman of the Comité des Connétables provide a breakdown by parish and year of how many times in the past 5 years parishioners have utilised Article 9 of the 'Loi (1804) au Sujet des Assemblées Paroissiales' to instigate a Parish Assembly and, if possible, provide details of the subjects of those Assemblies?

Answer

Parish of St Clement

Year: 2012

Subject: “Consider the merits of the proposition of the Privileges and Procedures Committee (Projet 5 of 2012, Electoral Commission: composition and terms of reference) and further to consider the amendments thereto lodged by Deputy R G Le Herissier and to decide whether or not to express support for those amendments and advise the Connétable, the two Deputies and the ten Senators accordingly.”

Parish of St Helier

Year: 2012

Subject: “To consider the merits of the proposition of the Privileges and Procedures Committee (Projet 5 of 2012, Electoral Commission: composition and terms of reference) and further to consider the amendments thereto lodged by Deputy R G Le Herissier and to decide whether or not to express support for those amendments and advise the Connétable, the ten deputies and the ten senators accordingly”

Year: 2013

Subject: “To consider the merits of options A, B or C as set out in the report of the Electoral Commission of January 2013 ahead of the Referendum on States Reform due to be held on 24 April 2013, and following a vote by show of hands, that the outcome of the meeting be made known to the Constable of St Helier, the ten Parish Deputies and the ten Senators.”

Parish of St Ouen

Year: 2013

Subject: “To decide whether the Parish should lodge a third party appeal against the Minister of Planning and Environment’s decision to grant permission for the re-development of the Plemont Bay Holiday Village.”

Subject: “To consider whether the Parish should make representation to the Minister for Planning and Environment to remove Field 622, La Rue de la Croute, from the Interim Review of the 2011 Island Plan and to decide thereon.”

Parish of St Saviour

Year: 2011

Subject: “(a) To consider whether Parishioners support the proposal in the Draft Island Plan to designate field no. 528 as a part of the Island’s Green Zone and decide thereon:

(b) To consider whether Parishioners object to any form of development on field no. 528 and decide thereon:

(c) To consider whether Parishioners wish to call upon all their elected parochial representatives to oppose any attempt to develop buildings on field no. 528 and decide thereon."

St Brelade, Grouville, St John, St Lawrence, St Martin, St Mary, St Peter and Trinity received no such requests in this timescale.

3.3 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING JOB OPPORTUNITIES ARISING FROM LOCATE JERSEY:

Question

In P.55/2012 the previous Minister produced a table showing the "job opportunities" arising from the success of Locate Jersey in encouraging inward investment through the business licences granted to the 128 foreign-owned companies which set up in the 4-year period from 2008 to 2011. Can the Minister state how many of these opportunities have been converted into real jobs, and if not, why not?

Can the Minister further state whether he considers that the figures shown represent successful diversification of the economy when they reveal that 30% of both businesses and jobs are in the finance sector?

Can the Minister also inform members how many of these jobs were high-value jobs in line with strategic aims and how many were low-value jobs, and if not, in the light of his predecessor's commitments to seek this data, why not?

Will the Minister liaise with the Minister for Treasury and Resources to establish what taxes and/or revenues have been paid by those 35 finance sector companies subject to the 10% rate and what income tax has been paid by the 937 employees of these companies either overall or by sector over the period to date, and if not, why not?

Answer

Businesses in Jersey are required to submit half yearly manpower returns to the Population Office. The most recent return is not due until the end of January and will be reported on by the Statistics Unit later this year. Using the most recent manpower statistics available (June 2014) from inward investment businesses assisted by the department between 2008 and 2011, these businesses have a total of 896 individuals working for them of which 83% were entitled posts. This is a total of 743 jobs created for people with entitled status.

The inward investment activity carried out by Locate Jersey is done irrespective of sector. 70% of businesses and job creation in 'non-financial' related services is an enormously positive step towards successful diversification of the economy. Trends in the last three years include Retail and Hospitality, Real Estate and Private Equity Funds, Hedge Funds, Fintech, Digital/IT, Family Offices, Natural Resources, Corporate Services and Payroll and Recruitment.

Diversification of the economy does not mean solely focussing on developing businesses outside of the finance industry. Jersey's finance industry, which is already diverse in nature, continues to diversify itself to meet changing global demands. Jersey's outstanding reputation as a centre of

excellence for financial services and much-respected regulatory system means that the Island continues to attract both businesses operating in financial services and ancillary businesses related to that sector. More than 40% of GVA comes from financial service-related businesses. With increased productivity and services being a priority, Locate Jersey will continue to work closely with Jersey Finance Limited and other representative bodies in this sector.

As stated on previous occasions, my department is not privy to tax paid by individual businesses or persons. This is confidential information between the business and / or their employees and the Income Tax Office. These activities do generate new tax revenue for Jersey and we will continue to support them. I would be pleased to arrange for the Deputy to visit the Department so we can explain the nature of our work and the benefits to Jersey to him.

3.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAX REVENUES:

Question

In the light of the projected £80m+ shortfall in tax revenues in the 2015 budget, what quantitative evidence, if any, does the Minister have to indicate that the policy of encouraging inward investment, which has produced 128 new business start-ups in the period 2008 to 2011 (see P.55/2012 for example), has generated increased tax revenues over the period to date, and, if none, does the Minister consider that this policy has failed?

Is it the case that the shortfall represents a “structural deficit (which) arises simply because the tax base will have shrunk” as stated by the Minister’s predecessor in November 2009 (Question (4886) refers) and what measures, if any, does the Minister have under consideration to generate additional revenues in 2015 and onward into 2016 and 2017?

Answer

The policy of encouraging inward investment has not failed. Inward investment businesses assisted by Economic Development between 2008 and 2011 have a total of 896 individuals working for them of which 83% were entitled posts. The policy continued to be successful in 2014 with Locate Jersey dealing with a further 158 business enquiries, creating 361 potential job opportunities in areas as diverse as construction, retail and fintech. Where these activities result in new and additional employment opportunities this will help spur economic growth and generate additional tax revenues.

The shortfall referred to by the Deputy is misleading as it is a cumulative total over several years, not an annual shortfall. It is not clear the extent to which the annual shortfall in tax revenues identified in Budget 2015 is structural and the FPP will be reporting at the end this month to give us further advice on assessing the structural position of States finances. In the meantime we continue to follow FPP advice that *“If there is a structural deficit in the public finances, the States should plan to address it once the economy has recovered. Structural changes in taxation, or expenditure programmes are easier to introduce once the economic recovery is fully established.”*

The foundations for returning the economy to growth were set in the Economic Growth and Diversification Strategy approved by the States July 2012 and the 2014/15 Enterprise Strategy. The Council of Ministers has economic growth as one of the key priorities for the next Strategic Plan (2015-2018) as it continues to be a significant driver of job creation and revenue growth. The Plan

will be debated by the States but it is clear that we need a renewed focus on all aspects of economic growth and productivity – enterprise, innovation, inward investment, infrastructure investment, skills and competition.

3.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING GIGABIT JERSEY:

Question

Given that on 9th December 2014 the Minister stated that he was not aware of “budgetary or financial problems likely to get in the way of the final delivery of Gigabit Jersey” and, following news from Jersey Telecom (JT) 5 weeks later that there may be a delay in the timely delivery of the Gigabit project due, in part, to the withdrawal of the deferment of £6m in the dividend payment, can the Minister assure the Assembly that there was no discussion during the 2-hour meeting with the Chief Executive Officer of JT of the potential for the £6m reduction in funding on JT’s ability to deliver Gigabit, and publish the minutes of the meeting (redacted as necessary) to confirm this?

If not, will the Minister inform members why he did not broach the issue himself, given the decision of his predecessor on this measure contained in the 2015 Budget and his assurances that agreement on the issue had been sought and obtained with JT?

Will the Minister further issue a statement clarifying his understanding of, and agree to call a meeting as requested in my proposition (P.181/2014) on, all the issues involved in the delivery of Gigabit?

Answer

The Minister confirms that there were many elements of the Gigabit Jersey Project discussed during the meeting, which including the impact of any reduction in funding. As previously discussed in the States, the Minister does not intend publishing minutes of this meeting.

JT provided a full and detailed update on the Gigabit Project, in a private briefing to States members at the Pomme d’Or hotel on 19th January 2015. The members of the Board and Executive remained afterwards to answer any additional queries that members had.

In regard to funding, the CEO has confirmed that the repayment of all or part of the £6m deferred dividend would naturally reduce the pool of funding available for capital expenditure (JT’s capital expenditure is in excess of £20 million annually). This would therefore result in a re-prioritisation of JT Group investment programmes but not necessarily the Gigabit Jersey project, which is a clear priority.

JT has offered that, if are any States Members for whatever reason were unable to attend the briefing on 19th January, they are willing to set up separate sessions. To arrange this, please contact, Graeme Millar (CEO of JT) by email at graeme.millar@jtglobal.com.

3.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE ALLEVIATION OF POVERTY:

Question

Following the Chief Minister's commitment to making poverty a central focus of government, does he accept the international standard for the measurement of relative low income as 60% of median earnings or £323 weekly for a single person in Jersey and, if not, why not?

Does the Chief Minister also accept that a single person working 40 hours per week on the minimum wage falls some £50 per week below this low-income threshold?

Does the Chief Minister accept Reform Jersey principles that suggest that action should be taken on wage levels (living and/or minimum wage, zero-hours contracts) rather than benefits if poverty is to be alleviated in a sustainable manner?

Does the Chief Minister consider that, whilst the new Income Distribution Survey (2014/15) to be finalised in the 4th quarter of 2015 may indicate new levels of poverty, these are unlikely to be markedly different to those in the 2010/11 survey which showed 9,000 households, including 4,000 pensioners, 4,000 children and 10,000 working age adults to be below the relative low income threshold and that this should not preclude action early in 2015 to lay down the principles and policies to deal with poverty, and if not why not?

Answer

No.

The commonly used measure for relative poverty is *household income* (i.e. not individuals, and not earnings) against *60% of median household income*. This includes pensions, benefits, and investment income for the household as a whole.

This is the measure applied by the Independent Statistics Unit.

- In 2009/10, the relative low income threshold for a standard household (two adults) was £400 before housing costs.
- Applying this value to a single person household, the relative low income threshold value was £267 before housing costs.

This analysis is being updated as part of the latest household income survey due to report later in 2015.

- The minimum wage is currently set at £6.63 per hour, so an individual working 40 hours per week would earn a gross wage of £265.20. For a single person living in a bedsit supported by Income Support this would increase to a gross income £345.20 per week.

To support increased incomes, we must seek earnings growth that is driven by increased productivity, i.e. workers producing more economic value in the same amount of time and being rewarded accordingly. To complement this, benefits should be available to ensure people have sufficient money on which to live when they are unable to work, or when their wages need topping up to meet basic living costs. At the same time, action should be taken on containing prices in key markets to make people's income go further, for example, updating our competition framework, promoting competition, etc.

As to the minimum wage, it is essential as a means of setting a minimum standard of pay to remove the excesses of low pay, while taking into account business realities, supporting a competitive economy and maintaining employment. This is how the minimum wage level is formulated. It would be counter-productive in tackling poverty to raise the minimum wage if that led to unemployment, or reduced hours. The world of work is also changing with increasing use of technology supporting part-time working, self-employment, and small businesses, and changing customer behaviour. We need to combine appropriate protection with flexibility.

This is the approach of this Council of Ministers: Increasing living standards – increasing productivity, increasing employment, containing prices – while also implementing a range of measures to improve education, health and social care, investing in housing provision and standards, all of which helps our community become more inclusive.

The new income distribution survey will provide valuable evidence of the impact of the recession on different household types, and it is not advisable to second-guess the outcome of the survey before the underlying data has been fully gathered, or to make significant policy changes to the income support system in advance of that analysis.

3.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE AWARD OF INCOME SUPPORT IMPAIRMENT COMPONENTS:

Question

Will the Minister inform members on what basis the tests used to assess award of Income Support impairment components are founded and when they were last reviewed by the Department or the relevant U.K. authority?

Is the Minister satisfied that these tests represent an accurate and complete picture of applicants' functional abilities, especially in the case of mental impairment, variable and multiple conditions and those difficult to diagnose such as Chronic Fatigue Syndrome?

In particular, is the Minister content that these judgements are made by Social Security officers without medical training on the basis of Department for Work and Pensions guidance and internet reading?

Is the Minister satisfied that the Department's appeals process, whether applied to medical (impairment) or other components of Income Support, or to the sanctions regime applied to breaches of Actively Seeking Work or leaving work without sufficient reason, is fit for purpose?

Further, has the Minister obtained legal advice on whether an appeals process which contains a "second determination" tick-box exercise followed by a complex process lasting between 3 and 6 months is human rights compliant given that an applicant's condition could be worsened due to stress following denial of benefit?

Answer

The tests used to assess the award of the Income Support impairment component were designed at the start of Income Support with the assistance of medical experts who had participated in designing the UK system and in training large numbers of staff on the mainland to deliver similar assessments. The Department continues to make use of experienced UK experts to train local assessing staff and to carry out periodic reviews to ensure that the tests are functioning as intended.

Changes to the tests are made on expert medical advice, most recently in 2014 when the descriptors relating to epilepsy were updated to reflect changes made to the equivalent tests in the UK.

I am satisfied that the assessment process designed for Income Support is an appropriate way to obtain an accurate and complete picture of the applicant's functional abilities. The process is designed to take into account evidence presented by the applicant and to match this against evidence from a General Practitioner and/or specialist medical reports. Separate areas of the assessment deal with physical, sensory and mental capability and they can be applied to mental impairment, as well as variable and multiple conditions. The assessment process is not centred on a specific diagnosis, but is designed to take into account the effect of any and all medical conditions on a person's functional abilities, whether these are subject to a formal diagnosis or not. Where there is medical evidence that a condition affects everyday function according to the criteria set under law, an award will be made.

The assessment process used by Income Support is designed to be administered by officers who do not have professional medical qualifications. The role of the officer is to assess the evidence that has been provided, rather than to take medical judgements. Where evidence is not clear, a medical board can be used to gather the additional evidence needed. The specialist officers who work in this area of benefit assessment have my full confidence. Officers undertake an intensive period of training from experts who perform the same function for DWP staff in the UK. Determining officers have access to medical professionals to request advice, but also make use of a range of reference material including the DWP website which is regularly updated.

Furthermore, I am completely satisfied that the Department's appeal process is fit for purpose. Any adult included in an Income Support claim has the right to request a second determination (i.e. a review or reconsideration) of any decision made under the Income Support Law that affects their household. This request will be dealt with by a different officer who will fully review the original decision. The applicant is given full opportunity to understand the first decision and present additional evidence to support their case. If they are still dissatisfied with the outcome of their second decision, they are given the opportunity to appeal to an independent tribunal organised by the Judicial Greffe.

Appeals in respect of medical components are considered by a dedicated Income Support Medical Appeal Tribunal. This body is chaired by a qualified lawyer, who is supported by both a GP and a member of the public with an interest in disability issues. Other appeals are referred to the Social Security Tribunal. In both cases, the tribunal applies the law and its decision is binding on the Department, but appellants may appeal to the Royal Court if they feel that the law has been misapplied.

I strongly reject the use of the term "tick box exercise" to describe the review process and I can reassure Members that the appeals process is fully human rights compliant. The process of internal review and external appeal is extremely thorough and gives the claimant informal and formal opportunities to both understand and challenge the original decision, and to submit additional evidence.

In cases where the claimant chooses to submit additional evidence, the end to end appeal process can last several months, as new evidence is submitted and assessed. For example, reviews and/or appeals are often put on hold to await the outcome of a specialist appointment at the hospital, or the return of test results. It would not be fair nor proper to conclude a review or hold a tribunal hearing where the applicant is unable to present supporting evidence that they know is pending.

3.8 DEPUTY S.Y. MEZEC OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE ANDIUM HOMES STANDARD FOR OPEN AND COMMUNITY SPACE:

Question

Will the Minister, as shareholder representative, state what progress, if any, Andium Homes has made in developing the Andium Homes Standard for open and community space for housing developments in St. Helier and other urban areas? Is the Minister in a position to inform members what these standards are and when Andium will be in a position to set targets for the percentage of housing that meets those standards in the Strategic Business Plan 2014-2019? If not, when will the Minister be able to discuss these standards with elected representatives?

Answer

The Andium Homes (Estate) Standard is an initiative designed by the Company to complement their commitment to achieve 100% Decent Homes Standard compliance within 10 years and to support one of the Company's Key Objectives 'Great Homes & Places' as set out in its Strategic Business Plan 2014-2019. The Decent Homes Standard will concentrate on the structure and internal services of the home, while the Andium Homes (Estate) Standard will target improvement to external areas.

The Estate Standard is well developed and a client guide is available on the Company website, www.Andiumhomes.je

There have already been two formal visits to each estate and a third visit, designed to encourage greater client participation, is scheduled for February. Considerable information has already been gathered and has assisted in informing the Andium Homes 2015 Planned Maintenance Programme, which is also available on the Company's website.

Many Andium Homes clients have taken the opportunity to accompany their dedicated Andium Homes colleague during scheduled inspections. This has assisted in ensuring that scheduled works are focussed on client expectations.

In rising to the challenge of their ambitious programme of work, detailed in the Company's Strategic Business Plan, maintenance expenditure for 2015 is forecast to approach £12m. This compares with a 2010 annual expenditure of £8.5m.

In addition the Company's Capital Programme for 2015 will see further investment of £30m.

A revised Business Plan will be published in the coming months and this will contain the outset compliance percentage and onwards targets for the sustainable improvement of open and communal areas.

3.9 DEPUTY S.Y. MEZEC OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE REVIEW OF PROPOSED SITES FOR THE NEW HOSPITAL:

Question

Will the Minister inform members of the terms of reference agreed with the chosen agents into the 100-day review of the one-site/two-site question for the new hospital project, and inform members when he expects to be in a position to report back to the States on its findings?

Answer

I am pleased to be given the opportunity to do so formally.

In September 2014, the then Ministerial Oversight Group gave its commitment that “*in view of the scale of the Project, a stand-alone report and proposition on the Future Hospital is in the best interests of transparent and open Government*” (SR.10.Res/2014 refers).

The Ministerial Oversight Group for Health Transformation met on 17th December 2014 to discuss this matter. The monthly MOG meeting is chaired by the Chief Minister and is normally attended by the Minister and Assistant Ministers for Health and Social Services, and the Ministers for Treasury and Resources, Social Security, and Transport and Technical Services.

Following consideration of the alternatives, the Ministerial Oversight Group agreed that optimised design configurations of the following four sites should be appraised on a like-for-like basis:

1. A new build single site hospital at the existing General Hospital site (Gloucester Street, St Helier) and adjacent land;
2. A new build single site hospital at the existing Overdale Hospital site (Westmount Road) and adjacent land;
3. A new build single site hospital at the Waterfront site (Zephyrus, Crosslands and Jardins de la Mer); and,
4. A new build and refurbished Dual Site hospital at the existing General Hospital and Overdale Hospital sites.

Gleeds Management Services, appointed by Jersey Property Holdings to undertake the Future Hospital Feasibility Study, has started the options appraisal of the four sites, and this is expected to report within the 100 day target.

Following Ministerial Oversight Group and Council of Ministers reviews, the outcome will be lodged for debate before the summer recess in accordance with the undertaking that the previous Ministerial Oversight Group made to the Health, Social Security and Housing Scrutiny Panel (within SR.10.Res/2014)

3.10 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE AVAILABILITY OF SATIVEX:

Question

During the debate on 9th December 2014 relating to the availability of Sativex, the Minister informed members of an existing mechanism whereby the medicine could be available if an application was supported by a general practitioner (G.P.) and if a recognised consultant in an appropriate specialism had made a request for public funding on behalf of a specific individual, but to date no applications had been received. Will the Minister inform Members:

- (a) when the existing mechanism was introduced;
- (b) whether the public and G.P.s were informed, and if so, how and when;
- (c) whether the fact that no applications had been received could have been due to G.P.s and the public being unaware of the existing mechanism, and whether the Minister intends to take steps to inform them?

Answer

Firstly, for clarification, any GP can prescribe Sativex. It is not, however, a medicine that is routinely available and, as such, can ordinarily only be accessed via private prescription.

There has, however, been a long standing mechanism in place, within Health and Social Services, whereby a Hospital Consultant can make an individual patient request for a medicine – where it is not routinely available – to be supplied free of charge through Health and Social Services..

The mechanism for application has been in existence for over 15 years and applies to Hospital Consultants only.

General Practitioners are not able to make individual patient requests directly to Health and Social Services for a medicine that is not routinely available. However, they may refer patients to a relevant Hospital Consultant for review, if they think it appropriate.

Referral to a Hospital Consultant in such cases would be through normal referral channels and a GP may include a request for consideration of the prescribing of Sativex, as part of a referral, where they consider that to be appropriate.

However, the decision on whether to make a request for the non-routine drug to be supplied by Health and Social Services for an individual, rests entirely with the relevant Hospital Consultant, who will give due regard to the patient's particular clinical circumstances; the likely benefit to be gained from the medicine; other treatments previously tried or available; and any exceptional circumstances in the case that may influence the patient's condition.

This can only take place after a patient has been reviewed by the Hospital Consultant following a referral by the patient's GP.

If, after reviewing the patient, the Hospital Consultant's clinical opinion is that a particular treatment would not provide the desired benefit, it follows that they would not submit an individual patient request.

In the 15 years that the process has been in place within Health and Social Services, no such submissions have been received from any Hospital Consultant for the prescribing and supply of Sativex for an individual patient.

GPs are aware of the normal Consultant referral process, but my Department will ensure that they are reminded of the options and process for applications, where they feel this to be an appropriate course of action.

Alternatively GPs can make an application to Social Security to have a particular medicine included in the approved list of medicines. In the event this is agreed by Social Security, the GP would be able to ordinarily prescribe the medication under the Health Insurance Scheme.

3.11 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR HOUSING REGARDING THE REGULATION OF PROVIDERS OF SOCIAL RENTED HOUSING:

Question

Does the Minister have a timescale for the introduction of appropriate and more stringent regulation of all providers of social (affordable) rental housing following the incorporation of Andium Homes and the adoption of the Housing Transformation Programme, and, if so, will the Minister inform members when such regulations are expected to be brought to the Assembly?

In the meantime, will the Minister inform members what policies Andium Homes and the Housing Trusts have concerning the tendering for planned and unplanned repairs, internal and structural maintenance, and decoration to ensure that professional standards and safety as well as value for money are met?

Will the Minister further examine what policies exist across housing providers on recharges for cleaning, decoration and repair costs between the provider, incoming new tenants, housing transfers/exchanges and departing tenants and, in particular, state whether there are agreed standards across providers for assessing the degree of “fair wear and tear” involved and, if not, will the Minister agree to achieve such agreed standards?

Answer

Regulation

Regulation of social (affordable) housing providers will be brought forward before the end of 2015. This timeframe takes into account the need to develop an appropriate regulatory framework and to consult on proposals with stakeholders, including the social housing providers and tenants. Work is underway with social housing providers to enable this.

Tendering policies for repairs and maintenance

All social housing providers have policies in place for the tendering of repair and maintenance works.

For major items of work above a certain value, providers will conduct a competitive tender that is subject to a full due diligence process by senior officers and/or the provider’s board of directors or trustees as is necessary.

For minor or urgent repair works, providers will obtain services from a number of approved contractors. The standard of their work and rates will be assessed to ensure that the services represent value for money and satisfy professional standards of maintenance and repair.

Recharges for cleaning, decoration and repair at the end of a tenancy

All social housing providers have clear and closely aligned policies in respect of recharging tenants for cleaning, decoration and repair costs when they give notice to vacate their property.

The responsibilities tenants have to return their home in a reasonable state of repair and cleanliness will be set out in their tenancy agreement, and additional guidance is available from providers in respect of tenants' obligations for the condition and maintenance of their property.

Where a property is not in a satisfactory condition at the end of a tenancy, and its condition could not be attributed to fair wear and tear, providers will require tenants to undertake remedial works to improve the condition of their property. If a tenant does not return his/her property in a satisfactory condition, the provider will carry out the work itself and seek payment from the tenant to meet its costs.

In the case of the Housing Trusts, the costs of such works will be deducted from a tenant's deposit if there are outstanding obligations, in addition to a further sum if the amount is not sufficient to meet the costs of remedial works. It should be noted that Andium Homes does not require tenants to pay a deposit, and thus operates a system of recharges where a tenant fails to return a property in an acceptable condition.

There are no precise rules on what constitutes "fair wear and tear" which is the case for all types of rental tenancy, although social housing providers will take a professional approach to determining how such matters are dealt with. It should be noted that all the providers use condition reports on new tenancies as required by law since October 2014, which provides a comparative record of the condition of a property at the beginning and at the end of a tenancy.

4. Oral Questions

4.1 Deputy S.Y. Mézec of St. Helier of the Chief Minister regarding proposals for the reduction of poverty in the Island:

What measures, if any, will the Chief Minister be proposing this year to reduce poverty in the Island?

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

The best way to reduce poverty is to help people into work to deliver earnings growth that is built on productivity increases and to constrain price rises so people have more money in their pockets. Of course we also need an income support system that provides help where needed and a minimum wage that removes excesses of low pay. But poverty is a broad agenda. We also need to better educate our children and secure improvements in our living environment, health and social services, all of which will make our society more inclusive. This is the agenda we will be outlining in our Strategic Plan.

4.1.1 Deputy S.Y. Mézec:

We heard aims there, we did not hear policies. The Chief Minister will have been as shocked as I was to read in the *J.E.P. (Jersey Evening Post)* earlier this year about a family where 2 people were working but were still having to go to food banks to be able to feed their family. For them they have no time for platitudes. What they need is clear action and a timescale, so could he give us some specifics as to what he will do, not just wishy-washy aims, which is what I think we just heard.

Senator I.J. Gorst:

This Government recognises that the issues of relative poverty that some in our community face is complex and covers a broad agenda. I have asked the Deputy of Trinity to work with voluntary and

community organisations specifically in regard to food banks. We know that we have an income support system which does not start providing for members of our community until they have been resident for 5 years. That was a policy aim of this Assembly. But we know from speaking to organisations in the voluntary community sector that they have seen and are reporting increasing numbers using those food banks. We need to understand why. We need to understand who those individuals are before we can bring forward firm policy proposals.

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

The Chief Minister in his initial answer mentioned how he was going to ensure the prices were kept down. I would very much like to know how he is going to do that. Secondly, and more importantly, what steps he is going to take to make sure that we do not get user pays charges and other charges, which are going to add to the burden on ordinary individuals and add to inflation.

Senator I.J. Gorst:

Jersey, in common with other European countries, is enjoying some of the lowest inflation that it has known for many years. That is good for consumers and it should be good for ordinary individuals and the money in their pocket. One of the reasons that the issue of competition has moved, and is moving from Economic Development to the Chief Minister's Department and Senator Ozouf being responsible for it, is because we have to make sure that competition is working, because we know that competition is important. When we look at what is happening in the fuel market we know that one of the answers there, rather than increasing margins when the global cost of fuel is declining we should see those narrowing.

[9:45]

We are not. We need to make sure that competition is working in a way that perhaps we have not done in the past.

4.1.3 Deputy M.R. Higgins:

The Chief Minister forgot to mention about the role of Government in keeping prices down and whether we are going to see an increase in user pays charges and other above inflation charges coming to the public. Will he give a commitment that he will not be bringing in over-inflation charges?

Senator I.J. Gorst:

That is the standing instruction which was agreed by this Assembly some years ago. If there is a need to change that then this Assembly will be a party to that decision.

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

Having heard those words I am tempted to reflect back to his own statement: "A decision has been made that charges will not go up by greater than the rate of inflation by this House" a previous House, and yet we have decided that rents, a fundamental aspect of people's lives, will go up by R.P.I. (Retail Price Index) plus. Plus 0.75 per cent. What sort of example is that and does it not break the resolution of this House not to increase costs by greater than R.P.I.

Senator I.J. Gorst:

The Deputy knows that was a decision of this Assembly. This Assembly has difficult decisions to make. It made that decision in the knowledge that it wished to improve the standard of accommodation in the provision of Andium, and that was a difficult decision that it had to make. Was it going to invest in social housing and affordable housing into the future or was it going to carry on making the mistakes of the past and allow people to live in accommodation that was not fit for purpose? I believe it chose the right decision.

4.1.5 Deputy G.P. Southern:

Supplementary, if I may. Does the Chief Minister not accept nonetheless that this is an inflationary measure and sets the marker for the private sector, also to raise their rents by greater than the R.P.I.?

Senator I.J. Gorst:

I do not think it gives much cause to continue to argue about a decision that this Assembly has made. I believe it was the right decision. We have not seen the inflationary rise that the Deputy now suggests from the figure that was only released this week.

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

Does the Chief Minister agree with me that the time has come for this Government to examine their policy of encouraging low paid, unskilled workers into the Island who exist on an inadequate living wage or the incidents of poverty levels will not improve?

Senator I.J. Gorst:

The Deputy knows from reading the Interim Population Policy that that is not a policy of this Government. In fact, it has spoken about managing population and immigration in a way that allows those people who have skills and have got value, be that social or economic value, to come into our community. That is where we have continually been challenged. I believe that that policy remains the correct one, which is the reverse of the indication of the Deputy's question.

4.1.7 Deputy J.A. Hilton:

I do not believe that the population is being managed at the current time. While the registered licences remain within companies and those people that are employed by those registered licences then become entitled to work after 5 years. We are just drawing more people into the Island, so I do not believe the Chief Minister knows how many people are arriving in this Island at the current time who are unskilled and will be doing low paid work. I am sorry, I just do not believe he knows the true figure

The Bailiff:

So your question, Deputy, is?

Deputy J.A. Hilton:

Will he go away and address that issue?

Senator I.J. Gorst:

The Deputy knows that we do know the number of licences. We do not necessarily know the individuals who are occupying those licences but we do know the number of licences. In the last 3 years H.A.W.A.G. (Housing and Work Advisory Group) have been doing work which has reduced the number of licences for 9 qualified people in our community. It is hard because there are some sectors of our economy that requires those individuals, but those politicians, those departments, have been working with those sectors of our economy to try and manage that to create schemes to take people who are already here into their sector. It is difficult work but I believe it is being successful.

4.1.8 Deputy M. Tadier of St. Brelade:

What does the Chief Minister understand by the concept of "wage slaves"? Is that a phrase that he is familiar with and, if so, what does he understand by the meaning of the term "wage slaves"?

Senator I.J. Gorst:

I am not sure that a 10-minute question is a suitable time to be able to answer what is a very complex question about the inter-relationship between a job, between a payment for that work, the relationship with the tax system, the relationship with the benefit system. These are very complex issues and it does not do us justice to try and trade political points across this Assembly in dealing with them.

4.1.9 Deputy M. Tadier:

Let me assist the Chief Minister. Perhaps another phrase for “wage slaves” is “in-work poverty”. The Minister opened his answer with the fact that his Government is trying to get more people into work. I would question what is the point in getting people back into work if those basic wages do not even cover the very expensive **[Approbation]** living costs in Jersey without some kind of subsidy from the taxpayer? The question to the Chief Minister is if he is genuine in wanting to tackle poverty or relative poverty in our Island will he tackle the single biggest issue, which is extortionate rental prices often for squalid or bad properties. If he took the time to look on Jersey Insight or other websites he would realise that in Jersey you cannot rent a one-bedroom property in the Island of any decent quality for less than £1,000 a month and many individuals are having to give up more than half of their net income for property...

The Bailiff:

Sorry, Deputy, questions must be concise.

Deputy M. Tadier:

The question is: will the Chief Minister undertake with urgency to look at rental prices to bring in some form of rent control and if that is not the preferred option, what is the policy of his Government to control the outgoings on rentals?

Senator I.J. Gorst:

The Deputy will know from history that rental control does not work. We have tried it before and it did not work. With regard to income support, the Deputy knows that income support is an in-work benefit. Is he trying to really suggest to this Assembly and to this community that he would rather see people on benefit and not working than see people working and being supported by the Government to deal with everyday living costs, because I know which policy I would rather pursue, and it is the latter one and it is the one that the Minister for Social Security is pursuing. We need to continually keep that under review to make sure it is working. We know that work is good for us. All the academic research tells us that, so it is better for individuals to be in work and be supported than just be supported outside of work.

4.1.10 Deputy S.Y. Mézec:

In this entire question we have not had a single specific commitment to a specific policy. Those are my first 2 questions and unfortunately because the Chief Minister refuses to answer questions properly it has to be my third question as well. What specifics will his Government try to do? What timescales and what outcomes will he be looking for? He must have something surely otherwise it would appear that he just went to the media for a photo opportunity without any substance at all. What is he actually going to do and what would be a good outcome?

Senator I.J. Gorst:

As I said in my opening response. There are many areas of work and we will be bringing forward some of those areas of work in the Strategic Plan. The first area of work is continuing to get people into work who are not in work. There is the area of competition, there is the area of considering the food banks, there is the latest income distribution survey in gathering further information so that we come forward with policy proposals, which are specific to Jersey rather than just taking other

people's policy proposals not knowing whether they are going to be successful or not, which is what some seem to be proposing.

4.2 Deputy L.M.C. Doublet of St. Saviour of the Minister for Education, Sport and Culture regarding fees charged by Victoria College:

Can the Minister confirm whether a non-refundable £500 deposit must be submitted with applications for a place at Victoria College and whether this fee, previously made payable to the Treasurer of the States and deducted from the first term's fees, is now not deducted from the fees and made payable to the Victoria College Foundation and, if so, can the Minister advise when this decision was taken and by whom?

Deputy R.G. Bryans of St. Helier (The Minister for Education, Sport and Culture):

Thank you to the Deputy for raising this issue because I am sure other Members would have had concerns over the Christmas period. Parents of boys starting Victoria College in September 2015 have been asked to pay a non-refundable deposit to secure their son's place at the school. In previous years this money would have been deducted from the first term's fees however the school changed the system this year and intended to use this £500 for the Victoria College Foundation. I have asked the governors to reverse this decision and the school has confirmed it. It will be writing to parents to advise them that the deposit can either be returned or donated to the Victoria College Foundation this year. I will have further discussions with the school to discuss funding issues for the future.

Deputy L.M.C. Doublet:

Can I just thank the Minister for his swift action on this matter? I am sure the group of parents will be very pleased.

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

The Minister did not quite finish off the question, which was asked of him, which was when the decision was taken and by whom.

Deputy R.G. Bryans:

The decision was taken by the governing body. Unfortunately because of the election and various other things there was a timing delay in finding out. I was not aware of the actual letter having gone out to parents until some time in mid-December. I asked the finance director of Victoria College to come in and have a discussion. It was at that point in time I found that they had already sent the letter out to the parents. I then asked him at that point in time to rescind that decision, which they have now done. They had a meeting last Friday and informed me through email on Sunday that that is what had happened.

4.2.2 Deputy G.P. Southern:

In the context of the requirement for all departments, all Ministers, to take 2 per cent off their budget what topics will the Minister be addressing when he talks to Victoria College? Will one of those be the possibility of reducing the subsidy from the States and taxpayers?

The Bailiff:

I am sorry, Deputy. Too far off the original topic.

Deputy G.P. Southern:

The Minister did mention he was going to have further talks with ...

The Bailiff:

Yes, he did, but it is supplementary to the original question.

4.2.3 Deputy M. Tadier:

Given the fact that previously the deposit would have been paid to the Treasurer of the States, was the Treasurer of the States informed of this decision before the letters were sent out?

Deputy R.G. Bryans:

No, he was not. The College at the time felt that the Foundation, because of the nature of the request, did not have to inform him. That was one of the problems that occurred and was highlighted at the meeting with the finance director.

4.2.4 Deputy M.R. Higgins:

Following on from what the Minister told us about he is going to be having meetings with the College regarding funding, can he advise Members whether the reasons for the £500 non-refundable deposit was because they believe they are short of funds and are they making a request for additional funds from the Minister?

Deputy R.G. Bryans:

No, that was not the background to this. The governing body felt that they wanted to provide extra activities to enrich its students' educational experience, which I think is a particularly good thing. But the way in which they went about it was not in accordance with the rules.

4.3 Deputy M.R. Higgins of the Minister for Planning and Environment regarding the Planning and Environment Department's policy for the retention and disposal of records:

Will the Minister advise Members what the Planning and Environment Department's policy is for the retention and disposal of records and what safeguards there are to ensure that the policy is followed and that no accidental or deliberate disposal of records can occur?

Deputy S.G. Luce of St. Martin (The Minister for Planning and Environment):

My department has a records management policy and records are retained and disposed of in accordance with this policy. The purpose of the records management policy is to ensure that full and accurate records of all activities and decisions of the Department of the Environment are created, managed, retained or disposed of appropriately in accordance with relevant legislation. This policy provides a framework and outlines responsibilities for the operation of the department's record management programme. This programme has been established by the department in accordance with the Public Records (Jersey) Law 2002, the Data Protection Law 2005, the Freedom of Information (Jersey) Law 2011. The policy has been authorised by the chief executive officer of the department and all staff must comply with this policy and associated records management procedures. The department is developing section-specific retention schedules covering records relating to its core functions and activities.

[10:00]

The schedules include timescales after which records should be transferred to the Jersey Archive or confidentially destroyed. The policy and retention schedules are available from the department and I have arranged for copies of these to be forwarded to Deputy Higgins. With regard to ensuring that the policy is followed the department expects all staff to comply with States and department policies. Any breach of policy by an employee of the States Employment Board following an

investigation would be dealt with by the department's chief officer or his nominee in accordance with the States of Jersey disciplinary procedure. If the Deputy has any questions or concerns regarding the retention or disposal of records by my department I ask that he forward these to me and I can make sure that they are either answered, investigated or both.

4.3.1 Deputy M.R. Higgins:

I am pleased the Minister has given that statement. I will be providing him with information of where his officers are starting to cull files where there are disputes. People are being told that no emails are contained in the files, which they have requested under subject access request, some of which other copies exist elsewhere, but the department is claiming they do not have it. They do not have file notes. They do not have other things. Will the Minister ensure that his officers, to comply with the Human Rights (Jersey) Law and Article 1 Protocol 1, which requires that all actions of the department are carried out in accordance with the law and are proportionate, that they will retain all the records regarding decisions, including all file notes, all relevant telephone messages, all emails, so the people, if they wish to challenge the law, can do so because the records are there and not culled? I will provide him with the information. Will the Minister please give an assurance that all file notes and all emails relating to cases which could be in dispute will be retained?

The Deputy of St. Martin:

My department recognises that records are a vital asset to facilitating information accessibility and protecting the rights and interests of the States of Jersey, its customers, clients and most importantly the members of the general public. As I said before, all staff, whether permanent, contract, temporary, student or work experience must comply with this policy. But I do have to say to the Deputy that there are a number of items which are destroyed - or not retained is possibly a better way - and these include things like low-level meeting agendas, trivial emails, draft letters, working papers, obsolete publications and superseded addresses and distribution lists. For my department to retain absolutely everything they have is extremely difficult. However, I will say and reiterate to the Deputy that if he has any questions or concerns I will certainly look into them if he can provide me with the detail.

4.3.2 Deputy M.R. Higgins:

I will be providing the Minister with relevant information but what does concern me is the fact that individual officers who are dealing with the cases are not making the decisions about what they are going to delete. In terms of emails and so on, I will say that there has been a recent case where a criminal conviction was overturned in the Royal Court on the basis of irregular ... not irregular, I am trying to think of the term. It was to do with procedural and other problems. In fact personally I think it should have gone further, it should have involved perjury. What I would say is that the information that was used by the court to quash the conviction and pay compensation to the person and so on, the information would only have come out had all the emails, *et cetera*, which were provided to the court and to the Law Officers had they been made available. It should not be for officers to decide which emails are relevant because even a very minor email relating a case or to an architect or to another officer could be relevant in deciding whether a person has been badly treated or not. So I would ask the Minister to have a darn good look at the policy, especially in light of the information I will provide.

The Bailiff:

Have a very good look.

Deputy M.R. Higgins:

Yes, thank you, Sir.

The Deputy of St. Martin:

I would say to the Deputy that my department operates a procedure called S.A.F.E. which stands for Sender Always Files Emails. If the sender decides to retain an email it should be treated like any other document and it is saved in the relevant and appropriate location. This relates to departmental email correspondence only. Unfortunately we cannot rely on other agencies or outside departments to follow the same procedure. But if the Deputy has emails which he thinks are relevant, again if he would forward them to me I will look at them and investigate.

4.4 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the delivery of Gigabit Jersey:

Will the Minister inform Members of the latest developments in J.T.'s (Jersey Telecom) commitment to deliver the Gigabit project on budget and on time?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

The Chief Executive of J.T. gave a presentation to States Members on the Gigabit project last night. The presentation was also attended by the chairman of the J.T. board. I circulated the slides of that presentation to all Members last night. It is clear that a great deal of progress has been made in terms of delivering an extremely challenging and complex programme, one which of course has had its problems. Nevertheless 100 per cent of the core network has been installed, 99 per cent of premises past network has been installed and 35 per cent of broadband premises on the Island had been connected by 31st December 2014. That is 12,035 homes connected versus a target of 13,697. For context, in the terms of global ranking for fibre to the home, Jersey is overall in the top 10 and in Europe in first place. Make no mistake, this is a fantastic achievement and critically important as we develop Jersey's digital economy.

4.4.1 Deputy G.P. Southern:

Wonderful attempt at not answering the question. Could the Minister address the issue of the timing of the completion of the Gigabit project and does he accept that the Chief Executive Officer of J.T. last night said that that may be up to the end of 2019 rather than the initial aim of end of 2016?

Senator A.J.H. Maclean:

First of all I was delighted that Deputy Southern attended the presentation last night. I am sure he found it very useful. Yes, there are variables in a project of this complexity and size. There have been some difficulties which have been notified in the media among other things. Members who attended last night were made aware of those challenges. The chief executive did point out that in certain scenarios there could be an extended delivery period for this project. But he said he was not in a position to commit to that until the details and issues surrounding CH2M and the workers have been resolved, and he has undertaken that by June this year he will have completed a complete review and will be in a position to give Members a proper update on the budget and indeed the delivery date for this important project.

4.4.2 Deputy M. Tadier:

Following on from that, there must clearly be a link between the current dispute that is going on, its resolution and the safe delivery of the Gigabit project in everyone's interest. Could I ask what influence does the Minister have with CH2M in order to make sure that the dispute resolution is catalysed as quickly as possible?

Senator A.J.H. Maclean:

Clearly, as Members will appreciate, the influence is with the executive with CH2M. CH2M was successful in securing the contract for this infrastructure. They are, as Members will be well aware, one of the largest infrastructure companies in the world with turnover of £6 billion and 28,000 staff globally. They do infrastructure. It is their business. So the relationship is between J.T. and that particular company. However, last night following the presentation, I discussed with the board chairman and the chief executive the particular challenges around this, and I have said that as a result of the position that we now find ourselves in that I am going to write personally to CH2M to express concerns around certain aspects of the delivery of the project and in relation to the way in which it appears that some workers may have been challenged. I think that will hopefully help to exert some additional pressure on a company which has shown globally that it takes its reputation very seriously.

4.4.3 Deputy G.P. Southern:

I am glad to hear from the Minister that he is finally acting on this particular issue. Is it his intention that those workers who claim to have been not paid for work done or hours done, to the extent of thousands of pounds in some cases, that he will take up the cases of those workers and seek a resolution so that we can look forward to some sort of completion date well in advance of 2019?

Senator A.J.H. Maclean:

I certainly hope in terms of the latter part of that question that the project is delivered as early as possible. It is in the interests of the Island. It is critically important from an economic point of view that we remain one of the leading jurisdictions with regard to delivery of high speed fibre. It is something that our sister Island I noted recently in the media were bemoaning, suggesting that they are 20 per cent slower and 35 per cent more expensive. But in terms of ensuring that the issues around the employees are properly rectified, yes, I have been holding to account both the executive, and I have spoken to the chairman about this issue, I have to say, and I am sure Members who attended last night would agree, the executive and the board are determined to do everything that they possibly can to ensure that the workers are properly paid for a fair day's work. That is what they should expect and that is indeed what they should get. I can say that although these are not J.T. employees, what J.T. have done, as recently as December, is that they have looked at the payments that were approved by CH2M. They did not agree with all of them and they paid £23,000 in excess of authorised payments from CH2M to the workers to ensure that fairness was achieved. A lot more work clearly needs to be done and I am satisfied that both the board and the executive are undertaking their duties very seriously to resolve this issue.

4.4.4 Deputy G.P. Southern:

Final supplementary, if I may, Sir. Does the Minister have a date by which he intends to be in touch with the workers concerned in order to ensure that this issue is satisfactorily resolved?

Senator A.J.H. Maclean:

No, I do not or would not give a date to the Deputy. The Deputy knows that I attended the meeting organised by Deputy Mézec with some workers from G.F.F. (Gigabit Field Force) last week. I found that very constructive to hear first-hand their views and their challenges. Indeed where I was allowed by those workers to pass on the comments they had made, I have done so to J.T. As I have said, the H.R. (Human Resources) Department in J.T., the executive and the board are taking this matter seriously and I will continue to challenge them to ensure that they put the appropriate pressure on CH2M to operate in an appropriate way with their employees, their workers.

4.5 Deputy J.A. Hilton of the Minister for Treasury and Resources regarding a grant made to the Sea cadets for the construction of new premises:

Will the Minister confirm the balance of monies available to the Sea Cadets from the £600,000 originally granted for the purpose of providing new premises and state what monies have been spent, by whom and to what purpose, and who retains control of the remaining funds?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

I am delighted to ask my Assistant Minister, Deputy Noel, to deal with this matter. He has been dealing with it for some considerable time and he has delegated responsibility.

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

Of the £600,000 budget originally allocated in 1996 £192,730 was expended before 31st December 2006 by E.S.C. (Education, Sport and Culture) and its predecessors at the department, mainly on the 1998/2000 aborted scheme. The balance of £407,263 was subsequently transferred to Property Holdings. With regard to the expenditure on the current scheme: project development costs are £225,334 and payments have been made in respect of legal fees, architect fees, marine architect fees, project management fees, quantity surveying fees, heritage adviser fees, public relation fees and valuer fees. Payments made to the private sector company reimbursed pre-agreed costs incurred by them from suppliers with no mark-up, no administration fee, no additional overheads or profit or any other added costs. The agreement between the private sector company and the suppliers is a commercial agreement between those third parties. In addition to the above payments, the project budget has made the following internal direct payments: planning fees paid to the Planning and Environment Department of £32,802, surveyor's fees paid to T.T.S. (Transport and Technical Services) of £560. A further sum of £41,200 has been paid by to the Jersey Maritime Trust in respect of set-up and operating costs. The balance remaining is £107,367 and it is in the Treasury and Resources Department capital budget.

[10:15]

4.5.1 Deputy J.A. Hilton:

There are a lot of figures spoken about then but my understanding is that the balance left of the original £600,000 is £107,000, which is under the control of the Treasury Department. I think that is correct. I think I have understood that correctly. Will the Minister confirm that the original plans for the Marine Hub did not include apartments and as a result of the amended plans to include apartments the former chairman of the charitable trust resigned his post?

Deputy E.J. Noel:

The chairman of the charitable trust has not resigned his post. It has been the same chairman throughout. One of the members resigned their post because they had a difference of opinion of how the project should be carried out. I believe - I have not heard this directly from the individual concerned - that they resigned because they thought that the Trust themselves should have been the developer. I can confirm that the Deputy is correct in that the balance remaining is £107,367.

4.5.2 Deputy J.A. Hilton:

Another supplementary, Sir? Could the Minister just explain, with the remaining balance of £107,000 is this what has been driving the fact that the apartments were included in the original plans because simply all the money has been spent?

Deputy E.J. Noel:

No, the original scheme brought forward was for a hotel-come-hospital development. Members will recall back in 2011 when we debated the Island Plan this was the preferred site for the Sea Cadets and for the other maritime users, and it was to be funded out of a planning gain from that site. The schemes that was brought forward originally as a hotel scheme to provide the funding. Unfortunately that hotel would have been at such of a size that nothing else would have fitted on the site to provide the necessary planning gain to provide the £2.2 million to £2.5 million worth of community asset being built. Members may or may not know that residential property provides the biggest return from a development for the smallest physical footprint, which is why we ended up with a residential scheme to fund the public community space.

4.5.3 Deputy G.P. Southern:

Is the Assistant Minister proud of the record of his department and other departments in the Council of Ministers in frittering away this sum which was allocated to a particular cause all those years ago?

Deputy E.J. Noel:

I will take that question in 2 parts. I am extremely proud of the departments that I have worked with, particularly Property Holdings which has worked exceptionally hard in trying to deliver projects that this Assembly wants them to deliver. I am also proud of the Ports of Jersey in their work that they do. I do not believe that we have frittered away. We have done what this Assembly has asked us to do, which is come up with a scheme that self-funds the £2.2 million to £2.5 million worth of community space. It is obvious from the public reaction to that that the public do not want residential development on that site, and we have agreed with stakeholders to go in and see alternative sites to see if it is possible to relocate the Marine Hub there. But it may be the case that the Marine Hub, without any commercial development, the preferred site will still be Les Galots and that we will have to get the planning gain from other sites within the Port's portfolio.

4.5.4 Deputy M.R. Higgins:

Personally I think it is scandalous. The States have allocated £600,000 to the Sea Cadets for a headquarters and something in the order of £497,000 has been frittered away and they do not have a headquarters after something like 20 years. I think it is absolutely scandalous. What I will ask is... my specific question to the Minister is why is it that money allocated to the Sea Cadets, £41,200 of the amount that the Minister has just told us about was given to the Maritime Trust to set it up? That was not the intention of the funds of the States. It was to build a headquarters for the Sea Cadets. Will he please explain exactly why this money was given and what it has been spent on?

Deputy E.J. Noel:

Again, I will take that question if I may, in 2 parts. Quite unusually I agree with Deputy Higgins in the first part of his question. I think it is scandalous that this Assembly in its various guises over the last 22 years have failed to deliver on promise after promise to the Sea Cadets. I think that is scandalous. I am determined that that scandal does not continue. With regard to the individual costs, of the £41,200 grant paid to the Jersey Maritime Trust, some £16,450 was set-up costs and £24,750 have been its running costs since its inception in January of last year.

4.5.5 Deputy M.R. Higgins:

Could the Minister please explain why this money, which was allocated to the Sea Cadets, has been transferred to a Maritime Trust? The money was allocated. The States voted for the Sea Cadet headquarters. Not to set up any other body or to fund any other body so please explain who made that decision and why it was done.

Deputy E.J. Noel:

The original grant was back in 1996 to provide the Sea Cadets - and I am not sure if it was the Sea Cadets and other maritime users - a home somewhere within the boundaries of the ports. The grant to the Maritime Trust is to facilitate the decision made by this Assembly in 2011 whereby to create a home for the Sea Cadets and other community users on the Les Galots site. The management of those facilities was deemed to be best to be done outside of the Ports of Jersey and outside of a States department by a charitable trust to run those facilities on behalf of the community.

4.5.6 Deputy D. Johnson of St. Mary:

In relation to the general funding of the Sea Cadets clubhouse, back in 2011 it was noted that in addition to that sum should the private development not proceed there was a further £800,000 available for the creation of the clubhouse. Could the Minister please confirm whether that is still available?

Deputy E.J. Noel:

I am not aware that that was available. The decision in 2011, as I have already mentioned, by this Assembly was to fund the community space and the Sea Cadets headquarters on the Les Galots site by a planning gain. I am having talks with the Ports of Jersey to see if we can do that in another way, to produce the community space on Les Galots as a preferred choice by the Sea Cadets and others, with a planning gain probably somewhere from a site such as La Folie.

4.5.7 The Deputy of St. Mary:

Just to give final confirmation that there is no ongoing intention to create residential units at Les Galots?

Deputy E.J. Noel:

I am happy to confirm that. The planning process is a consultation process. The project team have listened to the views that were expressed by the public, in particular with the vistas on that particular site, and it is now the intention to provide that facility without having commercial development in terms of residential on the Les Galots site.

4.5.8 Deputy M. Tadier:

This Government is supposedly committed to transparency and accountability, if not financial aptitude. Can the Minister confirm no matter how he dresses it up there was a States decision and funds of £600,000 were allocated, which, to all intents and purposes, no longer exist. Where is the accountability in that? Is anybody going to be held to account to that decision, which has recently come about? If not, how is the public supposed to have confidence in this or indeed any States Member and States Assembly when it cannot deliver basic projects and basic decisions?

Deputy E.J. Noel:

Like all States departments and the private sector we have to comply with the planning rules and regulations. We have to submit planning applications and detailed plans. These cost money. We have no free money in the States of the Government so the available resources that we had were used to develop that scheme. I am determined, and I have made this very clear to a lot of my Ministerial colleagues and, along with the Chief Minister, we are determined to ensure that eventually, after some 22 years, the Sea Cadets are given what they were promised.

4.5.9 Deputy J.A. Hilton:

Can the Minister confirm what, if any, the former Harbourmaster plays in the Maritime Trust related body and whether there is any truth in the rumour the former Harbourmaster was paid off from his former role?

Deputy E.J. Noel:

The former Harbourmaster, through his company, is the developer for the site. He has no interest in the Maritime Trust. The Trust is independent, has independent trustees, and he is not part of that. He is the developer. With regard to how he exited his employment with the States, that is not in my remit, I have no knowledge of that at all. Perhaps that is a better question to pose to the States Employment Board.

4.6 Deputy J.A. Martin of St. Helier of the Minister for Treasury and Resources regarding the Jersey Gas site:

Following the controversial planning application for the Jersey Gas site and the alternative proposal that the land should become an extension of the Millennium Town Park, can the Minister inform the Assembly whether there have been any discussions between the department and Jersey Gas regarding the possible purchase of the site?

Senator A.J.H. Maclean (The Minister for Treasury and Resources):

Yet again, this is a responsibility for Deputy Noel, Property Holdings, my Assistant Minister, so I would ask him to answer the question.

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

There have been no discussions between the department and Jersey Gas regarding the possible purchase of the site. Further, as is outlined in the Treasury comments to the P.156 debate that we will have later today, the public has no funds to acquire this site within the current budget nor has a bid for funding to acquire the site and create a public car park being tabled for consideration in the long-term capital programme. Simply, the answer to the Deputy is no.

4.6.1 Deputy J.A. Martin:

Having read those comments, does the Minister not think that then the Minister for Treasury and Resources is absolutely relying on the States not to back the Constable and has been very tardy? He is the Minister in charge of Property Holdings: it could be a land swap; we do not even know the price we are dealing with, and should not be in these jobs since September to find out. Jersey Gas, would he not agree, do not want to develop. They need to develop to make funds so they can facilitate a move down to La Collette. It is his department who should be doing these discussions and I am absolutely amazed at the Minister's answer. Would he not agree it is very slow and they should be proactive in this, not relying on a States decision?

Deputy E.J. Noel:

As far as I am aware the States have no desire to acquire the site for any purpose at all. I have had discussions with the Constable in December where we talked about a wide range of interaction between the departments that I am responsible for and the Parish and one of the suggestions that I put forward to the Constable was that the Parish takes over the running of the Town Park. In this regard perhaps the Parish would consider using some of their substantial resources that they have to acquire the site themselves.

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

Could the Assistant Minister advise how imminent is the relocation of Jersey Gas? Is an alternative site available? If it is not pressing would Deputy Noel agree with me that there is no urgency for this application to be determined? Is it not rather a device to establish an inflated value on the site?

Deputy E.J. Noel:

I will take that again in 2 parts, if I may. The first part: as far as I am aware the gas production and the gas provision has already moved down to La Collette. I may be wrong but that was my

understanding. What is left on that site is the retail aspects and some residential aspects, and obviously the old Gasometer facility that was damaged a few years ago. With regard to whether or not we should be delaying a decision on the site, again I go back that this is normal due process of our planning law. The Minister has an obligation to determine a live application that is before him.

4.6.3 Deputy G.P. Southern:

What consideration, if any, has been given to the possibility of a land swap for this site and, if none, will the Assistant Minister pursue this avenue?

Deputy E.J. Noel:

The Deputy seems to infer that a land swap has no cost. If we carry out a land swap this is exactly the same as paying cash, there is no difference, because you swap a piece of land that you would have used for something else, it has a value. We have not looked at this because we have not been asked to consider purchasing this site. I believe nor should we.

4.6.4 Deputy G.P. Southern:

In that case, may I have supplementary, and I am asking him to consider a land swap for this site in particular because of the fact that it is adjacent to the new town park and should not be allowed to spoil what progress we have made on that particular aspect.

Deputy E.J. Noel:

If that is the case then I think the Deputy should be free to bring forward an amendment to the Island Plan because currently this is in the Island Plan to be developed out for housing.

4.6.5 Deputy M. Tadier:

It was mooted in questions just now that the States is not interested in buying the site if that were on the table, but can the Minister confirm that the States has never been asked whether it would like to buy the site and were that proposition to come to this Assembly it may well be that the States decided that it would wish to buy that.

[10:30]

Can the Minister perhaps give an answer to that in one or 2 parts as to what his opinion is?

Deputy E.J. Noel:

I can do that in one part, just for the Deputy. It is not the role of the States or Government to develop out and provide every single site in St. Helier. It is for the Government and this Assembly to facilitate the development of those sites. That is exactly what we have done in the Island Plan and what our planning process does. We should facilitate, not necessarily do.

4.6.6 Deputy M. Tadier:

The Minister seems to be fixated ideologically about what this Assembly should and should not do where actually I would have thought that as independent Members we should take every case on its individual merits, which of course the Minister for Planning and Environment has to do when judging planning decisions. Could he clarify what he has just said and say that it may well be that after a debate, were it to happen, that the States would decide that this is the best thing to do for Jersey and we can determine what the future of that area should be with the interaction of the Parish of St. Helier and greater public consultation as well.

Deputy E.J. Noel:

That is perfectly possible. This Assembly can make decisions and get the Government to act on those decisions, but in my original question from Deputy Tadier he asked me what my opinion was

and my opinion has not changed. Government should facilitate the regeneration of St. Helier, not necessarily do it.

4.6.7 Deputy J.A. Martin:

Look where facilitating the Sea Cadets got us. Yes, my final question to the Minister in charge at the moment of Property Holdings and property in Jersey, despite his cosy chats with the Constable of St. Helier, will he please at least undertake to find out the costs of this site and what the gas company would ... I do not care if there is no money in the pot at the moment, this is the last part of extending the Millennium Town Park, and for anybody who lives around there, I would ask the Minister to take it on to find out how much or what the gas company would need to walk away. It is simple. He has the experts working for him at the moment. Thank you.

Deputy E.J. Noel:

My discussions and meetings with the Constable are never cosy. They are quite often productive but never cosy. The value of the site is purely dependent on the planning permission that is given to that site. Without a planning decision given to the site you cannot determine the value. So it is a bit chicken-and-egg in a sense. For us to be able to understand the value of the site we first need to have an approved scheme on that site.

4.6.8 Deputy J.A. Martin:

Supplementary. The gas company did say they needed the monies to facilitate their move and they did not say it was about planning, and this has never been asked. Could the Minister undertake to find out the cost?

Deputy E.J. Noel:

I can only repeat what I have already said. We would not know the cost without knowing what the permissions were on that site.

Deputy K.C. Lewis of St. Saviour:

May I raise the défaut on the Constable of St. Saviour? In doing so, may I apologise, I believe the Constable had a medical appointment this morning, I was remiss on not mentioning it earlier. I would be grateful if the record could be amended accordingly.

The Bailiff:

Does the Assembly agree to raise the défaut on the Connétable of St. Saviour? Very well.

Deputy M. Tadier:

Should it not be défaut excuse in that case rather than raising a défaut?

The Bailiff:

I think the record will show that she had a reasonable excuse.

4.7 Deputy G.P. Southern of the Minister for Social Security regarding the ability of the Income Support system to address relative poverty across different categories of claimant households:

Will the Minister review the income support system to assess its ability to address relative poverty across different categories of claimant households?

Deputy S.J. Pinel of St. Clement (The Minister for Social Security):

The income support benefit is made up of many different components and is designed to meet the reasonable costs of many different types of claimant households. Components are reviewed regularly to meet the needs of current circumstances. The most recent changes were implemented in April 2014. The disregard in respect of earned income was increased from 20 per cent to 23 per cent, creating a substantial improvement in total household income for those households that use income support to top-up low wages. At the same time changes were made to the rental components within income support, increasing the maximum amount available to private sector tenants and covering the full cost of rents for tenants in the social sector. Members may be aware that a major assessment of relative poverty among different household types is already underway. A clear understanding of the impact of the economic downturn on different categories of claimant's household will be provided from the new income distribution survey currently being undertaken by the Statistics Unit. The results of this survey will be published towards the end of this year. It would be a very poor use of public resources to attempt to double-up this work with a similar review of income support in advance of the detailed information that will be produced by the Statistics Unit. However, while the Statistics Unit's survey is underway I will continue to monitor all aspects of the income support system and where changes are needed during the year I will return to the Assembly with proposals for Member's approval. As the Chief Minister has already explained in response to a separate question, a key agenda for this Council of Ministers is to help all members of our society and I will work with the Chief Minister and other Ministers to ensure that this Government presents a co-ordinated response to any issues raised by the income distribution survey.

4.7.1 Deputy G.P. Southern:

Supplementary, if I may. The Minister is aware that there has been no general review of the effectiveness of income support in the 6-plus years now that it has been in existence. Will she undertake to come to the House with figures which indicate the effectiveness of income support alleviating relative poverty for the households for which she is responsible, such as pensioner households, children in poverty or not, single parents and families with couples? Will she undertake in her own right to examine how effective her arm of the weapons against poverty is so that we can join the work that the Stats Department does to the work that her department has done in reviewing her system?

Deputy S.J. Pinel:

Income support is paid to income support households. An income support household could be one person, a couple or a family living together at the same address. Couples can be married, in a civil partnership or unmarried. This includes same sex relationships. In answer to the Deputy's question, income support is constantly under review inasmuch as I mentioned in my answer in the first place that the 2 components out of many components of income support - of which there are 14 - and 2 components where reviews were implemented in August last year with the increase in the rental components and the increase in the disregard.

4.7.2 Deputy S.Y. Mézec:

Does the Minister agree that the disability benefit side of income support is not working when it sees people suffering from long-term illnesses losing their benefits, despite not actually getting better, simply because they do not tick the right boxes on an arbitrary form. Does she agree that this is an area in need of urgent review because this is the single largest amount of constituent work I end up taking on?

Deputy S.J. Pinel:

The disability component is consistently under review, as is any other part of income support and is even more so now because of the introduction of disability discrimination in 2017 or 2018. Hopefully 2017.

4.7.3 Deputy S.Y. Mézec:

I asked in my question if the Minister would agree that the disability side of income support is working given that this happens. Is she satisfied that every person is receiving the amount that they should and that it is being targeted and that these arbitrary forms are the best way of determining who should be getting benefits for disability or long-term illness?

Deputy S.J. Pinel:

The question of long-term illness: a review on that is being undertaken this year. With disability components it is constantly updated with reference to the Medical Tribunal, and there is an appeals situation should the claimant have a problem with their allowance component.

4.7.4 Deputy G.P. Southern:

Sorry, I thought we had a signal there from my left but obviously we had crossed wires even with the party. The Minister keeps repeating that the system, the income support system is under continuous review. What I am asking for is a review, a proper review of its effectiveness, what elements get to which parts of our society? That review has never been undertaken. How effective are we at alleviating policy for single parents, for the disabled, *et cetera*. That has never been done. Will she commit to doing a review on the effectiveness of income support in reaching the people it is supposed to be reaching so that we can fully understand the figures that we get from the Stats Department come the end of this year, and so we can properly address from the bottom-up rather than the top-down the Chief Minister's aim to address poverty in the coming Council of Ministers regime.

Deputy S.J. Pinel:

I keep providing the same answer to the Deputy. The income support is constantly under review with all its 14 components and its benefits as has been said many times before.

4.7.5 Deputy G.P. Southern:

If I may, final supplementary. Then when I ask in the next fortnight for the Minister to come forward with figures that prove what effect income support has on various households, she will be able to do so, will she?

Deputy S.J. Pinel:

I think if the Deputy wishes to discuss this further, he has been invited on several occasions - not necessarily just on this matter - to come and talk to the department and I cannot guarantee that we will complete a review in 2 weeks.

4.8 Deputy J.A. Hilton of the Minister for Health and Social Services regarding Oncology staffing levels:

Can the Minister advise whether the present Oncology service is understaffed and under-resourced and, if so, confirm whether urgent steps are being taken to address this situation and where the funds to do so are being allocated from?

Senator A.K.F. Green (The Minister for Health and Social Services):

My Assistant Minister, the Constable of St. Peter will handle this, it is an area delegated to him.

Connétable J.M. Refault of St. Peter (Assistant Minister for Health and Social Services - rapporteur):

Our dedicated and highly professional team in Oncology face a challenging time in managing a growing demand for treatment and care, however the Oncology Department at Jersey General Hospital is currently fully staffed with the exception of a vacancy for one Oncology Nurse, recruitment for which is in progress. Members may remember our Medical Officer for Health's recent report identified that demand is increasing and there is no doubt that if it continues to follow the picture of peaks and troughs we saw in 2014 the challenges of ensuring the department has the right balance of trained professional staff will be significant. The tendency for demand to ebb and flow makes it difficult to predict required staffing levels and our hospital director is currently reviewing Oncology Services to determine future staffing levels. This varying intensity and demand also resulted last year, 2014, in a £73,000 overspend in Oncology. This figure was almost entirely attributable to additional spend on drugs and had to be balanced by constraints in other areas. There are undoubtedly pressures in Oncology as there are on all of our hospital services and we must look at how we can continue to manage and resource the department to meet those needs.

4.8.1 Deputy J.A. Hilton:

My understanding from what was reported recently was that the work of the Oncology Department has doubled in the last year due, apparently, to new treatments being offered. What I am not understanding is how we can double the number of patients going through Oncology from 30 to 40 a week, to 60 to 80 a week with only 2 doctors. One of the consultants who works at the hospital themselves has reported that they are understaffed and are concerned that some patients may be not being seen as soon as they should. How seriously is the hospital taking this matter?

The Connétable of St. Peter:

That is a multi-faceted question. I will try and answer as many as I can recall. I will start with the last one first because that is the most important one. We take all matters of health care very, very seriously in Jersey General Hospital. The pressures on us are to find adequate funding to continue to do it but I can guarantee to the Deputy and Members in the Chamber today that people that need essential urgent medical attention, especially with cancers, will get that within days of being referred. We aim to process all of our patients within 13 working days from the date they were referred to the consultant in the hospital.

[10:45]

The pressures that were reported recently in the *Jersey Evening Post* were quite right to raise the spectre of the increasing demand. Much of that has been due to the fact that we now can do more treatments in Jersey, saving having to send people to Southampton, and that in itself has brought pressures. It is always difficult to predict the flow of people coming in at any one time, as it is within Accident and Emergency. We have a lot of people at some times going through treatment and at other times the department is underworking, but mostly it is working at capacity and we are definitely looking at ways of increasing that capacity going forward, including, where necessary, bringing in a further consultant from the U.K. (United Kingdom) or sending patients over to the U.K., especially for the treatments for cancer.

4.8.2 Deputy C.F. Labey of Grouville:

Could the Assistant Minister also advise if the new area, originally allocated to Oncology, was last year reduced in size and it is in fact too small, overpopulated and patients still lack privacy?

The Connétable of St. Peter:

My short answer is no. I do not see that at all. We spent £3 million on extending Le Quesne Ward and certainly if one is going to see the old Oncology Department and seeing what we have now, it is considerably larger and considerably better resourced than it ever was in the past. However, we are working within the constraints of the existing building in what we can achieve and these are the things we are focusing on going forward and we need to focus not only on quality but other areas as part of the new hospital development.

4.8.3 The Deputy of Grouville:

I do not dispute that the area has been resourced and is better resourced than the old area, but could he confirm that the area that was allocated to Oncology was halved in size last year?

The Connétable of St. Peter:

I am not aware that there was any reduction in size last year and I would invite the Deputy to let me know if that is an important factor that she wishes to consider further, and I am certainly happy to take that on board and take that further.

4.8.4 Deputy G.P. Southern:

Just so that we can get a picture of what the impact of a missing Oncology Nurse might be, does the Assistant Minister have a figure for what is the overall staffing levels in that unit altogether?

The Connétable of St. Peter:

In total staff, no I do not know because nursing staff can be brought in to assist who are not Oncology specialists when there are pressures. I do not have a finite number. There is an ebb and flow of staff that come in and go out from the department.

4.8.5 Deputy G.P. Southern:

Will the Assistant Minister seek a figure so that we can get a perspective on what a missing expert nurse might have on the work of the unit?

The Connétable of St. Peter:

I am happy to undertake to get that figure back to all Members before the end of today.

4.8.6 Deputy M.R. Higgins:

Will the Assistant Minister advise Members whether there are any plans or talks taking place about moving part of the treatment for Oncology from Southampton to Cambridge or other centres? Would he please advise Members of what change is taking place to provide the provision that cannot be provided within the Island?

The Connétable of St. Peter:

All off-Island treatments are constantly under review with our Procurement Department but at any one time we are also always renegotiating the terms of contracts with off-Island medical providers to see where we are going to get the best value for our treatments and also the best patient experience. Many people think that Southampton is the better one for patient experience because it is convenient for flying to, but some of the actual treatments we are finding can be better provided at other locations, such as Cambridge and Oxford.

4.8.7 Deputy M.R. Higgins:

The Minister did not explain what discussions are taking place and whether decisions are going to be made shortly.

The Connétable of St. Peter:

I did say that they are all constantly under review and, yes, there will be decisions taken shortly on the appropriate ones but I cannot be definitive, that is not part of the main question for today.

4.8.8 Deputy M. Tadier:

The Assistant Minister talked about the aim was to get people seen within 13 working days. Do we have any statistics on whether that aim is being achieved?

The Connétable of St. Peter:

Yes, the aim is being achieved. The majority of all our patients are seen within less than 2 weeks - 13 working days - and obviously there are the odd ones that take slightly longer but our aim is to see them all within 2 weeks.

4.8.9 Deputy M. Tadier:

What does the majority mean? That could be anything from 50 per cent up to 100 per cent. Do we have a specific figure and, if not, how do we make sure that that aim is being implemented?

The Connétable of St. Peter:

I am afraid I cannot be any more precise this morning than saying the majority are seen within 2 weeks.

4.8.10 Deputy J.A. Hilton:

My understanding is that there are 2 doctors and 6 nurses currently in the Oncology Department. A professional in the department believes there should be 3 doctors and between 8 and 9 nurses. So there is a disconnect between what we were told this morning when we have been told that we are understaffed by one Oncology Nurse. That is a huge difference. With the ageing population we know that pressures are increasing on the hospital and with the best will in the world if we are going to provide additional services in Oncology it does not take rocket science to know that you are going to need additional staff. With only 2 doctors what I would like to know is what on earth does the department do when one doctor is off sick and maybe the other one is away on leave?

The Connétable of St. Peter:

We do what we do in all departments, we bring in locums to fill those gaps wherever possible. We do currently bring in locums to assist us in Oncology, to meet the actual pressure points. The Deputy is, I think, quoting directly from the *J.E.P.* article which I reviewed when making up ... composing - apologies I did not make up the answer to the questions - in composing the answer to the question for today. The staffing does ebb and flow according to demand and we do that by bringing in locums whenever necessary to keep us within the 2-week target which we aim to achieve.

4.9 Deputy S.Y. Mézec of the Minister for Economic Development regarding the possible introduction of anti-cyber bullying legislation:

Could the Minister update the Assembly on what progress, if any, has been made towards the introduction of new anti-cyber bullying legislation?

Senator L.J. Farnham (The Minister for Economic Development):

Senator Ozouf is the Assistant Minister with responsibility for this area so will take the question.

Senator P.F.C. Ozouf (Assistant Minister for Economic Development - rapporteur):

This is an important issue which needs to be tackled. I can advise that a Green Paper is in the process of being drafted for potential change probably to the Electronic Communications (Jersey)

Law and the Telecommunications Law. The amendments that are going to be consulted on, the design to ensure that Jersey would have the ability in appropriate cases to prosecute behaviour such as sending indecent, grossly offensive, threatening, false or malicious electronic communications including via social media. This would encompass behaviour that constitutes what the Deputy is asking, which is termed cyber-bullying. The aim is to ensure that there is a level playing field in activity that would be considered illegal if it is conducted in person, for example by telephone, that would similarly be illegal if they were conducted using social media. So there are a number of high priority areas in the digital portfolio, including cyber security, telecoms regulation changes and others. But the Minister for Home Affairs has also said that this is a high priority and I agree with that. In the area I am responsible for a specific individual has been tasked with progressing this matter. The Green Paper, I hope, will be consulted on by Easter with legislation following later in the year.

4.9.1 Deputy S.Y. Mézec:

Thank you to the Assistant Minister for that helpful answer. I was going to make my supplementary about timescale but he has answered that at the end there. What prompted me to ask this question is a knowledge of a particular few individuals who we know are known to the police who are causing real strife to some individuals in Jersey, sometimes using the telephone, sometimes online, but one of the ways they are able to get away with it is because on social media it is very, very easy to completely conceal your identity. So what I would like to know is when this law comes forward will it be able to give powers to the police to be able to find out who these people are, whether that means directly enforcing organisations ... well, I do not know if it is possible to enforce but maybe directly to engage with organisations like Twitter and Facebook to find out who these people are who are hiding behind fake names so that they can target people, often very vulnerable people, and in my experience it tends to be victims of child abuse who are attacked by these people using false identities. So will that be something that will be able to be tackled under this new law?

Senator P.F.C. Ozouf:

I am happy to take that away. I am not the expert but clearly the officials that are drafting this are. I have seen this morning a copy of the draft Green Paper that the officials have worked on. I know that they have been consulting with both the Law Officers and the police and I will take exactly the issue that the Deputy raises. What I would say is that this is not an issue sadly only affecting vulnerable people in Jersey, it is an issue which Australia, Canada and around the world is dealing with. I have been informing myself of the various different ways that other countries are dealing with that, partly to inform myself about how to ask questions about this issue. The Deputy is right, there are isolated cases, particularly of vulnerable people, and as soon as we can deliver on legislation to ensure that no individual can get away with perpetrating what we would describe as crimes the better and we will put a very high priority to it.

4.9.2 Deputy J.A. Martin:

It is more of an explanation as to where exactly this piece of legislation then stands because the question to the Minister for Economic Development - and thank you to Senator Ozouf for answering it - literally where now is this piece of legislation being ... where will it come from when it is brought to the House. So if we want to keep chasing it up, who do we chase?

Senator P.F.C. Ozouf:

I am standing as one of the Assistant Ministers for Economic Development where the digital areas are being transferred to the Chief Minister's Department and it is going to be there. The Deputy can ask as many questions as she wants but I hope she and Deputy Mézec will not have to raise questions because we will make haste and inform Members quickly of these areas. It is an example

where life is moving very quickly. The Telecommunications Law, which I was originally responsible for, I do not think even envisaged the existence of Twitter and social media. The world is moving and what we need is a piece of legislation that is going to be able to be capable of coping with further developments in electronic communication in order that every time a new technology comes up you do not have to change the law. I am hugely sympathetic and recognise the issue. Yes, I am accountable.

4.9.3 Deputy M.R. Higgins:

Can the Assistant Minister advise Members why the existing law or part of the existing law cannot be used? Threatening behaviour and other things like harassment and everything else laws exist at the present time. Can he explain why they have not been used to date?

Senator P.F.C. Ozouf:

They can. There are 4 pieces of legislation that cover this area. There is the Electronic Communications (Jersey) Law 2000, the Telecommunications (Jersey) Law 2002, Crime (Disorderly Conduct and Harassment) (Jersey) Law 2008 and also Data Protection. The Deputy knows, because he asked a question to the Attorney General on 9th September last year of exactly what guidance he had given for use under the existing laws. There are existing laws. Let that message go out that there is legislation here. It is the gaps that have been identified both here and in other jurisdictions that we are seeking to close. The Deputy is quite right and I would refer him to the written answer that the Attorney General gave him last September.

4.9.4 Deputy M.R. Higgins:

Supplementary. I think the Assistant Minister will find that my question to the Attorney General and to others about that time was the fact that one of the most prolific offenders of cyber-bullying in this Island claims he had protection from the police, because he had been one of the people working with the Data Protection Commissioner to prosecute former Senator Stuart Syvret. The question that I want to know is, does anyone have protection and why has this individual not been brought before the courts because his actions go beyond ... if you have given immunity it should not be allowed.

The Bailiff:

Deputy, that is clearly not a question for which the Minister is responsible. You will have to pose that question elsewhere. Deputy Tadier and then final question Deputy Mézec.

4.9.5 Deputy M. Tadier:

Following on from the theme, I know that the Assistant Minister, like any decent Member of the Assembly, would be worried about duplication of resources. It seems to me that if there are already existing mechanisms and if we know that, for example, as was alluded to by the previous speaker, that the Data Protection Law has been used by a prolific offender when it comes to cyber-bullying, when he was on the receiving end, perceivably by a former States Member, yet when this individual has allegedly committed cyber-bullying there seems to be nothing that can be done. So is it not simply a question of will and also a question of resources because we know that anonymous cyber-bullying can be uncovered if the resources are put into that because there is a unit that can do that. It is within the remit of somebody who is I.T. (Information Technology) skilled and certainly it would be in the remit of the police. So can the Assistant Minister talk about targeting resources and making sure that there is a level playing field when it comes to cyber-bullying?

[11:00]

Senator P.F.C. Ozouf:

I am more than happy to put an answer and inform myself about the policies and the laws that need to be put in place. The Deputy I think is asking, quite rightly, matters which are about the resources that are available within the police and the prosecution service. Now, I know that this is a very high priority. The Minister for Home Affairs I think answered questions about this when she stood for office. All Ministers will want to make sure that we have the appropriate resources to investigate and to deal with the crimes that are there. It is not a complete absence of law, it is where gaps are emerging. I would say one final thing, there is also an important issue of education. There is an important issue about educating people about protecting themselves online and what already they can do. So there is a whole range of issues. I do not belittle the issue at all. It is massively important. It is high priority. We will put the legislation in place and we will also make sure the resources are available within the police, but also there is an issue of education and awareness that needs to be put in place.

4.9.6 Deputy M. Tadier:

A supplementary on that. The issue is if somebody sends you a menace anonymously on Facebook, on your email or even by phone there is no amount of education that can help you because messages appear in your inbox, *et cetera*. It is education that allows these very erudite cyber-bullies to flout the law or at least flout common decency and put that in place in the first place. So while I accept the spirit of the Assistant Minister's answer, I would ask him if he would perhaps not put so much emphasis on that last part and really focus, as he has said quite rightly, on those lacunas that currently exist.

Senator P.F.C. Ozouf:

I am trying to be really helpful. I do not put more emphasis on education, I say that it is part of society's response to it, particularly where young people are concerned and parents need to be informed and educated about what they can do to protect young people in open systems. The Deputy will be aware that Twitter, for example, can have closed accounts as opposed to open accounts. You can block people. There is an awareness to protect yourself, to open yourself to abuse in certain circumstances. But nothing should take away from the commitment of giving our law enforcement agencies the right legislation to prosecute, where people go through and penetrate into people's lives in a way that is completely unacceptable. This is a real issue and young lives, vulnerable lives, are affected and that is why we are acting and acting fast.

4.9.7 Deputy S.Y. Mézec:

The Assistant Minister's answers have been very helpful and it is possible I may have missed the boat simply by not being a States Member for too long. But would the Assistant Minister be open to perhaps having some sort of engagement either with States Members or perhaps with the wider public so that they can show specific examples of cyber-bullying so that when the law is finally brought forward it does adequately address the issues that some of these people are facing. As Deputy Higgins and Deputy Tadier have alluded to, there is one, in particular, individual who is doing a lot of cyber-bullying at the moment. I am aware of another person who is doing quite a lot as well, and it would be a tragedy for the law to eventually come forward and to allow these people to continue perpetrating what they are doing at the moment. So would he be open to having some sort of either meeting or consultation, or something like that, to look at these to make sure the law, when it comes forward, does fill these gaps?

Senator P.F.C. Ozouf:

Absolutely, and that is why consultation will be issued. The aim is to issue that consultation before Easter, for that consultation to run for 12 weeks. In that period of time, all manner of meetings or consultation will be welcome. We will do a proper job on that and I will work with the Minister for Home Affairs on that particularly and then when the consultation is concluded we will attempt to

put in place the legislative changes, some of which may be quite simple and could be done quite quickly. I have also asked officials to now put in place communication with law drafting to ensure that law drafting is ready to receive the instructions when the consultation is finished. I thank the Deputy for his questions.

4.10 Deputy M.R. Higgins of the Minister for Treasury and Resources regarding a sum allocated by the States to the Jersey Sea Cadets for the construction of new premises:

Would the Minister advise Members what remained of the sum allocated by the States to the Jersey Sea Cadets for a new building before the Port Galots scheme was devised with a private consortium; how much was spent on the withdrawn Port Galots scheme; how much the private consortium paid towards the costs of the scheme and how much of the allocated money remains for the Sea Cadets? Some of this has been answered so I hope he will concentrate on answering the role of the consortium.

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

Deputy Higgins is quite correct, much of the information he has requested was already included in my answer to Deputy Hilton. The area that was not covered by Deputy Hilton's question is in relation to how much the private consortium has paid towards the costs of the development. I am not aware of the actual costs incurred by the private sector, other than those pre-agreed costs that have been incurred and reimbursed at the cost for professional services supplied in relation to the development of the scheme. I have anecdotal information that the developer has incurred a 6 figure sum in respect to their own costs that were outside the figures I gave to you in Deputy Hilton's question.

4.10.1 Deputy M.R. Higgins:

Supplementary. The Minister has mentioned reimbursement. Has Property Holdings been reimbursing the private developer or any other body for their costs involved with this scheme, and if so, how much?

Deputy E.J. Noel:

The expenses that I outlined in the previous question from Deputy Hilton were paid from Property Holdings via the developer to the underlying service providers. Again, there was no mark-up, there was no profit out of this and this was done for 2 reasons. One was to keep the management of those service providers with the developer so they had to provide that management of those contracts, but also we were paying them after they had done the work which meant that we had some quality control, because if they had not have done the work to a satisfactory standard then the risk was with the developer and not with the budget allocated.

4.10.2 Deputy J.A. Martin:

I probably should have tried to jump in when Deputy Hilton's question was asked but there is more information there. Would the Minister undertake to circulate all the figures that were to do with Port Galots that he has reported today because it is very hard to keep up and I think they need a lot more looking into?

Deputy E.J. Noel:

I am quite willing to do that. In fact these questions really do tend themselves more to be a written question in terms of the detail and I will get that out to Members later this morning.

4.10.3 Deputy M.R. Higgins:

If I could ask 2 questions. I was trying to get one in relating to what he said before I asked the final question but it relates to both. For the avoidance of doubt, I am just trying to understand the role of the private developer here and whether the private developer incurred any costs themselves or whether all their costs have been covered by Property Holdings. That is the first question.

Deputy E.J. Noel:

The answer is, yes, I believe they did and I believe that figure was a 6-figure sum. As with any private body, we have no way of accessing to find out what they actually spent but we reimbursed direct costs to third party, but the developer themselves, I am led to believe, incurred costs themselves in excess of 6 figures.

4.10.4 Deputy M.R. Higgins:

Deputy Martin jumped in with what was going to be my final question but I am going to extend it even further. I would ask the Minister to give an undertaking to the Assembly today that he will publish all minutes, all decisions and detailed expenditure relating to the Sea Cadet project, together with all communications between the Trust, development and States departments and that he does so within the next month. If he fails to do that I will be filing a Freedom of Information request for the same information.

Deputy E.J. Noel:

I believe in being completely open and transparent in this and it was my intention to do just that. I had officers working on it and my original intention was maybe to make a statement today, but because of the vast quantity of information that we want to get into the public domain to be transparent I could not have physically done that in terms of the statement. So, yes, we will be producing a document for Members to show the true extent of the deliberations that occurred since the beginning of early 2012.

4.10.5 Deputy M.R. Higgins:

I am asking for an undertaking to provide all the information. I think the public have a right to know, with £497,000 spent for nothing, everything from start to finish on this particular scheme, produce all the details and leave nothing out. I would like that to be done within one month, which I think is reasonable, all the information is available.

Deputy E.J. Noel:

I have to take issue with the Deputy. The amount that has been spent has not been for nothing. We have had a viable scheme that we presented as a planning application to be considered in the due process. We still have the design and data from that which we will utilise in providing a solution to the Sea Cadets into their club, to provide them with a home for the future. It has not been wasted money.

4.11 Deputy J.A. Martin of the Minister for Social Security regarding the allocation of Income Support components:

Can the Minister advise whether the income support legislation permits the department to lower an income support claimant's rental component due to over-occupying, leaving the decision as to the use of the remaining living components to top-up the rent difference to a determining officer, which could result in people having little or no income for food and other weekly bills?

Deputy S.J. Pinel (The Minister for Social Security):

Just as a small matter of clarification for Members on what appears to be a typing error, the question asks about over-occupying, which should be read as under-occupying. Accommodation

costs make up nearly 40 per cent of all weekly support expenditure. In 2013 this was a total of £28 million. Income support claimants are supported with the full cost of renting an appropriately-sized home from a social landlord. Revised income support legislation in this area was discussed and approved by the States Assembly just under a year ago as part of the implementation of the Housing Transformation Programme. If a tenant chooses to live in a property that is larger than needed for their family size, the income support scheme will only cover the rent in respect of the correct-sized unit. This calculation is set out in regulations. I should make it clear that people will only have a reduced rental component if they choose to occupy a property that is bigger than they need. Where a household is made smaller, for example, because adult children leave home, the department can continue paying the rent for a larger property for up to a year. This allows people plenty of time to find a smaller appropriate home. In cases where somebody needs an extra bedroom, because of a severe illness or disability, or because they are separated parents having a child stay over, our guidelines also allow us to assist. This policy is fair and absolutely necessary. I am aware of cases where people have seen their benefit reduced because they are refusing to downsize from a 2 or 3-bedroomed house in the limited social housing stock. It is not right for the taxpayer to fund people who live in houses that are larger than they need.

4.11.1 Deputy J.A. Martin:

Supplementary. The Minister completely did not answer the part about the living component and she uses the word: "These tenants are choosing to stay in and under-occupying." There is a massive, massive wait to get the right accommodation. That is the first point. Secondly, the difference between the rent of a 1-2 or 2-3 is not then given to the person. They are topping-up the rent account with their living expenses, i.e. in the Micawber rule, you have got more money going out, and it is all going out to housing, and you have got none coming in to pay food, electricity, other living expenses, doctors, which you did have last week. I have emailed the Chief Minister, so Social Security knows, that I have picked up 3 cases in the first week back at work. So if I can pick up 3, how are people living? Does the Minister agree that the living component, if they are over-occupying, should still go to the people or what are they supposed to live on?

Deputy S.J. Pinel:

I agree with the Deputy, there is a large waiting list for appropriate housing and mainly concerned around 2 and 3-bedroom properties which is why there is the necessity not to under-occupy. The benefit rental component is paid directly to the landlords as it is this Government's - and I think anybody reasonable - priority to keep a roof over people's heads. So the rental component is always paid directly to the landlord and the remaining income support benefit is then directed to the claimant.

[11:15]

4.11.2 Deputy G.P. Southern:

Is it not the case in the examples quoted by Deputy Martin that the rule is that the rental component may be reduced for under-occupying but that rental component will not be charged for under-occupying if the tenant has applied for and is seeking appropriate housing which is downsized? Is it the case that in this case the Social Security Department has jumped the gun and has made a decision without talking to the Housing Department about what rules they are applying about downsizing and the fact that you are on the waiting list to downsize says: "Okay, you are making the effort, we will not charge you the full rent" and therefore Social Security in not supplying the full rent will not be causing any harm?

Deputy S.J. Pinel:

Yes, in answer to both Deputy Southern and Deputy Martin, the rental component for the existing property, be it a 3-bedroomed or a 2-bedroomed and the claimant is on the waiting list for a one-bedroom property, the rental component for the higher value 2 or 3-bedroom property will be paid for the first year for as long as these people are on the waiting list providing that they do not unreasonably refuse alternative accommodation.

4.11.3 Deputy J.A. Martin:

What the Minister has replied in her answer and what is actually happening, to my understanding, is totally different. What I would like the Minister to go away and then confirm back to the Assembly is that there is no part of living components going across to the Housing Department or any other private rental where there are firstly ... well, it is anybody but especially where there are children in the home. As I say the living component is being topped-up and I am told from the department it is now down to the determining officer to decide where that money is best spent. So I would like the Minister to check her facts and to come back and confirm no children or other families are left with no component for food and other bills.

Deputy S.J. Pinel:

As I have already explained, the rental component is paid direct to the landlord, be it social or private housing, and if a family is waiting to downsize ... so it would not affect a family where there are children concerned because they would be in the relevantly appropriate accommodation of 2 or 3 bedrooms depending on the size of the family; it is only when they become adult children and leave the home to set up in separate accommodation. I know that the Deputy is referring to particular instances and I cannot speak on individual cases.

The Bailiff:

Very well, that concludes oral questions on notice. Just before we move to questions without notice, can I inform Members of a lodging, Projet 8, Law Revision Board: appointment of member, lodged by the Chief Minister.

The Connétable of St. Peter:

Excuse me, Sir, is it possible for me to give an answer to the questions that were asked of me earlier on staffing numbers for Oncology or would you like me to wait until the end of question time?

The Bailiff:

No, by all means.

The Connétable of St. Peter:

Thank you, Sir. The first question was asked: "How many permanent staff in Oncology?" There are currently 2 consultants, one middle-grade doctor, 4 x grade 6, one grade 5, 2 x grade 4, one healthcare assistant, 2 secretaries and one part-time admin staff. With regard to a reduction in Le Quesne Ward, originally Oncology had 5 chairs, there are now 10 in the new Le Quesne Ward. Thank you.

5. Questions to Ministers without notice - The Minister for Economic Development

5.1 Deputy J.A. Hilton:

Can the Minister inform Members whether there is any truth in the rumour that the former Harbourmaster was paid off?

Senator L.J. Farnham (The Minister for Economic Development):

No, I cannot. I do not think I have been privy to that information. As the Assistant Minister, Deputy Noel, said earlier, that is a matter for the States Employment Board to answer.

5.1.1 Deputy J.A. Hilton:

The only reason I was asking the Minister is because I thought Harbours and Airports came under Economic Development and I assumed the Minister would have some knowledge.

Senator L.J. Farnham:

I understand the previous Harbourmaster left some time ago, certainly way before my tenure and I do not have any knowledge.

5.2 Deputy G.P. Southern:

The Minister, in answer to my written question 8587 earlier today, clearly identifies the results of his Locate Jersey policy but says that he cannot produce any evidence that the new companies Locate Jersey has encouraged to set up in the Island are contributing significant amounts of income tax either through the 35 finance sector companies established or through the employees employed. Will the Minister seek evidence from the Income Tax Department and the Minister for Treasury and Resources as to what the benefit to the Island is of his Locate Jersey inward investment policies?

Senator L.J. Farnham:

I did not say there was no evidence in the answer. What I did say, and as stated by my predecessor on a number of occasions, is that my department is not privy to tax paid by individual businesses or persons. This is confidential information between businesses and/or their employees and the Income Tax Office. These activities do, most definitely, generate revenue and the staff employed pay taxes. What I am keen to do is drill-down and try and get some relevant information by sector that is non-business or individual specific. So the answer to the Deputy's request is, yes, I will look at that by sector.

The Bailiff:

Does any other Member wish to ask a question of the Minister? Deputy Hilton.

5.3 Deputy J.A. Hilton:

Somebody has to keep asking the questions. **[Laughter]** The question I would like to ask the Minister is that he was reported recently to say that he was inclined to look at Sunday Trading again. So my question to the Minister is that it is my belief that not only were the public generally against extended Sunday Trading but also so were the retailers. I am curious as to why he would like to spend what precious time he has on revisiting this issue so soon after it was discussed last year.

Senator L.J. Farnham:

I was keen to understand more about the impact that Sunday Trading might have on the economy. I do fully understand the sentiment of a number of businesses but not all, and a number of consumers but not all. I have a job, as do other Ministers, to assist now in the important growth of the economy so I want to understand fully the impact. That does not mean I am going to bring anything back to the States any time soon but if further study does show that there could be a potential economic benefit to the Island then I may well reconsider it.

5.3.1 Deputy J.A. Hilton:

Supplementary. Does the Minister really believe that the economic situation has improved so much in the last 6 months that he has to go back and do another review? Can he just not go back to his

officers and revisit what was discussed and decided 6 months ago rather than be wasting time revisiting it again?

Senator L.J. Farnham:

I do not have enough time to waste at the moment. No, that is exactly what I am doing, I am trying to better understand the arguments that were made and I will make a decision accordingly.

5.4 Deputy G.P. Southern:

What discussions have taken place between the Minister and the Chief Minister over actions to alleviate poverty on the Island through his particular department?

Senator L.J. Farnham:

At the moment, none. But I will fully subscribe to the policy of developing the economy because we need to develop the economy to make sure we can provide for those in our society that need to benefit. Of course, I think, a growing economy will make a huge contribution to help to reduce, if not eliminate, poverty as we know it.

5.4.1 Deputy G.P. Southern:

In particular, is the Minister considering action on zero-hours low paid jobs in order to eliminate in work poverty on the Island and thereby reduce the amount the taxpayer has to prop-up these poorly paying employers?

Senator L.J. Farnham:

I am on the record on a number of occasions saying I do not support the abuse of zero-hours contracts and we must do more to ensure that they are used appropriately. I will work hard with the Council of Ministers to continue with economic growth because we want to create more competition and we want to lower costs. I refer to the important work that Senator Ozouf has announced recently in carrying out an investigation into the cost of fuel and the reasons why the price decrease in the cost of oil is not being pushed on to the consumer quickly enough.

5.5 Deputy S.Y. Mézec:

The Minister was elected partially on a platform of supporting the tourism industry, so could I ask him specifically what measures he will be proposing to help Jersey's tourism industry? So that is specific policy, timescale and objective. How would he foresee spending increases to achieve that or, in fact, spending decreases?

Senator L.J. Farnham:

I thank the Deputy for that question. The top priority when I was appointed Minister was to ensure the States decision to get the Visit Jersey model was enacted and that, I am pleased to say, has been done and Visit Jersey will be operational from 30th March that year. I think putting the job of marketing and selling Jersey in the hands of the Visit Jersey board will go a long, long way to achieving that aim. So I am delighted with the appointment of the new chief officer of Visit Jersey who is coming very highly recommended from a position as interim chief executive with VisitBritain. The industry are pleased about that. So I think that is the key area to growing tourism and doing what we want to do with it. I am about to sign the partnership agreement with Visit Jersey, part of that agreement provides for the Visit Jersey board to produce a very sorely needed, long overdue, new tourism strategy, which I hope we can all subscribe to.

5.6 Deputy G.J. Truscott of St. Brelade:

Before Christmas I asked the Minister if he would investigate the feasibility of adapting Ronez Harbour, our only deep water harbour, to possibly accommodate cruise ships. He was going to

float that question up to the Harbourmaster and I just wondered if it has just come on down and moored in his inbox or something. I would appreciate an answer, thank you.

Senator L.J. Farnham:

Yes, I did mention it. It is well and truly floated and I will let the Deputy know as soon as I have a response.

5.7 Connétable J. Gallichan of St. Mary:

Can the Minister advise me where we are with the progress on the liquor licensing law review, please?

Senator L.J. Farnham:

Yes, my Assistant Minister, the Constable of St. Brelade, has been designated by the department to deal with that and I will ask the Assistant Minister to this week hopefully give an update. The group under the control of the Chief Minister's Department has, as I understand it, a draft of a new law which is due for consideration and could be made available for scrutiny in the not too distant future.

5.8 Deputy R.J. Rondel of St. Helier:

Would the Minister be able to update the Assembly on the film or T.V. (television) series, *Crystal Island*? Does he share the same excitement and enthusiasm as his previous Minister?

Senator L.J. Farnham:

The Deputy will know I have always been a strong proponent of developing film and screen for Jersey, so yes I can understand the enthusiasm in the department and am very disappointed - as most Members are - and rather sad that it is taking a long time for the investment to bear fruit. Having said that, I personally am not too sure whether anything is going to happen with it, if I am honest. I hope I am proved wrong. I very much fear we could end up writing that investment off. Having said that, it is still very much a live issue and we are watching it very closely.

5.8.1 Deputy R.J. Rondel:

Would the Minister be able to bring back some clarity as to where exactly they are with it at the moment? Thank you.

[11:30]

Senator L.J. Farnham:

Yes, we are waiting for our next round of updates from the producers and I will inform the Deputy as soon as we have had that update.

5.9 Deputy M. Tadier:

I heard the name had been changed from "Canbedone" to "Havebeendone". **[Laughter]** I think the Minister is the only one in Jersey who is waiting for some kind of return on that fund. It is called a con trick. My question is: the Minister has said that he favours competition; does he agree then that there should be choice for consumers when it comes to the provision of fixed land lines in Jersey? What is the Minister's opinion on competition in that area?

Senator L.J. Farnham:

I absolutely do. We need to work harder and faster in bringing wholesale change to introduce new competition in the telecommunications sector, and that is now a matter for Senator Ozouf, who has the delegated authority to deal with it, and I know is making some progress with it, yes.

5.9.1 Deputy M. Tadier:

Is there a conflict or a tension between the fact that the States, through the Minister for Treasury and Resources, is the sole shareholder on that entity, and how would we encourage competition with ourselves when we do not necessarily do that in the field of other utilities?

Senator L.J. Farnham:

No. I think it is separated; the Minister for Treasury and Resources has responsibility to the shareholder, and the regulation and so on falls under the remit of another Ministerial portfolio.

5.10 Deputy A.D. Lewis:

Can the Minister tell the House whether he agrees that a higher minimum wage helps stimulate the economy: it improves productivity, motivation, and alleviates the cost of labour turnover?

Senator L.J. Farnham:

That is a very interesting question. What I do believe in and have confidence in is the recommendation of the Employment Forum, who unanimously recommended the new minimum wage. I think that leads on to perhaps an interesting debate that is yet to be had on the living wage, and that is a matter for the Minister for Social Security to consider in due course. I have looked at that recently and it is quite a perplexing issue insofar as London and the rest of England have completely different models, and there is speculation as to how the formulae to come to those living wages is developed. It is quite disappointing that, despite the best efforts of the Mayor of London, the participation in the living wage has been disappointingly low in London, but I do believe it is important that we have a realistic minimum wage and I do believe that we should continue to support the recommendations of the Employment Forum.

5.10.1 Deputy A.D. Lewis:

The Minister may be interested to know that in the U.S.A. (United States of America) recently published research shows that for states where there have been modest wage increases at the lowest level and have raised minimum wage levels, there has been enjoyment of above average levels of economic growth, and in some cases up to 50 per cent increases in economic growth. I wonder if the Minister would be prepared to have a closer look at the U.S. model and see if we can benefit from seeing what they do?

Senator L.J. Farnham:

Yes, and we do get modest increases in growth in the minimum wage year-on-year, but what we have to be mindful of right now is that we are at a very fragile, optimistic position in relation to returning the economy to growth, and it is about confidence. This Assembly has to take actions that ensure that the business sectors have confidence to create new jobs and continue to employ people. I know the Deputy is a supporter of returning some growth and improved productivity to our traditional industry sectors. Right now, to review the minimum wage and a proposal with a view to raising it significantly higher than may be recommended over the next 3 to 4 years, I would suggest would not be in the interests of those traditional industries. Having said that, the Deputy does raise an interesting question and I am happy to look into that.

5.11 Deputy M.R. Higgins:

Following on from the last question: is the Minister aware of the large amount of evidence that is coming forward to show that the low wage economy is a drag on economic growth? If we have people within this Island who are getting no wage increase at all or, let us say, below-inflation increases, they find their income is being squeezed, then they will not be going out and spending that money within the economy. Believe it or not, 60 per cent of economic growth is generated by

consumption and, therefore, if people are receiving very, very low wages, we may be condemning our economy to a long-term either of recession or low levels of growth. Is the Minister aware of that evidence and will he factor that in as well in his considerations on minimum wage?

Senator L.J. Farnham:

I am sure that is already factored-in to the decisions that are made in relation to the minimum wage recommendations and, yes, I understand but I allude to my previous answer: we now have to, I think, manage these decisions very carefully to ensure we do start to get economic growth again. In reality, and I am not sure - I need to refresh myself on the actual percentage of the workforce that are on minimum wage - but if we were to significantly raise the minimum wage now it would only have the result of putting more people at the lower end of the pay scale out of work because employers and businesses simply would not be able to find the extra budget to fund their workforce so they would have to restructure the workforce accordingly.

6. Questions to Ministers without notice - The Chief Minister

6.1 Deputy K.C. Lewis:

I am sure the Chief Minister, as with all Islanders, was delighted when the cost of a barrel of oil on the open market decreased; this is now being passed on to road fuels and heating fuel. However, last year, we were informed that the price of gas was going up because we have not used enough. What action will the Chief Minister take to make sure that Jersey Gas charge a reasonable rate for their gas and, if necessary, utilising the Jersey Gas (Jersey) Law 1989?

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

I thank the Deputy for the question; it is a very important question. I would say that, while we welcome the decline in the price of fuel, it is not declining fast enough in comparison to the world market, and we have got to do more to deal with that particular issue. How can it be that margins are expanding at a time when the world market price is falling? So, while we welcome the small changes, we need to see more. When it comes to gas, that is another issue and this is one of the reasons why there needs to be concentration on competition, and this work is being undertaken by Senator Ozouf and he will be reviewing the situation that the Deputy refers to.

6.2 Deputy M.R. Higgins:

Although this is questions without notice, I have given the Chief Minister an indication I am asking a question on this topic. Will the Chief Minister give Members an update on the Historic Abuse scheme and, in particular, the following information: the number of claims that were lodged under the scheme, the number that have been settled, the number that have been considered by the Council of Ministers and rejected and the amount of compensation paid to date and how much has been paid to the States' lawyer?

Senator I.J. Gorst:

I have some of that information and I have it with me prepared for today. Some of the monetary amounts I do not have, but I can provide in due course. So 132 claims for compensation were received within the scheme; 2 were subsequently withdrawn, I do not think that is new information. 115 settlement offers have been accepted. To date, no claims have been rejected, but any claims considered by the scheme administrators to be liable for rejection will in due course be referred to the Council of Ministers, and a decision about whether or not to reject ultimately will be taken by the Minister for Health and Social Services. I do not have the financial quantum other than to simply say the Deputy will not be surprised to know that administering the scheme, which needed

to be undertaken by lawyers, is extremely expensive in its own right and I think the balance will be around 50/50.

6.2.1 Deputy M.R. Higgins:

In terms of my question regarding rejection, I have been informed that one person has received a letter or been told by their lawyer that the Council of Ministers have rejected their claim. The Chief Minister has told me the Council of Ministers have not met on it. If it is the Minister for Health and Social Services, has he rejected it, or any member of the Council of Ministers rejected it and, if so, on what grounds?

Senator I.J. Gorst:

I am not aware that that is the case or that any item or case or claim has been rejected by the Council of Ministers. My memory might be faulty, but I am not aware of it; I shall go and double-check with officers so that the Deputy can be satisfied.

6.3 The Connétable of St. Helier:

The Chief Minister has said that St. Helier and its regeneration is at the heart of the Strategic Plan that is being developed. Would the Chief Minister agree with me that if the States were to reject P.156, which is the first item of business today, there is a danger that the Council of Ministers' horse will fall at its first hurdle?

Senator I.J. Gorst:

Absolutely not, and the Constable knows that planning applications must be determined in line with the Island Plan and the Planning Law by the Planning Applications Panel and the Minister for Planning and Environment, at least for another month anyway until the new scheme comes into place. It is not for this Assembly to second-guess those determinations. If the Constable - and I sense in his proposal that what he would really like to do - is have this particular site re-designated within that Island Plan and he is concerned about open space, he is concerned about green space, he is concerned about pathways through town, then I believe that the Council of Ministers and Ministers are concerned about those very issues as well. But the application has to go through the proper legal process. Once it has been through that process then we all need to consider how we are going to deliver those issues to St. Helier, because they are critical to delivering a vibrant St. Helier into the future. We should not be involving ourselves in the process and I think the Constable in his heart of hearts knows that.

6.4 Deputy R. Labey of St. Helier:

We learnt this morning that £500,000 of public money has been wasted on schemes to relocate some Sea Cadets with zero result; a situation as shameful as the Port Galots plan was doomed to failure. Will he take a forensic look at how this was allowed to happen, a formal look at that, because it typifies what is wrong with our system. Port Galots never stood a chance as, anyone who was in touch with the heart and soul of this Island, could have told the Executive, the officers, the department, developers who, once again, wasted thousands of pounds on a scheme that the public do not want. Worse, the proposers of this scheme appear to have played fast and loose with their remit from this House, fast and loose with the Island Plan and its interpretation by them and, worse still, fast and loose with the interested parties here and the people of this Island.

The Bailiff:

The question was, again, Deputy? **[Laughter]**

Deputy R. Labey:

Will he take a forensic and formal look at how this was allowed to happen?

Senator I.J. Gorst:

Without doubt, when we look back there are always lessons that can be learned, and I have got no doubts that there are lessons that can be learnt with regard to the Port Galots scheme, but Property Holdings have taken an instruction from this Assembly, and I admit to my part in that in amending the Island Plan, or at least the Planning Department doing so on my behalf in my absence from the Assembly, to deliver a new headquarters for the Sea Cadets. That was the right thing to do, and it should come as no surprise to Members of this Assembly that those wishing to develop for social, residential or commercial use, follow the process here week in, week out. They spend hundreds of thousands of pounds on professional advice, on surveyors, on architects, on quantity surveyors, and then they go through the planning process. Sometimes that money is spent to no effect, they have to go back to the drawing board and they do it all again. The States has no special permission within the Planning Law and within that process; it has to follow, when it wishes to develop a site, exactly that same process.

[11:45]

The question I believe that we should be asking, notwithstanding the lessons to be learnt from this particular issue about design, about consultation, about parking, about enabling development - they do need to be asked - but the question we should be asking is: does our planning process need to be reviewed to see whether that, which is happening day in and day out, is an appropriate way to get development off the ground in our community for much-needed homes, for much-needed office space and for much-needed community facility.

6.5 Deputy J.A. Hilton:

Can the Chief Minister confirm whether there is any truth in the rumour that the former Harbourmaster was paid off from his former role?

Senator I.J. Gorst:

This, of course as I understand it, was a departure from States employment prior to my sitting on the States Employment Board and prior to my chairing of the States Employment Board, but I do recall that the departure at the time was within the policy at the time. The Deputy will be aware that the previous Comptroller and Auditor General reviewed that particular departure, if my memory serves me correctly, as part of the review into a number of departures in the States, and I think that review took place in 2012. So I might wish to point the Deputy to that particular review.

6.6 Deputy G.P. Southern:

Will the Chief Minister come to the House with a full list of how his departments wish to reduce their budget by 2 per cent to leave a 2 per cent savings in the Budget 2015, and will he do so in short order? Will he do those as soon as possible rather than waiting for the middle of the year for the Business Plan, or even the Strategic Plan, to bring to the House how he proposes to make the 2 per cent savings on budgets across the departments?

Senator I.J. Gorst:

That is a very good question; I had not thought about that. **[Laughter]** Of course, I am always happy to do something as soon as possible. My department, along with other departments, is working to reduce budgets by 2 per cent, sometimes in an administrative department it might be easier than others but, as I have said any number of times, these issues are not easy but it is right that departments are asked to ensure that they spend only what allows for a balanced budget. We are talking here about mitigating expenditure, not anything else.

6.6.1 Deputy G.P. Southern:

Can I follow that up, if I may? I did not get any commitment to bring that list and what is going to be saved where to the House. When will the Minister bring such a list to the House, because it seems to me we cannot go very far in 2015 without knowing that starting point as to what we can or cannot do?

Senator I.J. Gorst:

I do not agree with the Deputy; I think departments should be ensuring that they are delivering efficiencies and reducing their expected spend by the 2 per cent that we have asked them to do in order to balance their budget. I think the Deputy used the words “as soon as possible”; I am not sure when “as soon as possible” is but it seems a reasonable undertaking.

6.7 Deputy M. Tadier:

Does the Minister agree that economic growth in itself is not going to be the panacea to solving either the gap between rich and poor or the poverty trap and that, if those at the lower end are not allowed to keep and save the fruits of economic growth, it is futile?

Senator I.J. Gorst:

The comments I made at the New Year were about relative poverty and the most marginalised in our society, and I stand by that. I am probably not so obsessed with the differential as some Members of this Assembly, but I do think it is right that Government, where it is able, considers the impact of its policies and how it can help those most marginalised in our community. I believe that the best thing in life, and that Government can give to any individual and family with regard to dealing with relative poverty, is a job, and that is why we have focused on that through the last 3 years, and it is why we will continue to focus on it throughout the next 3½ years.

6.7.1 Deputy M. Tadier:

The issue I have, and I am sure it is a shared experience, is that many of the people that I see who are struggling in Jersey increasingly, who were not necessarily struggling 3 or 4 years ago, are in jobs; it is not the shortage of jobs that are there, it is the quality of jobs, it is the high cost of living in Jersey when it comes to rentals - and when it comes, to a lesser extent, to heating and to foods - for those who are in the rental sector, and even those who are not; paying mortgages, *et cetera*, is increasingly difficult. So will the Chief Minister undertake that, even if he is pursuing a policy of economic growth, that there has to be at the same time serious consideration given to outgoings, so that people are not impoverished? It is futile to have a job if you cannot afford to pay your rent and if you cannot afford to pay your bills, at the end of the day. In the history of ...

The Bailiff:

That is your question, Deputy, yes.

Deputy M. Tadier:

I will leave it there.

Senator I.J. Gorst:

I think that is where the Deputy and I differ: I do not believe that it is futile to have a job because, from a job one can ...

Deputy M. Tadier:

The Chief Minister is misquoting. Would the Chief Minister give way? That is clearly a point of order. I did not say it is futile to have a job, I am saying it is futile to depend on economic growth if the jobs that are being created do not allow you to be able to pay your rent and to pay your bills; there is a difference there. I will not be misquoted in that fashion.

Senator I.J. Gorst:

I think the Deputy said - and you are going to correct me if I am wrong - bearing in mind any number of mitigating factors, it would then appear to be futile to have a job, but let us not argue about that now; Hansard will tell us whether I heard correctly or not. I think the important thing, firstly, is to have a job, but there is lots of interplay with other aspects of government policy, and that is why I have spoken this morning and that is why I have asked Ministers to focus on competition. The Deputy is right about the pound in people's pockets and whether, when we have got reducing inflation, when we have got reducing commodity costs, those benefits are being passed on to members of our community. They should be, and if they are not, then we need to deal with those issues of competition. We have got income support; Deputy Southern said income support is a weapon against poverty, and I agree with him, but it is an in-work benefit, it was devised as an in-work benefit and it seems now that some Members do not like the concept of an in-work benefit, but that is exactly what other jurisdictions around the world are moving to, because they recognise the most important thing first of all is to have a job and then benefits can support that work because it is good for them. We have got the issue of population management and trying to ensure that those who come into our community are ones with skills and who are going to bring not only high economic but also social value into our community. These are difficult issues and this issue is important, but it touches on a broad aspect of government policy.

PUBLIC BUSINESS

7. Gas Place: petition (P.156/2014)

The Bailiff:

I know there are others waiting, but I am afraid that brings questions to the Chief Minister to an end. There are no matters under J or K, so we now come to Public Business, and the first matter is Projet 156 - Gas Place: petition - lodged by the Connétable of St. Helier. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Planning and Environment not to approve any planning applications for development on the gas company site and adjacent areas other than a possible extension to the Millennium Town Park with underground parking, if appropriate.

7.1 The Connétable of St. Helier:

Am I confident that this projet is going to be successful today? If I am honest, I would have to say no, I am not. Am I confident that the Jersey Gas site will not be built on and will be used for an extension of the Town Park with parking? Yes, I am. To that extent, I believe that this petition has already achieved a great deal. It has raised the spectre of town cramming right in the heart of the north of town in a way that has really affected many people, not just residents of St. Helier and businesses, but people across the Island who recognise the dangers of town cramming and what might happen if such a scale of development were permitted in an already-crowded part of St. Helier. The petition has also achieved a great deal in that it was put together in short order, and I explain in my report how this happened, because there was every indication that this application for an overdevelopment of the site was going to go before the Minister with officer recommendation that it be approved in the autumn. This was a matter of enormous concern to many people, and particularly the Parish of St. Helier, which had taken advantage of its opportunity to protest against various aspects of the scheme and had seen its protests simply ignored. It was also of concern to residents who had been promised a personal meeting with the Minister for Planning and

Environment, which had not taken place. It was of concern to other bodies doing their best to promote this part of St. Helier as a good place in which to live, who felt that the proposals were simply going to ride roughshod over their scheme. So the matter was deferred, it was not determined by the Minister and, in a way, the petitioners could breathe a sigh of relief and live to fight another day. It also, of course, gave us the opportunity of calling a Parish Assembly, and the Connétables are sometimes criticised by Members for not using the Parish Assembly more to gauge the feelings of their ratepayers and parishioners before speaking in the Assembly. I felt it was important that this matter was put before St. Helier parishioners, and indeed, at last night's Parish Assembly we took a secret ballot on whether to support the petition or not and, by a very large majority, 59 votes were cast in favour of supporting a petition and one against. Whether that one against was confused by the wording of the ballot, I am not sure, because initially people were going to vote against the proposition in the Parish because they wanted to vote against the scheme, and I did try and make that clear from the chair. So it has been to the Parish Assembly; parishioners have united behind the Roads Committee, which on a number of occasions has reminded the Planning Department ... and here I must question how an officer recommendation for refusal was ever attached to such an application. Because let us take the issue of parking: the St. Helier Roads Committee, in open session, asked me to bring amendments to the Island Plan specifically to ensure that any large development in St. Helier not only had enough parking for the residents, who after all have a right to use a car, but also had enough parking for visitors wishing to come and see those people in the town, and for other visitors to the Parish for whom more parking would be useful. The parking was simply stripped out of the scheme. There is not even enough parking for every unit to enjoy a space, although there was generous bicycle parking provided; perhaps they thought that would be something to get it past me, but it did not. The fact is that all the visitor parking was removed, there is not enough parking in the scheme for the number of units that are being proposed, and yet it still had officer recommendation for approval. It was also, as I explained in my report, being fast-tracked; 8 weeks were allowed for this application after its publication before the Minister seemed desperate to rush through a determination before the election. I ask Members how many constituents do they know who have waited not 8 weeks but 8 months, if not longer, for their conservatory or their change to their porch to be approved by Planning? Why the race? Why the rush to get this scheme through? It was a very poor show, and one which I am pleased, at least because of the petitioners and because of those who went around these parts of St. Helier highlighting their concerns, that the petitioners had that effect and the application was withheld. The Chief Minister, in his very helpful answer to my question just a few moments ago, has reminded us that of course the Assembly is not the Minister for Planning and Environment and, indeed, the comment of the Minister for Planning and Environment reflect this. Strictly speaking, the projet cannot be granted, we cannot be the Minister for Planning and Environment, we cannot be the Planning Applications Panel; we cannot tell them how to determine an application. Strictly speaking, we can, because what we are asking to do today is to request the Minister for Planning and Environment not to approve this kind of development on the site. We can make that request in the full knowledge that under planning law, he must make his determination entirely independently and in a disinterested fashion, but there is nothing to prevent us from making the request, because we feel that there are very important principles at stake here.

[12:00]

I am going to try and outline some of those principles for the benefit of Members. I would just remind Members that perhaps it is not the first hurdle at which the Council of Ministers' horse will fall in respect of St. Helier and working with us, but it is important for the third of the population who live in St. Helier that representatives remember who put them here, not just the 10 St. Helier Deputies and Connétable; one might say also the St. Saviour Deputies whose constituents' lives are surely going to be blighted if this kind of town cramming takes place on their borders, but also

other Members who owe their place in the Assembly, whether as Ministers or Assistant Ministers, to St. Helier voters. I would remind the Minister for Treasury and Resources that he found himself in the States because of the electors of No. 2 District, in whose patch the Town Park is, and of course who are grateful to him for ever for pressing that button - albeit at a remove - to enable the first part of the Town Park to take place. I would remind Senator Ozouf, a former Deputy of No. 3 District, who put him here; and so on and so forth. In these Members' first votes in the new Assembly are they going to sell their voters down the river? If it is very difficult for them to vote to support such a proposition as this because of their Ministerial or Assistant Ministerial obligations, can I suggest that they abstain at the end when we come to the vote, rather than voting with the Council of Ministers? So, having said all of that, how did we get here? We covered many important matters at last night's Parish Assembly, there is no time to go into them all; we are very ahead of the game in St. Helier but we unfortunately do not yet have Hansard for our Parish Assemblies, but our minutes will reflect the range of concerns that were raised by constituents last night. One of them, of course, was that the original Town Park got built without any underground parking; which, I would freely say, is a mistake, but do 2 wrongs make a right? It is interesting, if we look at the fate of Ann Court today. We have been promised for a number of years that the Ann Court development will include underground shoppers' car parking, and the word is just beginning to filter out that that is not going to happen, it is going to be too difficult or too expensive to provide the parking underground. I can just see, if we are not careful, the surface car park at Ann Court will be a little bit like the surface car park we had on the Gas Place site, while we argued about whether we could afford to put the parking underground and create the park on top. Members who were in the Assembly at the time will remember that those who championed the original petition, which called for the park on top and the underground parking, had to make a decision: did they want to wait another 10 years? Did they want to wait till the next millennium before they delivered the Town Park, or were they willing to go ahead with the park and hope that the parking provision could take place elsewhere? Some of the speakers at last night's Assembly said: "Let us not make the same mistake again." Let us try and secure this open space. Let us put some parking underneath it so that that need for St. Helier can be met. I already referred to the Island Plan; specifically amended in order to make sure that St. Helier's car users are not disadvantaged. People sometimes seem to think that I do not support car use in town; I am lucky enough to have car parking spaces outside my townhouse in town. I have said many a time, and I said it when I supported the purchase of Plémont - which is a matter I will return to in a few minutes - that St. Helier residents need their cars in order to exit the town at a time to suit them, whether that is to visit Plémont, whether that is to go fishing or go for a walk in the Les Creux Country Park. St. Helier residents need car parking, they need spaces for their visitors. One of the problems of the residents' parking scheme... and I mention that now because I am sure some of my critics may wish to raise it later, almost to head them off at the pass. Residents' parking was approved by this Assembly for residents of St. Helier, where it can be delivered, by a previous Transport and Technical Services Department, and it was approved because residents in other parts of the Island, of course, enjoy the ability to park their cars when they go home, but that was not something that happened in St. Helier. So residents' parking has been a good thing for town residents who wish to own a car and who do not have garages, but it has been a very bad thing for people who want to come to town to shop, to go to the restaurant in the evening around the Parade, for example; people who want to have visitors. That is why the visitor parking was so important, and that is why we had the Island Plan amended in order to make sure that schemes such as this, such as any scheme on the Le Masurier Site round the Odeon; a scheme, for example, to go on the old Police Station Site when the police station is relocated, it is so important that these new developments - which are going to be really trying to take the burden of the Island's housing - that they have enough parking, not only for the residents but also for their visitors and also for people who are visiting town in order to shop, to socialise, to go to the restaurant and so on. There is a

parking shortfall in town and it really is inappropriate that such a large scheme as this is being advanced without any significant parking provision. Far more important, I suppose, to me as a green or environmental politician, is that we know from Planning's own study, the open space study carried out in 2008 - and not very widely disseminated, perhaps because its findings are so stark and uncompromising - that there is a shortage of open space in St. Helier, even with the Town Park. We know that this part of St. Helier, when the Town Park was first proposed, has one of the highest densities of population in the Island; I believe the figure from the 1996 Census was 13 per cent of the Island's population live within 400 metres of the proposed town park; that is 11,300 people. It is a very, very densely populated part of St. Helier, and it has the least amount of open space, so why would you not, when given the opportunity, extend what is effectively rather a small park - it is much-loved but it is still quite small - to extend that open space if you had the chance to do it? You have the open space study of 2008, and you can go back much further: you can go back to the Implementation Group set up by the States, I think it was by the Council of Ministers, and in its terms of reference, it included the following: "The group would actively pursue ..." that is a split infinitive ... "The group would pursue actively the relocation of the gasworks to allow for the full extension of the park." That was way back before the Town Park was even a glimmer of light on a green ring-binder, and that is a long time ago. The terms of reference also said that this was: "An intergenerational project. No actions would be taken that would compromise the potential maximisation of the town park area even if its full realisation may take a number of years." So the States knew about that; this idea of extending the Town Park is not some fanciful notion that has been dreamed-up at a meeting in St. Helier last August; this notion has been around for years, but the town park needed to be extended and we had an opportunity to do that. One of the most moving speeches last night was from a lady who has been at the heart of the campaign for the town park, both to secure it and then to make sure that it delivered on its promises. She pointed out that as you enter the Town Park, at the moment the backdrop is fairly benign; you can see low-level buildings, which is very much consistent with the pattern of development in residential St. Helier from the Victorian period. You can see, of course, the gasometer, what is left of it, but mainly you are struck by the backdrop; you can see the green backdrop of Victoria College grounds and the escarpment of St. Saviour. If this development were to be approved, that backdrop would simply go; you would have 5½ storeys of development right in your face. So the actual pleasure of using the Town Park would be spoilt. You would then, of course, have 300 units - we were talking about 1,000 people possibly - in addition coming into this area for recreation. If Members have not been to the Town Park in the summer when it gets very busy indeed, I would suggest they need to visit it. It is already very, very tightly-packed. That, of course, is not surprising given the figures that I have already referred to; an awful lot of people live around here and do not have private gardens. Of course, we have other schemes coming forward: one of the things that many people referred to is this is not just a development by itself that is being proposed, we already know that the former Play.com warehouse has a significant development proposed for it. We know that the Le Bas Centre is earmarked for residential development, we know that the Ann Court Brewery site is earmarked for residential development, and the list goes on and on and on. All of these housing developments will pull people into the Town Park and if it cannot be extended where are they to go for their open space? I do urge Members to think very long and hard about open space requirements as well as parking requirements in this part of St. Helier and that these matters, these principles are important. I did refer to Plémont; I have been a passionate supporter of Plémont. I have not always seen eye to eye with some of the Deputies on this, but it seems to me - and I have made this point very simply and clearly, I hope, in my report - that if we want to keep Jersey special, then St. Helier has to accept that it will be the place where most new accommodation is built. It will be the place where most new businesses are located, and that makes sense for lots of reasons, not just because it reduces the need for travel; people can then live in the town centre or in the town area and not have to commute to work by car every day, making life a misery for people

who live in St. Clement, St. Lawrence, St. Peter, St. Brelade and so on. It certainly drives down the need for commuter traffic, it drives down the need for school traffic, which of course, is a large part of that misery first thing in the morning. Town needs development for its own sake; the more people who live in town, who raise their families in town, who run businesses in town, the better and the more vibrant a place it will be to live in. But there must be a *quid pro quo*, and that is that a St. Helier resident has the right to leave town in a manner that is convenient to him or her, and if that is going to be at 11.00 p.m. on a Sunday evening to catch the tide for fishing, there is not going to be a bus service that can help. They have a right, therefore, to have a car parked in a garage that they can make use of. It is that failure ... in a way I think what I am looking for from the Chief Minister and the Council of Ministers is I supported Plémont quite passionately against the quite fierce opposition from some Deputies in St. Helier, and I did it because when it came to this proposition, I expected some support from them. I must say, without perhaps trying to tie him down too much, the Chief Minister in his comments - and they were helpful - has already hinted that once the value of this site is set to buy a planning application, then that will be the time to start talking long and hard about how we can perhaps achieve that outcome that I am confident in, which is that we will not build on the site which could extend the Town Park. Just to take a phrase from one of the speakers last night, he referred to the fact that St. Helier has recently been called - and I think it might have been by the Chief Minister - the "economic powerhouse" of Jersey. This speaker made a very good point, he said: "I do not mind living in an economic powerhouse, but I do want a garden and I do want a garage." I think that is what we are asking today. By all means, yes, we will bear the brunt of development, but let us have space, let us have somewhere to park a vehicle. I think the other point that has come out a lot from discussion about the future of St. Helier, there are those siren calls that we need a masterplan, we need to spend another third of a million on a U.K. agency to come over and tell us how to design our town. I would remind Members in the last 10 years we have had numerous U.K. experts in this Island, we have paid them all between a quarter and a third of a million pounds, and they have all produced reports which sit on the shelves of the Planning Department. One of the questions I asked the Minister for Planning and Environment when he stood for his job was I asked him to undertake to bring down all those reports, to go through them, to get his officers to work through them, and to come up with an overall holistic scheme for St. Helier. I do not believe we need U.K. help to do that, I believe we have plenty of research, plenty of good examples. I would highlight the work of the Willie Miller report; that must be at least 10 years old now. There is some very good work that has been done, and what it needs his officers to do, rather than putting their approval on schemes which should never get near the Planning Applications Sub-Committee, in my view, or indeed the Minister, they should be doing work so that we know what the overall burden is for St. Helier. We may be talking about thousands of new units of accommodation. We want to know where these children are going to go to school, we want to know how their cars are going to move around on an already-congested ring road. We want to know where they are going to play. All of these issues about the future of St. Helier suggest to me that, while I do not believe we need another masterplan, we do need to look at the work we have already done before we start approving very significant developments in the heart of town. I think I have more or less made the argument; these are the principles that I would hope Members will bear in mind. These are the arguments that the petitioners, not all of them but many of the arguments that petitioners have made; they are asking the Minister for Planning and Development to take a step back.

[12:15]

What is the hurry to approve this application? Some of them are still waiting for their garage or their garden shed to be approved; what is the hurry? Can we not take a step back and address the overall scheme of things in town? How many units can town take? Where are people going to park? Where are they going to play? Sir, I commend the petition to the States.

The Bailiff:

Is the proposition seconded? [**Seconded**] Yes, the Minister for Planning and Environment.

7.1.1 The Deputy of St. Martin:

Right at the outset, can I say to the Constable that I do not believe there is a queue of people waiting for their conservatory applications to be processed; the department's performance over the last couple of years has improved dramatically and I am proud of it. I wanted to speak early in this debate because, as Members will know, I am in a difficult position. Any application that comes to my department can ultimately end up on my desk and consequently I cannot express an opinion on the Jersey Gas application, the outline application that I have on my desk at present, and I cannot express an opinion on the proposals that the Constable brings before us today. In relation to the gas company site, I would say to Members that this application was received by the department on 9th July 2014. It was advertised and progressed in the normal way and followed due process. The Minister at the time at a public Ministerial planning meeting on 25th September ... that determination of the application was deferred primarily to enable site visits to occur. The process for developing planning applications is prescribed by the Planning and Building Law. The intention of the law is to ensure that when land is developed the development is in accordance with the development plan and that provides for the orderly, comprehensive and sustainable development of land in a manner that best serves the interests of the community. This is the purpose of the Island Plan. The strategies and objectives of the Island Plan are translated into a framework of policies and proposals that provide the basis for land use planning decisions. The law requires the Minister for Planning and Environment to prepare and present a draft Island Plan to the States for approval at least every 10 years. In preparing the draft Island Plan the Minister must publicise their proposals and consultancy representations from the public. After rigorous public consultation and independent review by planning inspectors the States approved the Island Plan 2011 by 37 votes to one in June of that year, after an extensive debate lasting over 40 hours. Revisions to the Plan were approved by this Assembly in July only last year, primarily to meet the need for affordable homes over the remainder of the Plan period. That arose largely because decisions made by the States Assembly in 2011 were not sufficiently robust or sustainable in meeting the Island's housing needs for affordable homes. In June 2011 the States also approved the North of St. Helier Masterplan. This masterplan takes a pragmatic look at the interventions that can be made in the north of town area and sites that can be developed by the States and also by private developers. The Jersey Gas site is identified in the masterplan as being a key regeneration site. Its release for development could act as a significant catalyst to further continue the regeneration of this part of St. Helier. I am going to come back to that later. The masterplan considers the site suitable for a significant new residential development. Following adoption of the North of St. Helier Masterplan and further consultation the Minister for Planning and Environment of the day published in September 2013 site specific supplementary planning guidance in the form of a development brief for the Jersey Gas site. The purpose of this brief is to establish the general planning principles for the development of the site and to set out the guidelines to be adopted when preparing detailed proposals for its redevelopment. In light of the above, therefore, it is clear that the States have already set the planning policy framework for this area and the context against which investment decisions and planning decisions should be made. The approval of the 2011 Island Plan and the North of Town Masterplan envisage that this site will be developed to provide new homes that are needed to help satisfy the Island's housing requirements. The Minister – myself - has also issued further guidance to encourage and enable residential development on that site within the context provided by the Island Plan and the North of Town Masterplan and which support the principle of the site being developed to provide new residential accommodation. The law requires that, in general, planning permission shall be granted if a proposed development is in accordance with the Island Plan. Similarly, the law also enables the Minister to publish guidelines

for the development of a specific site and to take into account, when considering an application to develop that site, the extent to which the proposed development complies with any relevant guidelines that have been published. The process for determining planning applications is prescribed by the Planning and Building Law 2002 and the Minister for Planning and Environment, whoever that may be, will determine the Gas Company Site application, having regard to the States approved Island Plan, the North of St. Helier Masterplan, the Gas Company Site development brief - and this is the important bit - and all other material considerations. I referred earlier to a catalyst and the site being a catalyst for the rejuvenation of St. Helier. I have to tell Members that this site is just one of 4 in the area and I said yesterday if you are good at throwing stones, you could almost throw a stone from one to the other. We have the site alongside the Co-op Grande Marché, we have the Jersey Gas site, we have the Ann Street Brewery site and we have the Ann Court site that the Constable has referred to. I would urge Members to see this as a wonderful opportunity to kick-start the rejuvenation of that part of St. Helier. We know there is a need to make sure that West Centre, the Beresford Street, Bath Street, the markets are rejuvenated and kept lively and vibrant. Here is an opportunity that we must not miss. I am humbled, almost, that the Chief Minister and the Council of Ministers have allowed myself and my department to lead off on the project, which is the Future of St. Helier Project that the Constable has referred to. I want people to want to live in St. Helier. I want people to want to work, to want to visit, to want to shop, to want to open and run businesses in St. Helier. This project - and I would completely agree with the Constable - is not a project that we need to put out to tender and invite half a million pound projects to come over from the U.K., because we have plenty of good people in my department who are going to put this together. I agree with the Constable; we will dust-off those many reports that we have on the shelves and pick out the best parts of them. This Future of St. Helier Project, which has been made a priority by the Chief Minister and the Council of Ministers, is one that we can all get involved with. Economic Development, T.T.S., Home Affairs, the Parish and developers, we will need their involvement. We need the involvement of the Deputies who represent the people who live there. We, most of all, need the involvement of the residents who live in St. Helier, St. Saviour and our town. Finally, the person I need to get involved in this project is the Constable himself, because without his agreement and without moving together forward with him, this project will go nowhere. This project envisages new bus routes. It envisages ways that cyclists can get around town much more easily on their bikes. It envisages walking paths, where there are no bikes or cars. But, it does still envisage a St. Helier where cars are required. The Constable is right when he says that people should be entitled to own a car and maybe they should have somewhere to park it. I envisage residential areas of St. Helier with houses that are large enough for people to live in; in houses that people would be proud to call their homes; houses that are in areas that are safe; houses that are good quality; and most importantly of good quantity, so that we have enough of them for the people to live in. Most important, I think, in my vision for the future of St. Helier I envisage more green areas, more open areas and more areas for public amenity. In conclusion I would say this: I cannot support the Constable. I would urge Members to do likewise. But - and it is a very big but - when it comes to the future of St. Helier, I want to walk alongside him and work with him, so that together we can have a vision and that it is one that can be better for everybody. Finally, I have to say, as I said, I cannot support this proposition. I would say there is a process that has to be followed here. I would urge Members to allow me to follow that process and start on my path with the Constable down the road for the future of St. Helier. Thank you.

7.1.2 Senator P.M. Bailhache:

I think that the Assembly has just heard 2 excellent speeches. At one stage I wondered whether I needed to add anything to them. But I am going to vote against the Constable's proposition for the reasons given by the Minister. I do have considerable sympathy for the arguments deployed by the Constable. I think a few words in support of those principles would not be amiss, particularly as I

was slightly stung by the suggestion that those who supported the renovation and restoration of Plémont should not ignore the interests of St. Helier. I think the process involved in the handling of this application did leave something to be desired. I do not know whether it is fair to say that it was fast-tracked, but it certainly seemed to be dealt with far too quickly. This was without doubt a controversial application. Any Minister who has to take a controversial decision is well advised to take it in slow motion. What is also troubling - here I echo some of the concerns expressed by Deputy Labey in his question to the Chief Minister and the response of the Chief Minister himself - is the process involved in handling planning applications. In an increasingly crowded Island and more particularly in an increasingly crowded town it is more and more important that the planning authority should be extremely sensitive, not just to the Island Plan, but also to the recommendations to bodies such as that which produce the open space study and, of course, to public opinion, distinguishing always between genuine concerns and vested interests. The quality of life of those who live in St. Helier is vitally important. The ability to access green spaces and to move between different green spaces requires thought be given to the construction of pathways and means of moving from one green part to another by those with prams or those with sticks and who find movement difficult. I have great confidence in the Minister for Planning and Environment, which for me is a significant change from the position which obtained before the elections. I know that the Minister will give careful attention to the issues of process. This Assembly cannot be the planning authority. It is, therefore, extremely important that the planning process makes it possible for all relevant points of view to be expressed and taken into account before any decision is made, particularly in a controversial application. In many countries the views of the commune or the locality are given particular weight. It may well be that this is something that in Jersey we ought to be considering too, so that the views of a democratically assembled Parish are given special consideration.

[12:30]

I hope that the Constable will be encouraged by the Minister's undertaking to blow the dust off all the sensible reports, which may be sitting on the shelves in the Planning Department, and to take the best from them. I shall be voting against this proposition, but I do commend the Constable for what I thought was an excellent speech.

7.1.3 Deputy J.M. Maçon:

Just very quickly, being a member of the Planning Applications Panel, I think it is inappropriate that members of that panel should be expressing an opinion on this matter and therefore I withdraw from this debate. Thank you.

The Bailiff:

Yes, just to be clear, I entirely agree from the Chair that members of the Planning Applications Panel should not express a view, because of course they may have to consider this and they would find themselves being precluded from sitting. But, I see no reason why they should not remain in the Assembly. They can read it in Hansard, so they can stay here. But, they should not vote at the end.

Deputy J.M. Maçon:

I am concerned about how my vote is recorded. I would rather it be recorded as declaring an interest rather than say abstaining.

The Bailiff:

That is a matter entirely for you, Deputy.

Deputy M. Tadier:

Sir, can I ask about the ruling? Given that the Planning Applications Panel would not vote on this because there may be judging issues, should that not similarly apply to the Minister who may ultimately be deciding this as well? It seems that what is good for the goose could be good for the gander. I may be labouring under false impressions.

The Bailiff:

I would expect the Minister is going to abstain in this matter. Very well, Senator Routier.

7.1.4 Senator P.F. Routier:

As a resident of St. Helier, and having lived and worked in St. Helier all of my life, I am rising to support much of what my Constable has said. There is no doubt a great deal of need for open spaces for our community. There is a desperate need for parking, for everybody to come into town and to be able to get access to the retail environment. I speak as a retailer as well. I declare an interest there. But certainly there is a desperate need to put a lot of effort into ensuring that St. Helier is made a whole lot nicer than it is now. As much as I love living in St. Helier, as I currently do, there is a lot of opportunity for our town to step up a notch and to be a much better place to live. In saying that, I think the comments that have been made by the Minister for Planning and Environment, the Connétable and the previous speaker, Senator Bailhache, there is probably not a lot left to be said. I think the reason that I am unable to support this proposition is very clear. I do not think this Assembly is the place for particular considerations about single applications to be considered. We should let the process, which is quite clearly laid out in law, where people can make representations to the planning system, to take its course. I will leave it there, just to say that the Constable has my full support in what he wants to achieve for the town and also, the Council of Ministers, as has been said and which will be very evident in the - I hope I am not breaking confidences - Strategic Plan, high up there, and we want to ensure that St. Helier is a really good place to be. In saying that, I cannot support the proposition, but St. Helier must improve upon itself, and can.

7.1.5 Deputy S.M. Wickenden of St. Helier:

What I would like to say is I attended the Parish meeting last night. There were a number of residents who did turn up to say that they would want us to support the Constable. Therefore, I will be supporting the proposition, as per my constituents. But, I would like to say that there was one young gentleman that spoke at the Parish Assembly that made it quite clear that he was not in favour of any more housing in St. Helier. He was concerned about all of the sites mentioned earlier. I worry at this that he did mention that he had had the opportunity to buy a house in St. Helier and he felt very grateful for being able to do that and he used the park for his children on a daily occurrence. When his children grow up would he not wish them to have the same ability to buy a house within St. Helier or the Island? If we restrict housing to be built, that option will not be available. I am also concerned about the traffic flow in St. Helier. The report in the planning used a report that is over 4 years old for what the traffic is like. I think another study before we make any decision should be made on the effects of traffic flow in the Island. I just wanted to make that aware.

7.1.6 Deputy L.M.C. Doublet:

I just wanted to pick up on something that the Minister said in response to the Connétable of St. Helier. He said he wanted people to want to shop in St. Helier, to want to work in St. Helier and to want to live in St. Helier. I really believe that when we are voting on this we need to think: okay, would we want to live in a tiny cramped flat? Would we want to live somewhere where there was not enough parking to enable us to own a car, to go about our business in the Island? Would we want to live somewhere where our friends cannot visit us because there is nowhere to park? Would we want to live somewhere where there is limited outside space, only this already cramped park?

When voting on this I really think we have to think about the quality of life. If we are not prepared to live like that then I do not believe that we can ask Islanders to live like that [**Approbation**]. Therefore, we have a duty to vote in support of this proposition.

7.1.7 Deputy S.Y. Mézec:

This was a manifesto commitment that myself and Reform Jersey made to support what the Constable is trying to do here. It has been said that it would not be appropriate for the States to be looking at this instead of it being dealt with by Planning. I do not think that that is the case. I think there is such a thing as an exceptional case. We have seen it previously with Plémont. I think that this is one as well. I think the greatest argument in favour of that point of view is just to look at a picture of it. If there are any Members here that have got electronic devices that they can see pictures of it, just look at it and imagine it. It looks like some sort of dystopian metropolis that is being proposed here. It is going to be just terrible for that area. The Constable mentioned the view you get when you are at one end of the Town Park. I walk through the Town Park once, maybe twice, a day and I am just picturing the horrible structure there at the moment, left over from that fire a few years ago. I just think replace that with what is being proposed is 5½ storeys, 300 flats, is certainly not an improvement. In fact, it is better the way it is now, because at least it is not contributing to the traffic problems, which are going to be absolutely endemic if we get this. Not just for St. Helier, but for St. Saviour as well. It really, really is just astounding when you hear the statistic that the Constable used before about what percentage population of the Island lives in that vicinity. It is already one of the most densely populated parts of the Island. When we look at the Town Park - which was, let us not forget, accidentally approved by this Assembly in the first place - I was not somebody who was particularly political then, but I remember hearing people who were either fanatically in favour of a park being put there and there were some who were fanatically against it, I think mostly on the basis of how much it was going to cost then. But when you look at it now, I mean who could possibly think that it was a bad decision to have put that there in the first place? It really is fantastic for town. It is fantastic for my constituency. There are very, very few times where you can walk through that park and not see it being enjoyed by someone. Even first thing in the morning you often see parents take their kids there to have a bit of a play in the playground before going to school. Throughout the day, especially when the weather is good, you see people on their lunch break there enjoying it. It is an absolutely vital lifeline for that part of town. What is being proposed here, I believe, will completely undo all of the good that has been done there for those residents. Because this is an exceptional case, because it is such an extreme proposal that is being made for this development, I think the Assembly should cast some sort of verdict on it. What I am worried about, and this was expressed at the Parish Assembly last night, is that 300 flats have been proposed and so it may get to the Planning Applications Panel or whatever and they will look at it and say: "No, no, no, 300 is far too much. You must put 150 there instead." So, we end up with 150 and all the problems that will come from that. Admittedly not as great as 300, but there will still be something. Everyone can say: "See, we found a compromise. Was not that great?" When the original vision for the town park was to have it go all the way back, was to have even more space. Sometimes in summer it is pretty full and if you want to go and have a picnic down there and sit there or whatever it is difficult, because there will be people playing football or it might be busy for another purpose. So having more space there is the right way to go. Especially when you consider what is likely to happen in the other parts of town in the area. Nobody knows 100 per cent what is going to happen with Ann Street. Minden Place is another one that we are not 100 per cent sure what is going to happen. When you take all this into account I really doubt that somebody is going to find another space in that area for some more green space. The only thing that is going to be proposed in the vicinity is going to be more and more housing. So to stick these 300 flats here, with not enough parking, is a real recipe for disaster. I would really hope that Members, for the sake of my constituents who have to live in the area, for the sake of the

constituents of newly elected Deputy Doublet, Deputy Lewis, the Constable of St. Saviour, who also would have to put up with the problems that this would cause ... traffic up Wellington Hill, all these places around there, this will be a real disaster. I think it would be a terrible thing for this Assembly as in the past to have approved things which may have been controversial at the time ... but I think with hindsight will have been seen to have been a good idea, like Plémont for example, it would be a real tragedy. When there is meant to be this idea of a new deal for St. Helier, I think this would be such a betrayal to those people living there to enforce this on them. So, I hope Members will back this petition.

7.1.8 Connétable C.H. Taylor of St. John:

I realise I am new and therefore am still on a steep learning curve, but the situation seems to me very simple. We are being asked to basically be big brother and not abide by the laws and the freedoms that this Assembly stands for. Jersey Gas is a private company. The directors have a duty to their shareholders to maximise the revenues and the price they can obtain from that site. They are perfectly legally entitled to make a planning application. There is a legal duty by the process that we, this Assembly, have put in place. That will then value the site. It is up to this Assembly to then decide, when the site is up for sale, as to whether we wish to purchase it and what we wish to do with it. To interfere in the governmental process that we, this Assembly, have put in place and to say: "No, you cannot enhance the value of your property, because we want to buy it." By asking this Assembly to stop the due planning process I am afraid completely undermines the integrity of this Assembly. I am surprised that this has come forward. I support the Constable in what he is trying to do. I am sorry, he cannot do it in this manner. Imagine if the States wanted to buy your house. Your house is dilapidated, but you know that if you applied to Planning you could enhance the value of the house by putting on a garage or putting on a conservatory, you would be outraged if this Assembly then said: "No, you cannot build a garage and enhance the price, because we want to buy it on the cheap." I am sorry, there is no way I could ever support this proposition.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

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

[12.45]

LUNCHEON ADJOURNMENT

[14:16]

The Bailiff:

Very well, we are debating P.156/2014 Gas Place: petition. Does any other Member wish to speak? Yes, Deputy Bryans.

7.1.9 Deputy R.G. Bryans:

I speak as someone that lives in the heart of this community - a Deputy of the District - and like Deputy Doublet I live close to the proposed application. I was part of the Planning Applications Panel; I spoke against the Gas Place proposal. I have equally spoken at a public meeting for the Le Masurier site; spoken against that application. However, it is the detail that gives me the concern, not the using of the site for housing. Both plans represent a real problem well-articulated by the Constable and I am not going to labour some of the points he has made because I think, rather like Senator Bailhache, I thought he and the Minister for Planning and Environment made excellent speeches. The worry is, the scale of the development is simply too great. We now have 2

developments, each looking to the other for clues as to how to continue this and, as the Minister for Planning and Environment has already said, we have another 2 developments behind that. If you had a set of scales to look at the situation you would look at the north of town now and look at the weight it would do. The whole thing would be upset and unbalanced. The weight of this development, the weight of the density of the population, is just becoming too great. The buildings are just too high, there is not enough parking and there is little consideration given to the traffic problems. In my consideration, having sat with the architects for the Gas Place thing, I thought it was a poor monolithic design, not enough consideration given to the people who will be living there, little consideration for those already living in the area and not enough consideration given to the impact on the educational facilities. The primary schools are under increasing pressure to supply enough places for the residents already there. We are adding on to these primary schools around the area but it is just great. So 4 potential sites each looking to the other. The Minister for Planning and Environment described the wonderful opportunity which must be one of the aspirations, an aspiration of empathy and of understanding the human condition; the need for space to breathe. A local resident who has a background in architecture sent round a letter that beautifully described the nuances of urban life, of town dwelling and the need to create architecture that is sympathetic to the surrounding locality and design. With both of the schemes in their current form, I do not see that. So I would ask the Minister for Planning and Environment to use this opportunity to prove that due process can respond to a full consultation and set in motion a clear vision of what can be achieved by listening to the Constable, the residents and provide quality of life for all those who potentially will live there: those families; those children. I will not be supporting this petition but I will work hard with everyone, the Minister for Planning and Environment, the Constable and the Deputies, to produce a credible and aspirational solution. Thank you.

7.1.10 Deputy M Tadier:

I think the expression is funambulism or something to that effect when one has to walk a tightrope in a district as a Deputy and, on the other hand, as a Minister with collective responsibility tapping on your shoulder constantly. It cannot be easy and I think the previous speaker has done a good job there. There are a couple of issues that I think need to be discussed at this point because I think the comments of the Constable of St. John would have been quite compelling to many Members. They were sensible comments that we do have processes in there generally which are followed, and we do that to delegate largely for practical reasons because it would be simply impractical for a group of 49 Members to decide every planning application. We have a Planning Applications Panel that deals with the majority of those applications as a sort of triage and some of them - the majority I suspect - will be uncontroversial. Some of them of course do attract controversy. We have seen the enormous amount of mobilisation that can occur when an application is so spectacularly wrong as that of the Port Galots development. It is an area that for the public - perhaps along with other key issues to do with taxation planning - is certainly an emotive issue when it comes to the public domain. But I think we have to put it in context because, as other speakers have said, it is not always a black and white issue. There are clearly exceptional circumstances whereby even esteemed Members of this Assembly, Ministers, former Bailiffs even, will come to the Assembly asking for unusual action to take place because the public interest requires it and because there is a strong feeling that it is the right thing to do and that what is currently on the table is not in the best public interest. So whether it is the Planning Applications Panel or whether it is the Minister for Planning and Environment, they are surely the servants of this Assembly, as we are the servants of the public and of the public interest. So I would take a different view and say, looking at the proposition today, it is simply the people asking the petitioners via the Constable of the Parish who is doing his duty quite correctly in representing their views, asking the Minister for Planning and Environment not to approve the planning application. It is not saying that the planning application

should not go through, it is just simply saying that if it were to in other situations go to the Planning Applications Panel it would very likely be referred to the Minister anyway. I imagine this is already a very controversial development and it is something that in other circumstances may well be referred to the Minister for a decision anyway. If it is the opinion of this Assembly in line with the Masterplan and overarching considerations that on balance it is not the right proposal for that area, and we already know that before the elections there was a lot of pressure and discontent at the way that this application was almost forced through by the previous Minister, then I think it is completely valid for this Assembly to say to the Minister: "We are not happy with this application and we do not want you to approve it" for the reasons that are being made very eloquently already I think in the Constable of St. Helier's speech subsequently which will no doubt be reinforced again when he sums up. So I would say to the Constable and perhaps those who have those fears about trampling process, it is using the process and saying: "We do not as an Assembly, having listened to the public, think that this is an appropriate measure to take. We do not want you to pass it for very good reasons." No doubt at some point there will be a consequence of that which will either be a re-submission of a more appropriate plan or it may be something that the States or the Parish can to various degrees be involved in and I am sure they will. So we do not have to simply say: "We cannot accept this proposition today." By all means we can accept it and we should be doing that without any reticence whatsoever.

7.1.11 Deputy J.A. Martin:

I think a lot of what I would say has already been said. I just think I should stand up and apologise for the North of Town Masterplan because when you ask for something to prove your point which was not to have a 900-space multi-storey car park at Ann Court, we brought in the people to do the North of Town Masterplan. I think some of us, obviously with great relief that we were not going to have a Pier Road stuck in the middle of town, took our eye off the ball. We did not realise what we had done. But again we had a plan and a good plan to me is like a good book. It has a beginning, a middle and an end, and this is starting right in the middle. Ann Court should have buildings on it and an open space in the middle with 280 car parking spaces under it. This is all North of Town Masterplan. Green Street was extended, should have been by at least 3 stories. Not happening. David Place should be one way. Belmont Road market gardens where the people park for the market should be open space. As I say, this is a plan overall. I was heartened to hear some of the comments by the Minister for Planning and Environment but he does not speak like myself and the other Deputies to the residents literally living in that gridlock already. Today your message to them is: "No, we do support you." Somebody else has said: "Where are you going to find something that can be demolished and then grassed over?" maybe with some underground parking hopefully. It could have underground parking. Even when, I think it was a previous, previous Minister for Planning and Environment, had the audacity to put housing around the site, Senator Cohen, he had a big archway through the middle so when the gasometer was demolished the park could be extended. So I am quite disappointed today that this is going to collective responsibility. It is a matter of principle. Do you really, really, really support the residents who already live in a cramped area who are absolutely always saying: "It does not matter if it is St. Helier, they do what they want"? So it is a shot across the bow, it is stepping outside. The Constable of St. John is a new Member but he does not have to look back too far to see, as Deputy Tadier has just said, it did not stop us at least 5 times having a debate on Plémont. They brought in every expert, it had planning permission, it should have gone ahead, and we tried compulsory purchase. That was not successful until they had a willing seller. That seller was chased and chased and chased, so do not tell me we have not set a precedent of chasing developers to the point where they leave the Island. **[Laughter]** They absolutely needed that space and obviously I was always anti. Not anti giving a bit of open space in Plémont because you would find it hard to find some if you got the bus that does not go up there. But then you have got your St. Helier's residents. I do always think the old

Constable, the ex-Constable of St. Ouen, who always invited me up and if I needed to go up, I needed my car. It is not about St. Helier versus the rest, it is about St. Helier, St. Saviour and St. Clement. I know you probably might hear from the Constable of St. Clement saying: "If you go along this line do not protect the already built-up area, build more in there. What about Samarès?" Well if you are going to go along that line, you are going to build everywhere: "What about there? What about this?" This is something for the people in town. You will not get another chance to extend that park. You will not get another chance to maybe do the sites around and do all the things that the Minister for Planning and Environment wants. Join these plans up. Do not start in the middle. Where are all the other bits that support this? I think I heard the Minister for Education, Sport and Culture give a fantastic speech supporting the Constable and said he could not. Now if this is collective responsibility, then the man should be ashamed. I am very sorry. I really feel that the Chief Minister - yes, it is Senator Gorst who is the Chief Minister - should stand up and say: "This is a matter of principle today." It really should not be collective responsibility. You cannot give great speeches and platitudes like Senator Routier - it is also his Constable - who and he lives and works there but: "No, no, no, no" because you are bound by collective responsibility. As I say, this plan begins in the middle, there is nothing around it but what I want to do is keep it as a park, send a shot over the bows to the very newly-elected Minister for Planning and Environment who is in a bad position but he needs some guidance. We should give it to him, all of us from St. Helier, St. Saviour and surrounding areas. Ministers, Assistant Ministers alike, stand up and be counted. Yes, at X amount of weeks after the election when you promised this, that and the other. You are not the Minister for Education, Sport and Culture, you are not the Senator who is in the Chief Minister's office.

[14:30]

You are elected by your people and these people want to keep this as a park. Please stand up and be counted today. Thank you. **[Approbation]**

7.1.12 The Connétable of St. Clement:

I am voting against this awful proposition for many reasons but mainly because of the hypocrisy that is surrounding it and the hypocrisy I have heard from some Members today. As Deputy Martin just intimated, just a few months ago - just a few months ago - we approved the building of 200 homes in the St. Clement Green Zone with no social amenities, no recreational facilities, no traffic improvements, no increased open space and a 1,500-person petition against the development. But we approved it all because at that time, allegedly by Members, according to Members in that debate, the need was absolutely urgent and desperate despite the numbers in the report brought by Planning at the time which showed that it was not. But emotion won the day, not reality. Today - today - just a few months later, we are asked to oppose a development in the built-up zone which we have already agreed would be developed by Housing, where recreational facilities, social facilities, educational facilities and work facilities are all on site, or a few steps away, and there is a 250-person petition against it. This just does not make any sense. Now of course we have heard this morning from one or 2 Members: "Well, there is no hurry to develop homes and housing." How come? Six months ago it was so desperate we had to concrete over the Green Zone. Now we do not have to worry about developing in town. This is hypocrisy in its worst and this proposition should be rejected by a huge margin.

7.1.13 Deputy A.E. Pryke of Trinity:

I shall be brief and I am very pleased to follow the Constable because we have decided one thing about building. Only 6 months ago with the Island Plan we decided that we did not need more houses and here we are saying: "Well we cannot build more houses because we need this open plan, this extension to the Town Park." But we need to look at St. Helier as a whole, not piecemeal.

This petition the Minister for Planning and Environment would have a problem with because the planning process is set down in law. It is as simple as that and it has to go through due process. We need to look at St. Helier as a whole, we need to dust-off all the old plans, as has been said before; the St. Helier Masterplan. The Council of Ministers have given their support behind this because at the end of the day we need houses. Those who are saying: “We cannot build here because we need to do the Town Park” well I am sure in 4, 5 or 6 months’ time they will be coming back and saying: “We need to deliver more houses.” Where are you going to put the houses? We cannot go in the Green Zone; where are you going to put the houses? I have just had an up-to-date figure, there are 1,147 applicants on the Gateway waiting list; 220 of those households are in Priority Band 1. That is high priority as those that the likes of Deputy Tadier, Deputy Mézec really push forward. This is reality; there is a need. I will finish there by saying we cannot do this proposition. The Minister for Planning and Environment has to go through due process. Thank you.

The Connétable of St. Clement:

I just wonder for clarity if I could ask the Minister if the number she just gave us, were they families or individuals?

The Deputy of Trinity:

I can give you a breakdown if you want. There are 1,147 applicants on the Gateway and 551 in need of one-bedroom properties, 382 in need of 2-bedroom properties, 176 in need of 3-bedroom properties, 36 in need of 4-bedroom properties and 2 in need of 5 plus.

The Bailiff:

I think the question there was the figures. Are the figures of families or of applicants?

The Deputy of Trinity:

I would like to think that those 2 in need of 5-plus bedroom properties are families. The ones needing one-bedroom properties are one or 2 persons.

7.1.14 Deputy R. Labey:

Of course we need to build houses but we need to build them on the right size, scale, proportions, in the right places, where people can park the car and swing a cat. I am a member of the Planning Applications Panel but I have elected to sit out of that panel for this application because although the Gas Place is not in my district, it does border my district, and I am already campaigning on behalf of residents of, say, Tunnel Street, which is in St. Helier No. 1. I would ask Members to consider those people in Tunnel Street where this development is figuratively on their doorstep but literally just across the road. It is a monster and they have never had anything like that before opposite them and it is blighting their lives at the moment and it is blighting their properties. It is a gloomy prospect for them because it is going to cast them into the shade. Senator Routier’s position I do not understand. Surely this is the place to consider petitions of extremely worried Islanders. Do we not want to bring our Government closer to the people? Do we not want to be responsive? Do we not want to respect it when people enter the political arena when they take part? So I think we should consider this petition and take it very seriously. Now I have stood on the doorstep in Tunnel Street and looked across a very narrow road with the plans about what is going to be there, and it is a frightening prospect for those people. It simply is not fair. It is not fair. I do hope, like Deputy Martin, that at least one or 2 of the Council of Ministers are going to break ranks here. I know they are not bound by collective responsibility as I understand it because the proposition is not brought by the Chief Minister or the Council of Ministers. I would ask Senator Bailhache and the Minister for Education, Sport and Culture, especially as he is a St. Helier Deputy, to just reconsider and perhaps, well maybe not listen to me, but listen to the Constable

when he sums up, especially Deputy Bryans. It would be really important for the St. Helier Deputies who, during the election, all talked about working together in a common aim trying to get a new initiative to work together as a block vote for the people of St. Helier. It would be really important for us all to stand together on this one. Let us talk about the Senators who are now in the Council of Ministers. How many of them talked about the regeneration of St. Helier? Senator Ozouf's initiative, I think it is, to regenerate St. Helier. Regenerating St. Helier is about making it a desirable place once again to live in. Not just a desirable place, although on the Waterfront in the more expensive high-end apartments like Castle Quay estate agents now can say St. Helier is a desirable place to live in, so Castle Quay is very important for that. Very important. But so are the lower-end areas. So are the built-up areas. I hope to bring some of the country Deputies and Constables along with this one because making St. Helier a really desirable place once again to live in is good news for the shires. It is good news because it is less pressure on you. It is less pressure on your precious green fields. It is important for all of us and this is action on regeneration of St. Helier that everybody is talking about. This is real action. The Constable of St. John was extremely powerful and very dramatic. Very dramatic. I have got competition. But I think, if I may say so, Constable, over-dramatic. **[Laughter]** The pot is calling the kettle *noir*. He is over-dramatic in this. Supporting the Constable of St. Helier today does not mean we have voted for a Town Park on the entire site. I agree of course with Senator Bailhache that the Minister for Planning and Environment is in a difficult position. He is having to do what he is having to do and we all have confidence in him and I share that confidence. I think we can help him by supporting the Constable of St. Helier for this reason. It seems to me that the Minister for Planning and Environment is possibly minded to try to go in for negotiations and find a middle course that is acceptable to everyone. Would it not be good if he had the authority of this House to go into those negotiations saying: "You are not going to get this past this lot after this election. It will not wash; someone will bring a proposition. You are not going to get it"? It would give him purchase for his argument to negotiate a middle course. It would give him a bit more authority. It would help him. Let us start this action on regenerating St. Helier now by supporting the Constable of St. Helier.

7.1.15 Deputy M.R. Higgins:

I ask Members again to look at the proposition. The proposition is requesting the Minister for Planning and Environment not to approve the application. Not telling him, not giving him orders, it is just asking him, requesting him, not to approve this site other than for a possible extension to the Millennium Town Park and underground parking appropriate. So he is only being requested not to approve it. Now, I have made the point, he is not being ordered to approve it. Secondly, he is a strong individual. I know darn well he has his own views. I think he is probably stubborn like I am and if he has got a particular view and he thinks it is correct he will stick with it. So do not think that you are going to be ordering him to do anything and do not think if you think you are ordering him that he is going to follow you anyway. The point is it is almost like an opinion poll. We are voicing our opinions on whether we think this is the right development or not. Certainly so far as St. Helier's Deputies are concerned, and some of those in St. Saviour, we all know ... and I am a town inhabitant. I have been here for 37 years in town. I want to see the best St. Helier we can have. Now, the Millennium Park had to be fought for tooth and nail. We know that there was so much opposition to it and I thank Senator Maclean's ring-binder for making the final decision. Absolutely essential. We finally got the Town Park; I think it is something we are proud of. Now what we need to do is enhance St. Helier further. Now that does not mean to say that I am against housing. I want to see more houses; I want to see affordable housing. I also want to see houses or apartments which, to quote Deputy Labey, you can swing a cat in. Not that I am advocating it. But the point is we do know that many houses that have been built in St. Helier, including on the Waterfront, are totally unfit for family living. For example, people have to get tailor-made furniture to get it in because they cannot get it through the lift shafts or other things. They have not

got built-in closets, there is a lack of storage, and this is typical of development that has gone on in St. Helier. So the point is I have not looked at the detail of the plans for this particular site but there seems to be an awful lot of homes planned for it. We have often talked about the need for car-parking provisions. I do not have a place to park my car. I do not have a garage. I am not like in the country Parishes I can leave my car outside or I can put it in the garage. I, like other people, am fighting for every little space we have got in St. Helier to find a place to park my car. This is totally unacceptable. Now to say that St. Helier residents do not need a car is absolute rubbish. As I think the Constable said in his opening speech, I would like to go out and see the rest of this green Island and see how beautiful it is and enjoy it as well. It is hard to do so because we have not got the public transport system to enable us to do it. If we had a car-share scheme, to be honest, if someone would come up with, I know, Google, and we can have driverless cars and you can just phone up and order the darn thing and off you go, brilliant. But until you have got there let us stick in some parking provisions, not only for residents, but for people who want to come into the town. As far as the park is concerned, yes, we do need more and more green spaces. I also happen to think, as in many things that we do in the States, we have been talking that there has been silo mentality for too long, departments not looking at other things. I have been having issues with Health which they finally appear to be coming round to the view that if you have got problems with a family and there is more than one person involved, you should be looking at the family as a whole. Well, St. Helier and Planning, why is this one going to be decided now? Why can we not, I would suggest, delay it a little bit longer, look at the Ann Street site, look at the others that are proposed and see what they are offering St. Helier in terms of amenity, parking, as well as housing provision? Let us look at it and get it right. We say we want it but I can see these decisions coming back and forth to the States piecemeal and we will not get what we desire which is a desirable St. Helier where we know the vast majority of new housing is going to be built. So I would urge Members to request the Minister for Planning and Environment to reject this one at this time and look at it and let us move forward with a holistic view. Thank you.

[14:45]

7.1.16 Senator Z.A. Cameron:

I think it is of concern that there are so many people waiting for housing because certainly I can never remember a time when there have been so many flats and houses for sale and for rent on the market. It does bring up the question that we have had before in the States that is in fact the housing market over-priced and is that the problem that we are currently facing? I think the trouble is if we build even more when we have so many empty properties, that space has gone for ever and the town has changed completely. I think it is time that we did listen to the people who have voiced their opinion and asked us to reconsider these plans yet again.

7.1.17 Deputy P.D. McLinton of St. Saviour:

If you want to breathe life into St. Helier you need a decent set of lungs and this park will provide a good set of lungs for St. Helier. Of course you could talk about the extra housing but by building extra housing not only do you reduce the quality of the life of people who already live in that area, you also reduce the quality of the life of people who move into that area, so you need room to move. How many times have you been to a large town or a small city and said: "There is just too much attractive green space here"? The town needs it. This is the golden opportunity to supply this. I will be voting for the Constable's proposition and it may not make one iota of difference to the eventual decision, I hope it does, but I will be lodging my opinion and that is what this Assembly should do: honestly let the Minister know their feelings. So I would urge you with your heart, vote for a green space, lungs for St. Helier, and vote for a better quality of life.

[Approval]

7.1.18 Deputy R.J. Renouf of St. Ouen:

It seems to me that Deputy Labey of St. Helier's suggestion that we vote for this proposition to enable the Minister for Planning and Environment to negotiate with the owners with the strength of a States vote behind him is an appalling suggestion. It is saying, I think, that if we corporately as an Assembly think a property should be used for a purpose that we think is fine and is a good idea, then it is okay to take that property and its owners out of the normal planning process and subject them to something entirely arbitrary and a special regime. Goodness knows where it might lead, because we think we have determined that we want something to be done with a property that is not under our control. This is private property. We have determined that owners of private property, if they wish to change the use or develop their properties, must follow a particular process. We have set down a Planning Law as the law of the land and we must require all owners of property in the Island to follow that process. We must not engineer specific new procedures to achieve what we might think is desirable outside of that process. That would be wholly unfair to the owners of a property, whether they be a large corporate entity or one individual. So I cannot support this proposal, I think. We are a body that should abide by the rule of law and the rules we have fixed for all persons. Thank you.

7.1.19 Deputy A.D. Lewis:

I was at the Parish Assembly last night and there were a lot of people there expressing concerns about this development. I felt compelled today to speak on their behalf because that is what I am, I am the people's Deputy, together with 10 or 11 other Deputies in the Parish and the Parish of St. Saviour, which is also affected. They were quite vociferous, some may call them a vociferous minority, because that is what often happens in planning debates; you have a vociferous minority making a big noise. But we are talking here about an impact on many thousands of people; it is not just a small extension on a house in the rural countryside affecting 2 or 3 neighbours. It is quite a momentous discussion point that could affect a lot of people. I think we should also draw a distinction between planning and town planning. Town planning is something which we have done a lot of work on but I think we could do a lot more work on. We have done a lot of work over the years on the Island Plan. In fact, it took many years to get the Island Plan before this Assembly before it got approved. When it was presented it was said that this is not set in stone for ever. There are reasons, sometimes good reasons, to amend it. It should be a moving feast to a certain extent when a good case is put forward to that extent. I would be very much in favour of maybe having this application temporarily withdrawn, look at the bigger picture, look at the whole of St. Helier properly with all the reports that have been spoken about today, the ones that are gathering dust on the Minister for Planning and Environment's shelf, although I believe he may have dusted them down recently. Have a look at them. Have a look at other comments from near neighbours, from other consultants that are Island-based, and come up with a revised, new plan for St. Helier in full consultation with the Constable of St. Helier, the Deputies of St. Helier and the people of St. Helier. That is what consultation looks like and that is what the planning process is about too because the planning application is lodged and the public have the opportunity to air their views and opinions. In the case of the Parish Assembly that is exactly what they did very, very eloquently last night. I am talking about people from all walks of life. It was not just Moaning Minnies, it was not just people saying: "This is my back yard." There were some really valid, good debate at the Parish Assembly, good comments from a wide range of people and they should be listened to. So I think we should be looking at a plan for St. Helier that incorporates accommodation. I think we all accept that the majority of accommodation that needs to be built to bring the price of housing down the more stock we have got, the price of property will drop for those that want to go on the ladder for the first time in particular. So we accept that building in the future will be in the open areas of St. Helier, St. Clement probably, and, of course, St. Saviour. But that does not mean that we should ignore the wishes of the people that live in it as to how that should look and feel and how it should

benefit them. Up to 1,000 people could be accommodated in this particular unit. Again, I do not think we should debate the aesthetics or the niceties of a particular building. It is more about the quantum in that area. So you are talking potentially 1,000 people in that one block. We mentioned Ann Court, the Ann Street Brewery site and a number of other developments which are coming to St. Helier, which I think is great for the vibrancy of St. Helier. More people living there and working there, inputting into the community, that has got to be a good thing if it is done properly. But all these people will need open space. Various surveys that have come out about urban living in recent years clearly indicate that people that live in an urban area will not travel more than half a mile to enjoy amenity space. So one could say: "Well they can go up the road to the beach at Havre des Pas or they can go to People's Park or they can go to Howard Davis Park." That is all well and good but if you are a mother with 2 or 3 children and a push chair on a narrow pavement trying to get to Howard Davis Park from this area, are you really going to struggle all the way up there if you have not got a car because you cannot park it anywhere? Probably not. People live in a very small area. They live and work sometimes in the same area but in the case of a young family they will not necessarily travel very far if they have not got a car nearby. So having that green lung in the middle of St. Helier which, I have to say, when it was debated in the States last time, I was sceptical thinking: "No, we should be building on that. It is a brownfield site in St. Helier, why would you not?" But I was pleasantly surprised when I saw the Town Park in all its glory and how it is now used today and I do walk through there regularly myself. It is very well-used and that is in the winter. I went up there a few days ago and it was being very well-used and the weather was not particularly good. So if we have 1,000 more people at the top end of the park, another 1,000 to the east of it, another 1,000 to the west, it is going to be very well-used. Too well-used, I would suggest. So this is an opportunity for us to do something about planning for the urban environment for the future and amending that plan that we have not even got fully on paper at the moment. So I would urge Members to think very carefully about this. I would urge the Minister for Planning and Environment to take it back, look at a proper urban plan for the future of St. Helier in its entirety, not in isolation, and then bring it back to Planning and see what they come up with then rather than try and just maximise value for a private company which was very laudable, and I have no issue with that at all. But if it does not form part of an overall plan for St. Helier then I cannot support the application in the plan that is received here but I can support the Constable's petition and I will be doing so. I would urge other Members to consider the same. Thank you.

7.1.20 Senator A.J.H. Maclean:

Just briefly, if I may. I am sure the Minister for Planning and Environment is very thankful to have a 49-person Planning Advisory Panel to give him some guidance on this matter. I have sat in this Assembly for a number of years and there have been similar cases to this. I do have to admit that I find it somewhat frustrating, particularly when one considers that it was this Assembly after all that approved the Island Plan and that Island Plan and the Planning Law is to be the guidance under which the Minister for Planning and Environment, whoever it happens to be (we now have got a new one) must operate. I can see how difficult it is for any Minister for Planning and Environment to carry out their duties following debates of this nature. It does not, as suggested by Deputy Labey, necessarily give helpful guidance to the Minister. I would suggest it gives some degree of pressure to the Minister who has his obligations under the law to fulfil. I am also concerned, if I may say so, the petition is fine to express the views of St. Helier parishioners about this particular development. I can understand the pressures particularly those in the immediate vicinity will be under, as anybody is. It is a highly-emotive subject, planning, wherever we live. When somebody wants to build next door nobody likes it very much for obvious reasons. But I have to say that 200 petitioners, or 250, I cannot quite recall the exact number, is something clearly to take note of but equally one should not forget that there are something like 35,000 people in St. Helier who have not expressed a view on this particular subject. What I am also concerned about with this proposition

is what it seeks to do is to exclude any future options. What it is doing in terms of guidance to the Minister for Planning and Environment is saying except for possibly extending the Millennium Park with underground parking which, by the way, Members will recall very clearly is quite an expensive operation, the Millennium Park we have got, great facility that it is, nevertheless cost £10 million. If you add underground parking to it that is even more expensive. So if this proposition is guiding the future and limiting it purely to a potential extension to the Millennium Park, that does not really give the flexibility that I would like to see for the important potential and essential, I might point out, regeneration of St. Helier which this Council of Ministers, this Government, and I know this Assembly, is behind. That is an important thing to do but I think this somewhat limits the extension and opportunities that exist in the future. So that is all I would wish to say. I do not think this is good practice to support this proposition and put undue pressure on the Minister for Planning and Environment. It must follow due process and indeed if Members feel strongly enough about it, an amendment to the Island Plan would be an appropriate process to follow through. In terms of scale, massing, design, again, that is a matter for the Planning Department. That, after all, is the reason that they are there and we have to rely and trust upon them to deliver appropriately. I am rejecting this proposition.

Deputy M.R. Higgins:

A point of clarification, does the Minister's ring-binder agree with him?

7.1.21 Senator I.J. Gorst:

I am not sure that there is much I can add to what Senator Maclean has just said. In some ways this debate has been, I think, very positive because I think there has been recognition right across the Assembly that the way that we as an Assembly in the past have thought about St. Helier and thought about urban development is found to be wanting. Yes, we do not need to rehearse what happened with regard to the Town Park, whether there should have been parking or not. A number of Members have raised the issue of insufficient parking in town. We know that we have been pursuing a policy of trying to reduce the number of cars in town. There has been a recognition today that that, in hindsight, is probably the wrong policy. People living in town still need to have a car to get out of town, still need somewhere to park and people in town also need sufficient amenity space in the outdoors when we are thinking about development as well.

[15:00]

I think that the Assembly has given a very strong and clear indication in that regard to Government, to the Planning Department, that in future the past approach to St. Helier will not be sufficient and we have got to change the way that we consider development and rejuvenation of St. Helier, so I take that as a very positive outcome of this debate. I find nothing to disagree with those sentiments about green lungs, about green passageways, about open space, about connectivity, about acknowledging the place of the car in our community. While maybe wanting to constrain it in some regards, recognising it is here, accepting it and building, therefore, accordingly in that regard. The difficulty that the debate also has shown is what is the place of this Assembly when it comes to specific planning applications? We have heard some Members say that they will not support the Constable because they want to send a message. We have heard others say that they will not support the Constable because they hope it is going to reduce the value of this site. We have heard others mention that what is good for the goose is good for the gander in regard to Plémont. The problem we face, as we stand here today, is that we are at a turning point to how we are going to deal with St. Helier. It is an open secret that the Council of Ministers will include a new approach and a new partnership to St. Helier when we launch the Strategic Plan next week. Whatever the outcome of this debate I, for one, do not waiver from the need to approach St. Helier in a new way. Therefore, whatever the outcome I hope that the Connétable does not feel that this is the failing at

the first hurdle of that race because it is not, it is absolutely not. The problem I think that we find ourselves in today was eloquently explained by the Connétable of St. John and my own Deputy and that is that a process has already begun with regard to a planning application on this specific site. We have the North of Town Masterplan. We have supplementary planning guidance about this particular site. We also have a consideration of the actual application started by the previous Minister. It was simply deferred, as I understand it, to undertake a site visit and consider objectors to the schemes. That causes a problem because it is not this Assembly that decides; the decision should be taken under the appropriate legislative framework and in line with the Island Plan. I have no doubt that many of the comments that have been made in this Assembly today are covered by the policies of the Island Plan and are issues that the Planning Applications Panel or Minister, I am not sure who is going to be making the decision, will have to take into account currently within that legislative framework and within the framework of the Island Plan. It was this Assembly that decided that we should deal with planning applications in a fair and an impartial way, based on a legislative framework. Therefore, it causes me great difficulty to think that on one particular application we are going to take a different approach or we are going to try in some way to interfere with that approach and indicate that we believe that what we think is more important than that legislative framework. I struggle with that. I do not think that we, as an Assembly, should do that. Do we, in due course, Deputy Labey suggested, want to amend the Planning Law to say that representations of this nature should have more weight than they currently do? That is a decision for us and it is a decision because we are legislators. We approve and bring forward laws for us to do with appropriate due care and consideration. I think that I find myself in the difficult position that many other speakers have found themselves in but on balance the right approach is to let the process continue and trust the previous decisions of this Assembly, trust the legislative framework, trust the Island Plan to allow this process to come to completion. That is not to say that there might not be, in due course, open space here. It is not to say that in due course this application will be approved because we are not that decision maker and we should not be that decision maker. We approved the Planning Applications Panel. We said that we thought that they were fit individuals, impartial, proper individuals to make the appropriate decision, having due regard to all the facts, and I stand by that. I believe that those individuals we have put on that panel, the Minister that we have put in the position that we have, will make those decisions with due regard to those facts. Therefore, I suppose with a heavy heart because we are, I believe, at a new dawn in St. Helier, I have to reject the application, the proposition and ... Freudian slip **[Laughter]** I have to reject the proposition and I have to ask other Members to do the same.

7.1.22 Deputy G.P. Southern:

My, does not Mr. Freud have a lot to answer for? As I set off for the Assembly today I was listening to Michael Sandel, the philosopher, on the radio and he was celebrating Democracy Day. I had 2 thoughts straightaway, one was how pleased I am to be part of democracy and simply taking an active part in making decisions on behalf of my community and how much I regret that I am not a fresh-faced new Member of this Assembly making those decisions and making these decisions for the first time. Instead, I am a rather wizened old cynic. But what he was talking about was basically democracy, the celebration of democracy. As we know, we all learned by heart, that means government of the people, by the people. He did not mention government by the rule book, of the rule book, for the rule book. The people are what count. The fact that a number of people, especially St. Helier Deputies, have stood up and said: "The people I represent do not want this carbuncle" for any number of reasons. Absolutely appropriate that we should be standing up and representing the people that we do represent, entirely appropriate. In particular, what I want to focus on is this concept that, okay, what we have had here is something that cannot be other than described as rushed through. It was rushed through just before an election by, quite frankly, a lame-duck Minister for Planning and Environment and pushed the way through, despite objection

after objection on behalf of the populace that live around there and has ended up on the new Minister for Planning and Environment's desk: "Here, catch this" said Deputy Duhamel as he left and waved us sadly goodbye but it was rushed. I mention that because already we have heard mention of a 1,500-signature petition in St. Clement ignored, apparently by us, and this has only got 250. It has only got 250 because the whole process was accelerated very rapidly through and there was little time to organise it, especially when the chief people who might be organising and assisting with that were all standing for election within 3 weeks. No wonder we did not end up with more than 250 signatures but we could have had 2,500, we could have had 12,000, not too hard. What I would suggest today is that, hang on, we took a decision and it took I do not know how many goes we had at creating the Town Park and making sure that it happened. It may have been 6, 7, 8 goes from 1998 onwards through to 2012 before we finally got it. But that was a vital piece of infrastructure for the town. Why was it vital? Because anyone who goes to that particular area, my particular district, and looks at the houses, there are rows and rows of houses, terraced houses with no front gardens, with no back gardens, no open community space, it was absolutely vital. The highest density packed in the Island with little facility around them. What are we proposing here? Up to an extra 1,000 people plonked; that is the first stage, there will be more around this area. What are we going to do? It seems to me that what we are intending to do is take us backwards, not forwards, to what we had before in terms of density and the absence of joy of living in this particular area. We will be raising the density of people living there without back gardens, without front gardens, to what it was before. It is a step backward. When the Minister for Planning and Environment says: "This is the start of regeneration, this is the start of resurgence" I have to remind people of Deputy Martin's words, who basically said: "Be careful what you wish for." We wished not to have an 800-space multi-storey car park in that particular site, we wished to have something else. We were not made aware that the alternative was 500 people packed 6 storeys high into that area absorbing the greenness, the oxygen of that particular green lung but that is what eventually we are, apparently, going to get if we let this go through unamended. Is it the case that I am particularly proud of what we created, the Millennium Town Park? Only this summer I had my grandparents over and I have taught them, but only them, to refer to the park as grandpa's park: "Can we go to grandpa's park?" I say: "Yes" but I refer to it as Millennium ...

The Bailiff:

Your grandparents must be very fit then, Deputy. **[Laughter]**

Deputy G.P. Southern:

Sorry, I said grandparents, oh, dear, I have been here too long. The grandparents have long gone, my grandchildren. We will get there. I was there while a group of school kids came down from Springfield School because they have no space, on the park enjoying the morning out, running around, enjoying themselves, absolutely absorbed. Little children playing on the children's play area. An old man sitting in front of the kids playing, reading his book, completely oblivious. A woman doing some embroidery. She got a chair out, it was probably her chair, brought it over the road because she has got no garden, into the park and was sitting there embroidering, wonderful, absolutely magic. Okay, and what are we going to do? We are going to put 1,000 people in a monstrosity on the end of that park. What do we need? Since I helped to bring about the park, what do I hear from my current voters around me day in and day out? I hear: "Great work on the park, love it but what about the parking? You promised me at the time you were going to do something about parking. We cannot park. We are driving around day in and day out looking for a parking space, it does not work."

[15:15]

Yet, what have we got? An extra 1,000 people that have not got enough parking space for their own needs and they are going to be driving around following you, nose to tail, looking for a parking space day in and day out. It is just not good enough and that is the reality. We are told by the Deputy of Trinity that we must examine this as a whole and not piecemeal. What are we doing? As Deputy Martin said: "We have taken something from the middle of the plan and said we will start there." Is that piecemeal or is that whole? We will dust-down the plans after we have made the decision and look at the rest of it in the whole after we have done this. This is piecemeal and not whole, I say to the Deputy of Trinity. Trinity, by the way, I think I saw the headline, I think it was within the last month: "Trinity wants no more homes built in Trinity, full stop." It could have been a month ago, it could have been 12 months ago, it could have been 20 years ago when I saw that announcement. The fact is for once the Council of Ministers has been totally honest. They said: "We will protect greenfields, we will protect our countryside Parishes and we will protect them with might and with main. When we get round to a population policy we will cater for that by building in the urban areas in St. Helier." It is a case of stack them high and pack them in. When the Constable says: "This is urban packing" he is absolutely 100 per cent correct. This is what it is, urban packing. That is what we are doing. We hear mention of the 1,147 applicants for social housing on the list and some Members might be tempted to equate that with the up to 1,000 people here with 300 units, up to 1,000 inhabitants but this is not social housing. This is not gateway housing. That 1,000 people are not the 1,000 people who might be living here; no, far from it. This is not social housing what we are talking about there. Finally, while I was researching and looking at this particular proposition I was trying to find out what the standards for open space and amenity space currently are around the Island. I came across Andium Homes and a business plan going forward and looked at that and the row on the box that was illustrating it said: "Amenity and open space, T.B.D. (to be determined), T.B.D., T.B.D." I presume that means to be decided. What sort of space have we got if we stick an extra 1,000 people here? Then one might look at what have we done to the value of this land and those properties if they are built there? We have just built a green space that they can see from their houses. What has it done to the value of those flats and those houses? It has put them up by 30 per cent. You have got a nice green space in front of you, look at that. Has it made a difference? Yes, of course, it has and yet that is an amenity that we have put in for current people. Then, finally, there was some shock among the newbies to hear people saying: "I support the Constable in his sentiments. I agree with him absolutely. My heart goes out to him but my head says otherwise. I will vote the other way." Members will get accustomed to this, it is a classic device in the Chamber, speak one way, vote the other. That way you can always say: "Yes, I support it" apart from the critical thing that every democracy relies on, which is the vote. Please, do not be shocked, it happens time and time again. Finally, of course - and it is finally this time - we had the Chief Minister, I do not know what he had that was on his list, saying: "Trust the Ministers, trust the system, trust the Island Plan." Any scheme almost can be made to fit the Island Plan somewhere or other. You either fit in item 3(a)/(2) or 7/(d)(5) or 17/(d)(3), there are all sorts of ways. Anyway, it is a living document we are told when we pass it. It can be amended, it will be amended but anything can be made to fit it. That it is in the Island Plan and fits the Island Plan is no surprise. That does not make it magical. That does not make it special. That space is special, let us keep it special.

The Bailiff:

Does any other Member wish to speak? Senator Ozouf, do you feel you have something new to add?

7.1.23 Senator P.F.C. Ozouf:

I just want to say 3 things. Like most other Ministers and a lot of other speakers, I agree with most of what the Constable of St. Helier said. Better parking: I even welcomed his admission, with the

benefit of hindsight, that there should have been underground car parking underneath the Millennium Town Park, which was the reason why, lest there be an erasure of history, that the original Council of Ministers wanted to achieve just that, we wanted the town park but we wanted underground parking but that was not possible; the States decided to go ahead without it. The Constable is absolutely right in everything he aspires and everything he has done to try for St. Helier. But there is a problem and I would ask Members, perhaps I am the last person to speak on this, just to look at the wording of the proposition because I am going to abstain because I cannot vote for it because it would be wrong to request something of the Minister for Planning and Environment or the Planning Panel that is simply not going to come without consequence. You have heard many politicians stand and say: "Politics is the art of the possible." I believe in achieving the impossible but is it realistic? I would ask, very respectfully, in the Constable's conclusions in his concluding remarks to say whether or not he is saying what this recital is asking. This is not just a reconsideration of the gas work's application by the Minister and the Planning Department, it is to say that there should be no development, not a single piece of development, except a Millennium Town Park extension. If I have got that wrong, Sir, then please tell me if I have misread the plain English explanation. I think that the Assembly is being asked to request the Minister to have no development whatsoever, except an extension of the park. It is what it is and we vote on what we are given. I am hugely sympathetic to the Constable. I am delighted that St. Helier is centre stage in terms of improving it for the lives of the people that all of us represent, the people who live, who work and who visit St. Helier and there is going to be a commitment like never before to improve the lives of the people who live, visit and work in St. Helier. But is it possible? Are we saying we are going to rewrite history and have nothing on this gasometer site? I do not think that is fair to ask the Minister for Planning and Environment to do that. It is all very well for Members to say that is what they want. I would say, very respectfully, they had their chance, the Members that were in this Assembly, to bring forward an amendment to the Island Plan that we considered because that would have then safeguarded that site as important public open space, which would then have made it clear to the owners of that site that they would not be able build anything. The owners of that site, who I am in arguments with for other matters, and I would encourage Members to read the Gas Law and everything there, more of that later, but the owners of this site have made an application based upon an Island Plan that did not designate this as public open space, an extension of Millennium Park. It would be disingenuous and wrong and unfair and expensive beyond belief to now say we are erasing decisions that have already been made. I trust the Minister for Planning and Environment and his department to make proper decisions and to do all the things that the Constable calls upon him to do. Better parking: it is crazy that people in St. Helier cannot have a place to park their car. It is crazy that they do not have better standards of public open space, better infrastructure, a safer quieter environment; we want all of that but this is a step too far. I will be abstaining because I cannot bring myself to vote for a proposition of the consequences of which are not understood and are clear in terms of its recital. I would also say this is not a binary choice. I would very much hope that the Constable is not going to draw the battle lines. I know the Constable well and I have worked with him and I want to work with him and we all want to work with him but this is not a binary choice. He is a very good speaker and I know and predict he will come up with a thundering conclusion that this is a moment in time and this is a binary option. Are you in St. Helier or are you supporting St. Helier or not? I am a supporter of St. Helier but I am abstaining because I cannot vote for something that has consequences that are simply not possible to deliver on.

The Bailiff:

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

7.1.24 The Connétable of St. Helier:

Hold on to your seat, if the last speaker is to be believed. I do not want to disappoint Senator Ozouf but I am not planning a barnstorming summing-up, nor indeed perhaps one that draws battle lines because I sense we are at the beginning of a new Government with a new pledge to provide a new deal for St. Helier and I do not want to lose that. I think it is an important thing that we have promised and we are going to see it revealed next week. Several Members have asked specific questions and I am going to deal with those. I am not going to go through every speech because I sense Members want to get on with the rest of the business. I do not believe that however well I spoke in my summing-up I will probably change many minds. But if I could just start with Senator Ozouf. I do not entirely concur with his view of the history of how the Town Park came to be built without underground parking. It was complex. The Island's preferred millennium project was already a decade late when Deputy Southern brought an amendment to the Business Plan to try to get £10 million allocated for the creation of a park. He, like a lot of Members who supported that, were very disappointed that the Island had simply not bothered to pursue a millennium project which had more going for it, including the parking, which, of course, now would have been providing a revenue stream, as well as places to park. Also, the Senator suggested he wanted to know what I wanted to achieve and I have to remind him and other speakers that this is not about me. I am bringing this petition on behalf of petitioners to the Assembly for their views and I am sure my views are very close to the petitioners. The Senator asks, is it realistic to want to extend the Town Park? Absolutely, it is. I must say to critics of this proposition I feel much more confident, and I indicated I thought I would do at the beginning, that we are going to see open space on this site now than I did at about noon earlier today. We have heard some very powerful arguments for the creation of a bigger Town Park today. I do say to the Senator, yes, I believe it is a realistic ambition and I would remind Members that before we allocated that money to build the Town Park we agreed, as an Assembly, to buy the private car park at the front, which was called the Talman land and it was either £4 million or £7 million, but it was not cheap because it had commercial development approved for it. The States of the day agreed that that was an important first step in the journey towards a park right across this site. If Members think, yes, it is expensive to create open space but it is there for ever and its benefits accrue. I am also grateful to the Chief Minister who said he thought there would be positive outcomes and I have already alluded to those. I think it has been a very useful debate. I am grateful to the petitioners who had the vision to say: "Never mind some halfway house, let us see if we can have a vision of a bigger Town Park with some parking provided as well." The Chief Minister spoke about the policy of reducing the number of cars and whether that should be revisited. I suppose it is every time that T.T.S. brings forward the transport policy because despite all the fine words we have never managed yet, as a community, to find any way of reducing our traffic levels. I suppose the point I would make is that any policy of reduction in car use must apply fairly across the Island.

[15:30]

It must not be St. Helier residents who have to put up with not having a car while everybody else on the Island can enjoy the benefits of car use. We are going to need to find a fair way of reducing congestion on our roads and, of course, one of those ways, I have already said in the report and in my speech, is if you do indeed concentrate development and business in a town you reduce the need for travel, you reduce the school-run traffic. That is why Members who said I did not want housing in St. Helier simply have not read my report. Of course, I do believe that St. Helier is the right place for housing but that housing has to be provided with open space and with parking. Just to pick up a few of the other speeches, I am very grateful to a number of Members who supported the petition. Deputy Labey, I thought, made an excellent speech because I think he alone pointed out the blight that will exist on the properties in Tunnel Street. Anyone who has seen the fly-through, there was an attempt to present it at the planning meeting which did not really work because the projector was not working very well. But I think those of us who could see the screen

agreed that it was a truly horrendous or dystopian, if I can borrow Deputy Mézec's adjective, a dystopian view of these houses in Tunnel Street which would be hugely overshadowed by a 5½-storey development just across a very narrow street. This is not regeneration of St. Helier. Believe me, this proposal does not amount to regeneration at all. Senator Maclean had a problem with the number of signatures and of course it was very short. I think Deputy Southern answered that very neatly; this application was rushed through. There was not time for the petitioners to collect more than the ones they did. I believe they had 700 which were never presented simply because I said to the petitioners: "If I do not get this in by Friday lunchtime we are not going to put a stop ... we are not going to get this lodged in time to stop the Minister determining the application in 10 days' time." It was a very, very hurried process and a very unsatisfactory process. Several Members were talking, perhaps somewhat legalistically, about process and the proper rights of the applicant to have this application determined. The fact is the planning process was severely flawed in respect of this application and that is, I think, one reason why the Minister for Planning and Environment needs to think hard about whether this particular application needs that kind of legalistic interpretation. Senator Bailhache pointed out that there appeared to have been a lack of proper consultation in the way it was handled but anyone who tried to stop that meeting going ahead last September will remember how close to the wire we came. I mentioned the fact that the fly-through did not work, the presentation that the public received; you could barely see it on the screen and I really do not think that the planning process has been handled effectively in this respect. As I say, the 2 flaws in the Minister for Planning and Environment's argument, if I can just remind him again, one was the process, it was rushed. Okay, I take back what I said about people waiting 8 months for their garage applications, that was a rhetorical device, it was an exaggeration but I think the fact is that some people do wait years for their planning to be dealt with. I am sure I can find examples. But the main point I think that the Minister for Planning and Environment did not grapple with was that the Island Plan on which he and other Members based so much significance in this debate, the Island Plan was specifically amended by me on behalf of the Roads Committee of St. Helier to make sure that any large scheme would have visitor parking provided. That was removed by the applicants. Now I am not going to go into how it was removed, there was some discussion at officer level with T.T.S. officers, there was some discussion about providing the spaces somewhere else. I believe the figure of £40,000, a commuted sum, was thought about which would provide I think, over the summer it would provide 40 spaces, that is right, there was a sum of money discussed. That was against the Island Plan and I think what has flummoxed me all the way through this debate and through this process is that an application of this magnitude, fast-tracked to this extent, was at variance with the Island Plan and yet it was still marked for approval, and that is what created a sense of panic, a lack of trust in the public when they came along to that meeting. So, there is, I think, a good case for asking the Minister to, in the light of that flaw in the process, in the light of the fact that the application does not comply with the Island Plan as amended, I think there is a good argument for the Minister stepping back. One of the things that a lot of Members, even people like the Deputy of Trinity who said that we did not want any housing in St. Helier, which I think was a slight misreading of my proposition. What a lot of people have said was that they did not want a piecemeal development of St. Helier they wanted a holistic, a whole site, an overall view of the Parish and I welcome the Minister for Planning and Environment's promise made again today, to dust-off those reviews of town, those masterplans and to come up with, with his officers and with consultation, a what he calls - I will just see if I can find the phrase - the Future of St. Helier project. I think it is great and I look forward to being part of it. But surely that is another good reason why to admit this into the system now is not appropriate. Now the landowner of course does have a legitimate right, as the Constable of St. John said, to have the application determined but at a realistic price, at a realistic size. None of us, if we put in an application to develop our house, expect to get exactly what we want. We may ask our architect to push it up another storey if we can or to add a little bit more into the garden. So I do not think ... I

think the applicant has a right to have his planning application determined but not necessarily at this kind of level of density and the impact it has on Tunnel Street, the fact that parking has been removed and so on. I am grateful to every Member who supported it. I am grateful to Members who did not support it for being extremely charitable. It is not that many years ago when I used to get shot down in flames by the Council of Ministers for trying to get these kind of things through the Assembly. So I am, as I say, extremely heartened by the debate. I think we are much closer to a larger Town Park now than we were a few hours ago and therefore I urge Members to support the petition but I also say that if this proposition is not successful it is only the first step in a journey towards a much better open space provision in St. Helier. Thank you. **[Approbation]**

The Greffier of the States (in the Chair):

The appel is called for so I will ask Members to return to their seats for the vote. I will ask the Greffier to open the voting.

POUR: 15	CONTRE: 24	ABSTAIN: 6
Senator Z.A. Cameron	Senator P.F. Routier	Connétable of Trinity
Connétable of St. Helier	Senator P.F.C. Ozouf	Deputy of Grouville
Connétable of St. Saviour	Senator A.J.H. Maclean	Deputy of St. Martin
Deputy J.A. Martin (H)	Senator I.J. Gorst	Deputy R.J. Rondel (H)
Deputy G.P. Southern (H)	Senator L.J. Farnham	Deputy of St. Mary
Deputy J.A. Hilton (H)	Senator P.M. Bailhache	Deputy G.J. Truscott (B)
Deputy K.C. Lewis (S)	Senator A.K.F. Green	
Deputy M.R. Higgins (H)	Connétable of St. Clement	
Deputy S.Y. Mézec (H)	Connétable of St. Peter	
Deputy A.D. Lewis (H)	Connétable of St. Lawrence	
Deputy L.M.C. Doublet (S)	Connétable of St. Ouen	
Deputy R. Labey (H)	Connétable of St. Brelade	
Deputy S.M. Wickenden (H)	Connétable of St. Martin	
Deputy T.A. McDonald (S)	Connétable of Grouville	
Deputy P.D. McLinton (S)	Connétable of St. John	
	Deputy of Trinity	
	Deputy E.J. Noel (L)	
	Deputy of St. John	
	Deputy S.J. Pinel (C)	
	Deputy R.G. Bryans (H)	
	Deputy of St. Peter	
	Deputy of St. Ouen	
	Deputy S.M. Brée (C)	
	Deputy M.J. Norton (B)	

8. Jersey Arts Trust: re-appointment of Chairman (P.167/2014)

The Greffier of the States (in the Chair):

Very well. Deputy Tadier has notified me that for personal family reasons he has had to leave the Assembly, so if Members are content we will move on to the following item which is the Jersey Arts Trust: re-appointment of Chairman and I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to re-appoint Mr. Alan Le Breton as Chairman of the Jersey Arts Trust for a second consecutive 4-year term permitted under the Trust's constitution.

8.1 Deputy R.G. Bryans (The Minister for Education, Sport and Culture):

I will be brief because I think this is a fairly routine matter. It is the usual practice that when accepting the role of chairman of this particular Trust that the consideration is to run for 2 consecutive terms; that is 2 x 4-year terms in total. So I just would like to say firstly, if Members cast their eyes up to the gallery you will see Mr. Le Breton up there. So I would firstly like to thank Mr. Le Breton for his work and commitment to the Trust. The role of the Trust has changed substantially over the last 4 years. Mr. Le Breton has overseen that transformation and turned it into a very successful arts trust and the Trust has really grown in scope and has grown in reputation. So I wholeheartedly recommend his re-election and I commend his appointment to the Assembly. Thank you.

The Greffier of the States (in the Chair):

Is the proposition seconded? [**Seconded**] Does anyone wish to speak on the proposition? All those in favour of adopting the proposition, kindly show. Any against? The proposition is adopted.

9. Armed Forces Covenant and Community Covenant (P.168/2014)

The Greffier of the States (in the Chair):

So we will therefore come next to the Armed Forces Covenant and Community Covenant lodged by the Minister for Home Affairs and I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to endorse the decision of the Council of Ministers to support the introduction of an Armed Forces Covenant and Community Covenant in Jersey as set out in the appendix and to agree that the Minister for Home Affairs should be responsible for fulfilling the role of political representative and the chairman of the steering group to be established under the Covenant.

9.1 Deputy K.L. Moore of St. Peter (The Minister for Home Affairs):

As a community we owe a debt of gratitude to those members of the armed forces who face danger and sometimes suffer serious injury or death when acting to defend our nation. Their families also play a key role in supporting them and they deserve our respect, support and fair treatment. Furthermore, they should not suffer any disadvantage compared with other citizens in the provision of public and commercial services. In the United Kingdom the Armed Forces Covenant was published in May 2011. The Covenant sets the framework for how the armed forces community can expect to be treated. The document is not in itself a legal document although the key principles have been enshrined in law in the Armed Forces Act 2011 which, *inter alia*, requires the Secretary of State to report to Parliament each year on the Covenant and addresses the issues of health care, education, housing and coroner's inquests which have an impact on the armed forces community. The armed forces community includes regular personnel, reservists, veterans, their families and the immediate family of service personnel and veterans who have died. In presenting the Armed Forces Covenant Annual Report for 2014 the Secretary of State for Defence wrote: "This year's report has added poignancy as we mark the centenary of the outbreak of the First World War. Through the many commemorative events we have held and plan to hold we will remember and recognise the courage and sacrifice of the military personnel who served in that conflict. Much has changed about service life but what is unsurprising is that the character demanded by conflict has not changed over the decades. The current generation of service personnel who served in Afghanistan are testament to this as we rightly look back with pride at our achievements. In Afghanistan over the past 13 years we should similarly remember, respect and recognise the

contribution that the men and women of our armed forces have made there. Now that they have returned home it is more important than ever that we understand the sacrifices they have made and to repay their loyalty and dedication through the care and support that they need and deserve.” In addition to the Armed Forces Covenant, more than 100 local communities in the U.K. have signed a Community Covenant. This Covenant complements at local level the Armed Forces Covenant and is a voluntary pledge of mutual support between the civilian community and its local armed forces community. It also aims to promote awareness among the public of issues affecting the armed forces community. To support the Community Covenant in the U.K. and to fund local projects that bring together the civilian and armed forces communities, the Government established the Community Covenant Grants Scheme and set aside £30 million over a 4-year period of which £11 million has already been allocated to various projects. The Community Covenant Grants Scheme is administered on a regional basis and funds are distributed through a number of regional panels which are chaired on a rotating basis by the Royal Navy, the Regular Army and the Royal Air Force. There are 3 Covenant Grant Schemes panels in each region of which the south-west England region is one. In each year they generally sit in February, June and October. Examples of successful projects in the U.K. are £7,000 given to the Swan Forces project in Wiltshire to develop services to prevent social exclusion among ex-service personnel and their families, £6,000 was provided to help Ghurkhas in Eastleigh to learn English and integrate with the local community, £1,000 was provided to buy equipment in Mere in Wiltshire to help clear snow from the homes of elderly and the disabled, and Calshot Activity Centre received £27,000 to provide highly subsidised places for services’ children on residential sailing and activity weeks during school holidays. Advice received is that the Channel Islands would be eligible to apply for grants from this scheme. As detailed in the report attached to the proposition my predecessor, former Senator Le Marquand, took a report to the Council of Ministers in June of last year at the request of the Chief Minister to introduce an Armed Forces Covenant and a Community Covenant to Jersey. The Council of Ministers endorsed the introduction of the Covenant in Jersey and now that the detail and nature of the Covenant has been established the Council of Ministers felt that the States Assembly as a whole should have the opportunity to endorse the introduction of the Covenant. The principles and objectives and general intentions of the Armed Forces Covenant and the Community Covenant are laid out in sections 2 and 3 of the appendix to the report and proposition. I am sure Members have read this. The Covenant provides for the appointment of a Forces Welfare Officer whose role will be to manage war pensions on behalf of Veterans U.K., to oversee the Armed Forces Compensation Scheme, to ensure equitable medical treatment for veterans and service personnel who live in Jersey and to put veterans and service personnel in contact with other services’ charities such as the S.S.A.F.A., the Soldiers, Sailors, Airmen and Families Association and the British Legion. There is no additional cost to the States from the appointment of the Forces Welfare Officer who will be paid through Veterans U.K. A Forces Welfare Office is already in post, by the way; he is employed through the Social Security Department at the moment on behalf of the Ministry of Defence. There is a Memorandum of Understanding between the States of Jersey Social Security Department and the Ministry of Defence which is currently renewed on a yearly basis. For information, Veterans U.K. was created in 2007 and is part of the Ministry of Defence. It administers the armed forces pension schemes and compensation payments for those injured or bereaved through service and helps ex-service personnel get appropriate support from government, from independent bodies and the charity sector.

[15:45]

The Covenant also encourages the establishment of a Cadet Military Support Officer. Their remit is to support all Jersey cadet organisations, to act as the point of contact for all service personnel visiting Jersey and to assist in the organisation of public events. A Cadet Military Support Officer is already in post so there will be no additional cost to the States. Both the Forces Welfare Officer

and the Cadet and Military Support Officer have, as part of their remit, the requirement to support the Minister for Home Affairs who is charged, under the Covenant, with chairing a steering group which will review support to the armed forces and community in the areas of employment of reservists, housing, social security, health and income tax, Parish relationships and education. The steering group will comprise of representatives from the Bailiff's Chambers, the office of the Lieutenant Governor, various States departments, the Parishes, the military and the British Legion and the S.S.A.F.A. I hope the States Members will support the introduction of the Armed Forces Covenant and the Community Covenant to Jersey. I feel it is an excellent way for the Island to demonstrate its pride and support to the local armed forces community. Thank you.

The Greffier of the States (in the Chair):

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? All those in favour of adopting the proposition, kindly show? Those against? The proposition is adopted and I understand, subject now to the States approval, the Covenant will be signed by the Bailiff tomorrow before his retirement. **[Approbation]**

10. Council of Ministers' Meetings: public access (P.163/2014)

The Greffier of the States (in the Chair):

Very well. Deputy Tadier has returned to the Assembly and we can therefore return to P.163 Council of Ministers' Meetings: public access. I will ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to request the Council of Ministers to hold its meetings in public except when the Council is discussing any matter which, by virtue of any enactment imposed, it is entitled to discuss in private.

10.1 Deputy M. Tadier:

Members will be pleased to know that this should not need to take long, especially if Members vote in favour of it; I am sure we do not need to speak at all. The concept of having meetings in public should not be something that is radical or controversial even though if you listen to, perhaps, the comments of the Council of Ministers and also comments made in the previous debate which were unnecessarily alarmist, you would think that there is something strange going on and something to be scared of. I am simply asking for what commonly goes on and has gone on in the past with Scrutiny meetings, for example, and perhaps other meetings such as the P.P.C. (Privileges and Procedures Committee) which I have also served on where you simply have an A and a B agenda. That is to say that the normal state of play is that meetings take place in open as we are here today, having meetings in open which are open to the public upstairs potentially, I cannot see up there but I know we have had at least one member in the gallery. They are open on the radio, journalists can come in and report and occasionally mis-report but hopefully not too often, and the public can listen first-hand straight from the horse's mouth, so to speak. This was not always the case of course, certainly I know in the U.K. when the concept of Hansard came about. Hansard is something we take for granted nowadays, it is a very useful tool that we have in this and in other Commonwealth parliamentary assemblies that we refer to Hansard as a record of what has been said. That is a public document but at one point of course in the U.K. it was an offence to publish any of the proceedings that went on in parliament so by no means has the concept of States parliamentarian's meetings being automatically open to the public been a given. It was something which was fought for over many generations and now it is something that we, certainly as an ideal, take for granted. So it is slightly baffling that the Council of Ministers would reject this proposition so strongly when all I am asking for is that some of the meetings, certainly the A agenda part of

their meetings, could be held in public and if there are certainly sensitive issues that need to be discussed, anything to do, of course, with defence, anything to do with confidential figures, policy and formation, of course it would be the case that that continue to be held in a private forum with the B agenda minutes published and perhaps with subsequent matters which are no longer sensitive becoming in the public domain when it is relevant, but by all means that should not be the automatic position. So I ask Members, particularly given the fact that this is a new Assembly, particularly given the fact that we have had commitments from some of the new Members and I have quoted them in my proposition; my esteemed and good colleague, friend from St. Brelade No. 2. We are both committed to transparency. He has also said that we need a transparent government, accountable politicians that listen to public opinion and that clearly found a resounding yes from the voters of St. Brelade No. 2 and it is a message that I have hopefully been trying to preach also during my time in this Assembly. But you cannot have transparency if we do not know what is going on in the first place and so the point is to put your money where your mouth is. Very simple, you just say: "The meetings are now open and then once the discussions have been made at that part of the meeting, thank you, we will ask you to clear the room." Even the court does it. Even the court discussing very sensitive issues to do with crimes, *et cetera*, even they generally are open and they can go into closed sessions when they need to. Another chairman of a Scrutiny Panel said Ministers and departments must be transparent and open in decision-making and that means you make those decisions as far as possible in open so that they can be transparent. A Senator who has just recently been elected for the first time; she knows who she is. Her slogan was: "Dr. Zoe Cameron committed to open, honest, dependable government." So I know that I have already got 3 votes before I start and that is without looking at the 2 other Reform - and myself - Jersey Members, so 6 has got to be a good start. Now we hear the Council of Ministers saying: "Of course we are committed to open and transparent government" although they could not see themselves to supporting the Constable of Grouville's proposition which said we think that these quangos, *et cetera*, need to be subject to scrutiny as well for the F.O.I. (Freedom of Information) Law. The Council of Ministers opposed that but it got through because this Assembly still, in its independent spirit, said: "No, we do need to include this. We do need to be open and transparent." And there are also precedents that have been set. The Council will no doubt get up and say what is being asked for is completely ridiculous, it is completely unreasonable, no other governments anywhere else do it. But we certainly found out when we did our piece of work into the Machinery of Government, we interviewed Cornwall. Okay, that is not a national assembly but Jersey is not necessarily, in every decision that it makes, a national assembly because national assemblies do not tend to debate about parks in the middle of St. Helier and planning applications, *et cetera*, and seagulls possibly, you know, it is maybe something we see. All of these things do get debated in our local Parliament. It is not unusual, and in Cornwall they have their Council of Ministers' meetings open to the public where members can speak and they can ask questions if need be and we found that from that piece of work that we did. So what this boils down to is a matter of political will. It is very easy to say: "Yes, we support open and transparent government" but the crucial step is whether you follow that up with actions and with words. I can see Senator Bailhache flashing his light so I will need to think very quickly what kind of arguments he will be making to pre-empt this and they will no doubt be to the effect that of course we need to have the ability to make these decisions in private so we can have robust, strong debate without any fear or favour. Those are exactly the kind of arguments that we heard when we talked about electing Ministers privately so that the public do not need to find out, so that we can say to people, smile at them, look in their eyes and say: "Yes, I will probably vote for you" and secretly vote the way we want to in a closed ballot. But that is not the way democracy works. That might be okay for the public when they vote in an election, and long may that continue lest we fall into a dictatorship where people do not have the freedom of choice at the ballot box, but we, as elected representatives need to make those decisions as far as possible in the open. I would venture to say that when we

have the public gaze and the scrutiny, most of the time we make better decisions because we have to account for our work. When I was a student doing maths I was told that it is not simply okay to come up with the right answer, you have to show your workings, you have to show how you got there, and in fact sometimes you would get points if you got the wrong answer as long as you could show your workings because the process by which you got to it at least showed some merit. In Jersey we know that we often get the wrong answer, we just do not know how we got there in the first place. **[Laughter]** So at least we should be looking at some brownie points for the Council of Ministers. I will be fascinated to know how we got to the Port Galots situation or the “Canbedone, too right, mate, you were done” film when we have got nothing to show for it, not even our workings. So it does not make us risk-averse, this idea, because if it did there would be no shortage of mistakes that the States has made which were done behind closed doors or otherwise. It simply does not wash. I think the final point is that in Jersey it is unique. It is not a place which has naturally tended towards party politics in the recent years although we know there has been a history of it. It is not a place where there was a traditional working class or even a traditional conservative movement. It is a unique area. But if it is true that there is something that can be said, I think, of Jersey and anywhere else, the battle is not between left and right, certainly not in the modern day in Jersey, the battle is between authoritarianism and secrecy and those who are not authoritarian and who favour transparency in government. That is really where it boils down to, that is a taster of what we saw already in the Deputy of Grouville’s successful proposition to open up freedom of information and I am glad that won the day. I think the last point I wanted to make, and I think these are all the points, is that the Council of Ministers will say: “Well, we do not need to do this because we are pursuing an agenda of transparency anyway. We are going to have lots more consultations and we are going to tell the public about what we are doing.” That is fine, I mean we should be doing that anyway, you know, but there is a risk of course. When a Government is specifically holding meetings to tell the public what they are doing you do not get the full picture, and call me a cynic but of course that is susceptible to the use of propaganda. They are quite happy to tell the public about what they are doing, and how many consultations have we seen in the past that are not genuine consultations but are: “Tell us what you think but here is what we are going to do anyway”? I think there is no shortage of that. So by all means that will continue whoever is in Government and I am not saying it is not a useful tool to have but if we are truly committed to transparency it is a political decision to take; should all of our Council of Ministers’ meetings automatically be shut or should they not necessarily automatically be shut to the public? I am asking for the latter not the former and by no means let it be said that I am asking for all Council of Ministers’ sensitive deliberations to be opened up to the public. It is not a radical proposition and I make that proposition now.

The Greffier of the States (in the Chair):

Is the proposition seconded? **[Seconded]** Senator Bailhache.

10.1.1 Senator P.M. Bailhache:

Deputy Tadier is of course right that we all subscribe to the principle of open government but he is wrong in suggesting that his proposition is not extremely radical if not revolutionary. Open government does not mean that every process of government should be available to be watched by the public. We can look at the courts for a parallel. Open justice is a cornerstone of democracy. The court sits in public other than in extremely rare circumstances but that does not mean that every process of the judicial activity is open to public scrutiny. In a criminal case when the court is sitting to determine what sentence should be imposed upon an accused person, the Bailiff and the Jurats retire and they debate the issues in private to decide what the sentence should be, and when they have reached their decision they return to open court and the decision is given in open court. It is the same with a jury trial. Evidence is heard in public, witnesses are examined and cross-

examined, counsel's submissions are heard, the judge's summing-up to the jury is heard in public but then the jury retires to sit in private to decide what the verdict should be. Imagine what would happen if the media were able to sit in on a jury's deliberations or on the deliberations of a judge and Jurats when they were determining what the sentence should be.

[16:00]

It is interesting that Deputy Tadier does not give any example of any other parliament in the democratic world, any other Cabinet, I beg your pardon, in the democratic world where the Cabinet sits in public so that everybody can hear the discussions taking place between Ministers. He gives the examples of Scrutiny Panels and the Privileges and Procedures Committee. A Scrutiny Panel is entirely different. It is equivalent to a Select Committee of the House of Commons and many other parliaments where Back-Benchers sit in public to hold Government Ministers, officials and others to account. That process must take place in public and it does in Jersey. It is the whole purpose of the process. The Privileges and Procedures Committee is a slightly different and not, in my view, altogether happy example. I sat on the P.P.C. when it was chaired by the Constable of St. Helier who was keen that we should sit in public, and I must say that on many occasions I think that this was inappropriate and put members of the committee in a difficult and sometimes embarrassing position because they did not know whether they should speak freely or not. Of course transparency in decision-making is important but that means that Ministers should explain their decisions and be held publicly accountable for them through the Scrutiny process and through questioning by members of the media and the public. Making the Council of Ministers hold its meetings in public would not help that aim. Why? Because we now have, like every other democratic country that I can think of, collective Cabinet responsibility. All Members of the Government, the Council of Ministers, are responsible collectively for the decisions of each Minister. This is not easy but it is in the public interest as the majority of Members agreed when the relevant amendment to the States of Jersey Law was passed last year. It is in the public interest because people should have confidence in a Government and people cannot have confidence in a Government whose Members squabble and disagree with each other in public. If Ministers publicly contradict the Chief Minister, they are undermining not just the authority of the Chief Minister but the authority of the Government itself and that is not a good thing. People want to feel confident in their Government. With the collective responsibility comes the absolute need for Ministers to be able to express themselves freely and firmly and to disagree with each other in private. It is through frank and sometimes difficult discussion that all arguments are heard and eventually a reasonable decision is reached. Some Ministers may disagree with the majority view but they are bound to respect it. If that full and frank discussion is to take place, it cannot happen under the public gaze. Ministers need to be able to express views which are tentative or not fully thought through or outrageous in order to test the opinions on the other side. In public, Ministers will not do that, not if they are sensible anyway. That is why every Cabinet in a democratic country sits in private and why its minutes are closed for a certain number of years. Freedom of information, the right of the public to access information is very important but so is the need to protect and underpin a process which encourages good decision-making. People, and Ministers are no exception, need time to think, to probe, to challenge, to reflect on other views and that will not happen if Ministers are constantly wondering whether what they have said could be misinterpreted or, heaven forbid, deliberately used to embarrass or undermine their position. Our Freedom of Information Law is deficient, in my view, because it does not create the right balance between the right of the public to access information and the duty to protect the decision-making process in the interests of everyone; but that is for another day. I am afraid that the Deputy's proposition would diminish the efficiency of government and the likelihood of good decision-making and that would not be in the public interest. I am going to vote against the proposition.

10.1.2 Deputy S.Y. Mézec:

I am grateful to be able to follow Senator Bailhache so I can attempt to correct some of the inconsistencies in the speech he has just given. But first I want to remind Members of this Assembly that today is in fact Democracy Day and this is what we are meant to be talking about with this proposition; it is about democracy. The word “democracy” itself derives from the Greek words *dēmos* and *kratos* meaning “people power” and so the whole way that we operate as a Parliament and as the Executive for some Members, should be about forming that link between what the people want and what the people get. We have a very peculiar situation in Jersey where virtually nothing about this Parliament is copied by any other jurisdiction in the world. For example, we do not have party politics. That is the main difference, I would say, between how most other jurisdictions operate, especially ones who do hold their Cabinet meetings in private. I do not think it is as much a problem for them because those Cabinets have been elected as a Cabinet whereas our Cabinet is elected after the election when the people have not necessarily had a say on who ends up there. They may elect one Member in a District or Island-wide or whatever who stands with a manifesto and you may want to know when they then go into the Council of Ministers’ meetings, you want to know if they are arguing the case that they laid out in their manifesto. They may say: “I made this promise in my manifesto I want to argue the case with you here. If I lose and the majority go against, fair enough but at least I have made the effort.” I think the public have a right to know whether that argument happened in the first place because it is entirely possible for somebody to stand for the States of Jersey, make a whole bunch of promises in a manifesto, get elected to be a Minister, sit round the table and forget it, not even attempt to make the case. So if we are going to be a democracy in a non-party system I think the public have an absolute right to know what Members of this Assembly are saying in meetings, not just in the Council of Ministers but I think in Scrutiny meetings as well. What this proposition by Deputy Tadier offers us is the chance to say meetings can be open. It is not saying all meetings must be open every time because obviously that would be completely inappropriate when the Council of Ministers is discussing something perhaps that is commercially sensitive or something about a particular strategy for an event that you ... for maybe a Scrutiny hearing or something like that that you do not want to be in the public domain before that meeting happens. That is obviously perfectly sensible but there are plenty of discussions that I am sure the Council of Ministers have that would cause no harm whatsoever. But I think the most dangerous idea that Senator Bailhache has advocated here is that this could undermine Government. Well, I am sorry but welcome to democracy. That is what the people have a right to do. If they do not like a Government they should have every right to do what they can to undermine it because they may want a different one later. That is a fundamental part of democracy. There are plenty of other things we do not have in this Parliament. I mean I find it a really bizarre line of argument to say: “Oh, you know, we cannot have open meetings because nowhere else does it.” Well, you know, we have also got a judge who sits as Chair of this Assembly but this particular Senator wants that to continue despite that not being the case anywhere else in the world apart from in Guernsey. So it is not a very strong line of argument, I would argue, especially when, as Deputy Tadier has shown me on his iPad, that councils all up and down the U.K. operate with open Cabinet meetings. Well, councils, yes, that is absolutely right but what are we, you know, we are not quite a national Parliament because we do not have complete sovereignty. You have to have a coherent compromise sometimes if you want us to be like one way then we have got to copy the other things like party politics, for example, where that would make it not necessarily important so people could still see the link between their vote and what their Members actually do. But the analogy that I did not like was about the court. He talked about jury deliberations being in private. Now, of course jury deliberations should be in private; nobody would argue that. But the Senator knows from his previous career and I know from studies for my degree, that after a lot of court cases they publish judgments in which each judge who presided over it may present a dissenting opinion from the majority on there and you can see the line of argument that each judge would have pursued or put forward. So even when the

judges have not been in complete agreement, you know who has said what or which argument one has found to be more persuasive than another. I have read books and books of court judgments as part of my studies and I remember reading through them and certain judges who crop up from time and time again I developed more admiration for simply for their line of thinking. My favourite judge has definitely got to be Lord Denning, who, if you read his judgments ... I mean Deputy Mike Higgins knows who I am talking about. You know, he had a really powerful way of describing how he had come to his point of view, how he had linked everything together and put forward a logical case. So you can see how, in that situation, you can form an admiration for someone, believe they are someone with good judgment and coming to their conclusions in the right way. As it stands we have absolutely no idea how a Minister acts when they get through those doors into that meeting room and when we are meant to be a democracy, when this is meant to be Democracy Day, I cannot see how that is reconcilable at all, and if we are going to persistently be an exception to how things work everywhere else in our democratic system then we could at least pass this so we can have at least one more democratic thing on the very short list of things that we sadly have in this system.

10.1.3 Deputy G.P. Southern:

What I want to do is to remind Members what we are talking about here and I think we are talking about accountability. Now, what happens in this strange meeting place, this Assembly, is that Members tend to seek the favour, the good view of other Members. We tend to perform to get the respect, to get the attention of the Assembly and think once we have done that, we have got that respect, then that is enough. The reality however, is very different. What many Members lose sight of is that the persons that they are accountable to are their voters, they are not in this Chamber. This Chamber is a very peculiar place in its original meaning. The accountability, responsibility is owed to the voter out there. Now, while the voter can hear what goes on in this Chamber simply by dialling to the right bit of the dial on the radio and hear live what is being said on their behalf and how decisions are made on their behalf, they cannot know but perhaps they should know what is going on in the Council of Ministers, and why that is the case is because under our current system individual Members, individual candidates can say what they like.

[16:15]

“If you vote for me I will do this, support this, be in favour of this, vote for this, bring a proposition on this and vote this way and argue on this. This is what you are getting if you vote for me.” The voter has no idea what goes on in the Council of Ministers because whoever that candidate is they cannot promise anything at a Ministerial level because no one can say who is going to be which Minister. That only occurs later, and not only that but in terms of collective responsibility, they may have a set of values that they bring into Ministerial government on the Council of Ministers and be told by the Chief Minister: “This is the line we are taking on this, like it or lump it. If you want my vote ... if you want to be Minister then this is the line we are going to take.” So they cannot even advertise necessarily how they are going to behave as a Minister because they cannot say whether they are going to be a Minister and what the Chief Minister, collective or ... Chief Minister is going to say to them in order to make sure that he has got collective responsibility and people are toeing the line. And yet, the key element in the whole system is at some stage you have to go out there and become accountable to the voter and the voter does not always turn out and increasingly turns out in fewer and fewer numbers. Why? A key element, and I think I have seen it in a J.A.S.S. (Jersey Annual Social Survey) survey: “Why do you not have any faith in the system?” “Because I vote and I vote and nothing changes, nothing happens. My vote does not count.” Why? Because there is not that level of accountability either within this Chamber, to the elector outside, or certainly within the Council of Ministers and nobody knows what goes on there. I do not know that in fact we are not looking at the Council of Ministers there which rather looks

like the Spitting Image joke where Margaret Thatcher was dining with her Council of Ministers and said: "I will have the steak" to which the question came: "And the vegetables?" "They will have what I tell them." I do not know if that is what happens in the Council of Ministers. I assume, since we have got some fairly opinionated people around, that that is not what happens and there is healthy and robust arguments. But I do not know and no voter out there knows. You can say what you like as a candidate: "I will argue the case on this particular issue." "When you got in the Chamber ... into the Council of Ministers, did you? Is that what happened? Or did you just sit there with ... on your hands and stay schtum while a different decision was made?" What the voter needs to know is that ... and would have the sympathy. "Yes, he stood up, fought his corner but when it came to the vote, lost the vote. Okay, so a different decision was made but good on him. I know he argued the toss." That is what we need and if we are to re-establish any faith whatsoever in our own particular electorate and get them turning out and get them interested in what is going on, surely we have to demonstrate to them that at least our Ministers argued the toss and fought their corner albeit whether they win, lose or draw, and that way we can say: "That guy, I will vote for him again. That person, I will vote for them again because at least they stand up for what they believe in and what he says to me on the hustings or on my doorstep, he stands by." We have got no idea that is actually what happens. It needs to happen otherwise we just continue on the decline that we have got where decreasingly there is little interest in what goes on in this Chamber.

10.1.4 Senator Z.A. Cameron:

Democracy or government by the people or the elected representatives is largely regarded to result in the most civilized healthy communities. There are times when a top-down leadership is helpful such as in an emergency when someone needs to take command to avoid chaos but most decisions seem to be best taken with some consideration and not in haste or in the heat of the moment, and ideally with as many people as possible in the community having had time to consider and contribute and reflect on the possible solutions. With the growth of the internet the population is a lot more informed than was previously possible. The Swiss are probably the most progressive democracy in the world in this respect with the greatest number of citizens involved in their democratic process resulting in probably one of the most civilized, stable, efficiently run countries in the world. Even they, though, have not taken this step yet but they are debating whether their Executive meetings should be more public, and the discussions are frequently leaked into the public domain. I think it is something that, probably as time goes on, more countries will consider. Democracy is seen at times to be in a bit of a crisis when parts of the population seem to have a bigger voice than other parts, and this can be seen with voter apathy, greater tax evasion, resentment and loss of trust in the political processes and in some cases we have been seeing radicalisation. So I do welcome this suggestion and the debate around it and believe that we should perhaps be thinking about at least some part of the Council of Ministers, even just an explanation as to how the decision has been reached being made more public and it could possibly lead to greater engagement in the political process and hopefully find better solutions going forward for the Island's future.

10.1.5 Deputy J.A. Martin:

I will be brief. I think it is quite sort of weird to read these comments that are suddenly now, and this was only decided last year, we cannot have open government because we now have collective responsibility and apparently the disdain of the public seeing a disagreement between Ministers. You know, these are elected people, these are not school children and these are people who are making decisions on the Island but it would be too disdainful, or, in the words of Senator Bailhache, the people around the Council may not feel that they could express their true thoughts or beliefs because at the end of the day they might openly disagree, they might even openly have a better way to go but they are outvoted on the Council, and of course this could not be seen by the

public. Why not? I mean, this goes down to after the elections for the Council of Ministers, people came up to me and said: “Well, you know, you maybe need to look again at this secret open ballot for electing Ministers because you could have maybe got our vote if it was in secret.” Well, I do not want your vote if you cannot stand up and be counted and vote for me. **[Approbation]** Where it does not shine, that is where it should be staying. I really feel that maybe **[Laughter]** ... well, the sun was shining when I went out at lunchtime. **[Laughter]** You should get out more. No, I am back on Scrutiny. I have no problem with holding the Minister to account but we need to work this and I will work with Deputy Tadier that, if in the unlikelihood that this does not go through today, on working where even Scrutiny, we are just ... we get an agenda, A and B, we get hardly anything on A and a one-liner on B. We have our clerk say: “Would you like anything from the B agenda that might be pertaining to your panel sent to you?” Now, that is a no-brainer. The civil servants who are working for that department should be telling our clerk: “This is pertaining to you. This is what is being discussed” and it is always far too way down the line. We were allowed at the Art of Consultation presentation the other day that had just come from the Ministerial Department, and as Senator Cameron has just said, consultation, letting people know should be starting way, way, way down the line. We would never have had this fiasco of Port Galots, we would not have had other things that have happened because you let people in. They might have different, opposing views but you listen and some might be better than yours. You have to stand back and be big enough to admit this. As I say, I wish the Deputy well. I will give him my support. One fundamental disagreement I have with what Senator Bailhache said when he was on P.P.C. I was on P.P.C. with the Constable of St. Helier all the way through and they were open to the public. Not a lot of public ever turned up but that was their option, not ours, but it never once - and I never felt that the Senator was either - it never once, to my interpretation of what went on in those meetings, hindered some very good exchanges and decisions being made. So they are not going backwards. We have a B agenda where obviously the public are not going to, for certain things that P.P.C. deal with, but I find that our open agenda is quite ranged and that people will attend if it is interesting and people will not attend if it is not. But they need to know and the part that the ... absolute part and the differing between the proposer and Senator Bailhache was the how do you get to the answer. How do you get there? The court case. Well, you knew how they got there because everything of the evidence was put in front of you. Yes, you went away and deliberated and this is what the Deputy is asking for; let us know what you are discussing, let us know how you get there, and if you certainly cannot ... and as I say I will work with the Deputy in the event that this does not get through, that we at Scrutiny need to be right up there as well. We need to know what is going on and what we can be holding the Council to account for before, you know, decisions have gone too far down the line that they will not be turned around, especially now we have this collective responsibility which is given the main reason as to why the Council of Ministers’ meetings cannot be open. We have had a Council of Ministers since 2005 and they have never been open but that was never there because it was never an option. So to me it would seem to be grabbing at straws anyway, why we cannot have at least part A agenda open to public and other States Members. Thank you.

The Greffier of the States (in the Chair):

Does any other Member wish to speak on the proposition? I will call on Deputy Tadier’s reply.

10.1.6 Deputy M. Tadier:

I would like to thank Members for their expediency and their speeches. I think they were all supportive, as far as I could see, apart from the obvious comments from Senator Bailhache. We just have a different approach to politics, we are perhaps a different generation but I think moreover it is not a generational thing, *per se*, it is just a fundamental distinction in the way we think about decision-making. That is fair enough. That has not stopped us, as the previous speaker said, when

I have been on P.P.C., whether it is public access or the B agenda, of putting my point across robustly and that has never stopped, as far as I can see, any other of those Members on there. In fact, I think it is the contrary. That when you have essentially what we have here, a coalition government, we have a group of Members who have been elected all individually and then they come together, cobbled their manifestos together, if you like, some bits have had to be chopped, some bits have had to be changed and they have to basically feel their way through policy making in terms of responding to different propositions. You are more likely to get people speaking out and covering all the bases in that kind of meeting where there is of course an inherent danger of “group-think” creeping in if the meetings are not held in public. But when they are held in public, when you know that somebody is sitting there, whether it be a journalist with his or her notepad, somebody with their Twitter account saying: “The Council of Ministers are meeting today.” But if you do not cover all the bases and you are not thorough, you will be picked up on it. That cannot happen at the moment because goodness knows what goes on in Council of Ministers’ meetings. It could be, as far as we are told... because we glean information as Back-Benchers and as non-Executive Members. As to the public, from the last Council of Ministers we were told that there was an inner circle in the Council of Ministers; there were effectively 3 Ministers running the show.

[16:30]

We had other Ministers who, you know, I do not think they necessarily broke confidence, they never told me explicitly but you picked up information that I was not allowed to go to this meeting, and sometimes it might be an Assistant Minister of a certain department who is going to meetings and being more active in decision-making but certain Ministers were excluded. That was never known publicly, that was never the intention of this Assembly, that was never the intention of the public when they indirectly elected Ministers and appointed this Assembly. So my starting position is that transparency and accountability is good for democracy and that it creates better decisions not worse decisions and nothing in this proposition or what I am proposing today, I reiterate, suggests that all of those meetings should be held publicly on all occasions. That is simply not the case. It simply gives the Council discretion but it says: “We, as an Assembly, believe transparency and openness is important. We believe that collective decisions are better than decisions taken by individuals or one or 2 or 3 individuals without the proper means of accountability being established there and we would like you to open up some of your meetings.” Now if we made this decision today, what is the consequence of that going to be? We have been told that Jersey is the only ...

Senator P.M. Bailhache:

Would the Deputy give way? I do not think that what the Deputy suggested just now to the Assembly was that it would be open to the Council of Ministers to decide whether or not they should discuss a particular matter in private or in public. That is not what the proposition says. The proposition says it is a request to hold its meetings in public except when the Council is discussing any matter which, by virtue of any enactment or code, it is entitled to discuss in private. That is an entirely different situation.

Deputy M. Tadier:

That is a very vast remit because I think the scope under which one can hold meetings in private under that would be vast and of course the decision really is a question of degree and it is a question of where the accountability versus the sensibility lies and I think that is most often a political call because it will be down to the majority decision of the Council of Ministers. If they are discussing, for example, whether or not we have a 50-metre swimming pool up at Fort Regent and whether that is funded or not, there are various stages of that decision-making. So it could be that the first part of the meeting says: “We have got on the agenda today a swimming pool. We are

going to have some preliminary discussions. We have got a couple of guests that are going to come to speak to us and they are going to ask questions. We will have some input, we will respond to that and after that, we will have further deliberations and we may even make a decision today in private but that will be minuted under the agenda and there is a paper trail of decisions.” So it provides the best of both worlds. It provides a way for the public to interact with the Council and for the Council to interact directly with them and this is something which has been tried, and is increasingly the case in the U.K. I know that we say we are not a local council but, at the same time, we are not a national assembly because we are not a nation. We still have the Queen as our Head of State, we are an Assembly and we deal with many different functions in this Assembly which, as I said before, on the face of it, could be very local or could be very high level and it will be the case for the Council of Ministers to decide exactly where that discretion lies. I do not think that there is a lot to add to what has been said. I think the major arguments have been made but my concern is what I see is this closeness of Council of Ministers. Yes, that is the point I was going to make. What would the reaction be from the outside world if tomorrow, we said, and today, we made the decision ... we are asking the Council of Ministers to have public meetings? The Council of Ministers tomorrow say: “We are going to have public meetings for some of our Council meetings.” What message does that send to the world? Is that a positive message or a negative message? Is it consistent with their strategic aims saying: “We want more transparency”? Yes, it is. Would people be saying to us: “We are completely shocked”? “This is disgraceful. You have just decided to have some of your meetings open to the public where they can come in and listen, potentially ask questions, whatever. We are simply not going to do business with Jersey anymore because we do not think that, from that decision, you will be making credible decisions anymore.” Nothing will change apart from the fact that it will foster better relations with the public, with the media, it will help explain more and it will foster trust with that Council. It means that we can say: “Yes, we are the first Parliament Assembly in the world to do it. We are leaders. Not only are we leaders financially and technologically but when it comes to democracy, we take it seriously. We take transparency so seriously, we are not going to be first followers. We are going to be trendsetters when it comes to democracy.” I think that will be a positive thing and when Ministers go away to talk to their fellow colleagues, when we go away perhaps on Commonwealth visits and they say to us: “Jersey. So you are that place where you hold your meetings public, do you not? Good on you. Have you got that judge? Is he still in your Assembly?” “No, we have not.” “Oh, right, okay.” “No, we have got another one now.” **[Laughter]** “Okay, that is a bit weird but at least you have got an open and transparent Council of Ministers. That is the good thing, is it not?” “Yes, it is. We do not get everything right but, you know, we do what we can. We are punching above our weight.” That is the message we could be sending out today if we vote the right way on this proposition. Thank you.

The Greffier of the States (in the Chair):

The appel is called for on the proposition of Deputy Tadier. I ask Members to return to their seats and I ask the Greffier to open the voting.

POUR: 15		CONTRE: 28		ABSTAIN: 0
Senator Z.A. Cameron		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of St. John		Senator A.J.H. Maclean		
Deputy J.A. Martin (H)		Senator I.J. Gorst		
Deputy G.P. Southern (H)		Senator L.J. Farnham		
Deputy M. Tadier (B)		Senator P.M. Bailhache		
Deputy of St. John		Senator A.K.F. Green		
Deputy M.R. Higgins (H)		Connétable of St. Peter		
Deputy J.M. Maçon (S)		Connétable of St. Ouen		

Deputy R.J. Rondel (H)		Connétable of St. Brelade		
Deputy S.Y. Mézec (H)		Connétable of St. Martin		
Deputy R. Labey (H)		Connétable of St. Saviour		
Deputy T.A. McDonald (S)		Connétable of Grouville		
Deputy G.J. Truscott (B)		Connétable of Trinity		
Deputy P.D. McLinton (S)		Deputy of Grouville		
		Deputy J.A. Hilton (H)		
		Deputy of Trinity		
		Deputy E.J. Noel (L)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy of St. Peter		
		Deputy A.D. Lewis (H)		
		Deputy of St. Ouen		
		Deputy L.M.C. Doublet (S)		
		Deputy S.M. Wickenden (H)		
		Deputy M.J. Norton (B)		
		Deputy of St. Mary		

11. Draft Act annulling the Employment (Qualifying Period) (Jersey) Order 2014 (P.169/2014)

The Greffier of the States (in the Chair):

We come now to the proposition of Deputy Southern - Draft Act annulling the Employment (Qualifying Period) (Jersey) Order, P.169/2014, - and I ask the Greffier to read the proposition.

The Deputy Greffier of the States:

The States are asked to decide whether they are of opinion to adopt an Act as set out in Appendix 1 annulling the Employment Qualifying Period (Jersey) Order P.169/2014.

11.1 Deputy G.P. Southern:

May I say what a joy it is for me to be supporting the advice of an external body, the Employment Forum, that was given to us in the middle of last year about their unfair dismissal and, for once, I am not the one who is causing the controversy. The Council of Ministers is and, in particular, it appears the Chief Minister is, I think. Yes. As it says in Article 3 of the comments, in his statement to the States Assembly on 24th October 2014, the Chief Minister set out his vision for a strategic policy and the manner in which he proposed to discharge his responsibility as the Chief Minister: "In order to remain aligned to our competitors, I will propose pilot exemptions to the Employment Law for small businesses starting with an extension to the qualifying period for unfair dismissal claims." So in order to keep the same terms as apply in the U.K. and despite the fact that our Employment Law offers the very thinnest veneer or protection possible and is way behind that of the U.K. in its development, I will attempt to go some way to match the U.K. authorities in this particular aspect in the face of strong advice opposing this change from the body that normally we follow in very fine detail: the Employment Forum. They are never opposed apart from people like me. So the Ministers are choosing to ignore the advice they are given from the Employment Forum and one has to ask why. Not only that but this decision was made by Ministerial Decision. It was not brought to the House in the form of Regulations. It was able to be brought by Ministerial Decision. It was advertised in a press release on 5th December 2014 so it effectively skirted this particular House and yet this is a significant and controversial decision, the type of which should have been brought to this House for full debate, I would have thought. It appears that the Minister

for Social Security - new in her job as she is - has been persuaded by the Chief Minister to do something that he personally was in favour of but that her advice was opposing, and I rather regret that she did that because the decision was thoroughly examined by the Employment Forum and its statement is as follows. The Forum's concluding statement: "The Forum has found no evidence that a longer qualifying period would have a positive impact on the employment and job opportunities. The Forum considered whether the consultation revealed any other reasons that might support a longer qualifying period. The Forum has concluded that the potentially detrimental impact of a longer qualifying period outweighs the potentially positive factors to such an extent that the Forum cannot recommend a longer qualifying period. The Forum recommends, by way of a majority decision, that the qualifying period for protection against unfair dismissal should remain at 26 weeks." Despite that clear and impressive judgment and advice, here we are discussing this particular issue when we have no need to be because the Minister should not have done it. When we look at what we mean by "unfair dismissal", we read that: "For a dismissal to be fair, the employer must show that the principal reason for the dismissal is either the capability or qualifications of the employee in relation to the kind of work he was employed to do." Basically, is this bloke that I have been employing for the last 6 months and training up to the job? Or he claimed that he had a degree or an H.N.D. (Higher National Diploma) in this particular aspect and I found out that he has not combined with his inability to do the job. I am going to sack him. Perfectly fair and above board. Can he do his job? Has he got the right qualifications? It does not seem difficult to me. "(b) The conduct of the employee." Does he turn up promptly on time? Does he treat customers properly? Is he sloppy? What is his attitude? I do not like it. His conduct is not up to scratch. I will sack him. It is not hard to fathom. "(c) That the employee was redundant." Okay, I thought I could employ this guy. I looked at my books. I am not making enough profit. I want to make him redundant. Again, no problem. "That to continue to employ the person would be contravening a duty or restriction." I have employed him as a driver. He has lost his licence. I am afraid he has got to go. I cannot employ him. Again, it is not difficult. Fairly obvious. "Some other substantial reason of a kind that would justify the dismissal of an employee." For example, I have employed him to cover maternity leave. The maternity leave is now over. He goes and, again, fair dismissal. So 1, 2 3, 4, 5 means to dismiss somebody. Perfectly straightforward. No unnecessary or artificial restriction on the ability of an employer to dismiss a worker he judges not to be up to the job.

[16:45]

Not a problem and yet, somehow, the Chief Minister and the Minister for Social Security think that this is something of a problem and they say the following in their comments: "Employers and their representatives had expressed clear concerns that Jersey's 26-week qualifying period was a significant factor in preventing or discouraging them from taking on more staff. While it is not possible to quantify the significance of the qualifying period in recruitment decisions, this perception nevertheless exists. Note "perception". "Lifting this restriction is expected to boost employers' confidence. The positive reaction to employers' organisations to the change in the qualifying period strongly supports this. See, for example, the president's message on the cover of the Jersey Chamber of Commerce December monthly newsletter." What that was reporting was apparently a 70 per cent vote in favour of extending this unfair dismissal period but we examined that and what it was was a 70 per cent response from some 28 employers. It was barely significant whatsoever. Yet what do we have from the employers when they talk about whether this change would encourage them to employ more people? An anonymous employer in the report said: "In terms of recruiting additional staff, the employment's qualifying period does not play a part on whether we recruit or not. We look purely at the business needs and costs so the qualifying period has not been a barrier to employing more staff. The number of vacancies would not change depending on the outcome of this consultation." Putting it simply - and I think Members can

probably work it out for yourselves - you employ somebody and you have 6 months in which to decide whether they are up to the job and then you can sack them, if not. So, for example, you employ somebody. Almost 6 months later, probably 25 weeks later, you say: "This guy is never going to be up to the job. I have got to sack him." One person employed; one person sacked. "Do you need a job?" "Yes." Somebody else is employed for another 6 months. What is the difference between that? At the end of 12 months, you have got one person employed. Extend the period to 12 months from 6 months. At the end of that 12-month period, what have you got? One person employed. Anybody extra employed? No. The bottom line is the commercial decision says: "We cannot afford any more people." Whether it is 6 months or 12 months, it makes no difference whatsoever. We do not see an extra body being employed and yet the Employment Forum states: "It appears that employers, particularly smaller businesses, have the impression that fairly dismissing employees is almost impossible. Extending the qualifying period potentially perpetuates the myth that fair dismissals cannot be achieved and does not necessarily avoid future unfair dismissal claims." Then further: "It appears a recent survey of the Employment Tribunal's decision in 2012 identified that some employers are unaware of the requirements of the Employment Law and identified a need to increase employers' awareness of the need to provide fair warning of dismissal or redundancy. It appears that more advice, support and guidance may be required by employers rather than a longer period in which to avoid unfair dismissal complaints." So what does the employer have to do? He has to do 2 things in order to fairly dismiss somebody. He has to give fair warning. He has to talk to the employee concerned in saying: "Sorry, Jack. You were not up to scratch. I can offer you some more training. We can attempt still to get you up to scratch." If you are going to warn him that he is likely to face the sack down the line, there has to be somebody present to witness the fact that he has been given a fair warning. That is the only condition that you need to meet to have a fair dismissal. One has to ask if an employer here does not understand those simple rules: "I have got to give him a warning" and, ideally, sometime in the 6 months or the 12 months: "I have got to offer him some fresh training" and you have got to say: "I will support you. I am not going to sack you just because I can. I will show some faith in you and give you some support." That is what you have got to do. How difficult is that to understand? It is not and, yet, small businesses in particular are running around like headless chickens saying: "Oh, we cannot sack anybody. Gosh, they will take us to the Employment Tribunal. I do not understand." What is the appropriate response to that? Is it to say: "Have 12 months to make your mind up and get it right or not rather than the 6 months" or it is to offer, as the Employment Forum has done, additional training and say: "We can send somebody in to talk to you about your particular circumstances and what you need to do if you are going to sack somebody"? Because that is what is on offer. Indeed, for the coming year, an enhanced service is on offer to do just that, whether in the place of work or elsewhere. They are offering to train up employers so that they know what they are doing and we reduce the number of unfair dismissal claims because employers are starting to get it right. That is surely the appropriate thing to do. Instead of which we have got this, what I would say, is a nonsense whereby we are weakening the protection and increasing the instability of work for employees rather than doing something positive about terms and conditions for our workforce. One law firm, in its contribution to the Employment Forum, said the following: "As the consultation recognises, so as not to risk a potential unfair dismissal complaint, employers may terminate an employee's employment shortly prior to the end of the 26-week period if they are not certain about an employee's suitability for a job" to which I would say: "Really you cannot assess an employee in 6 months." Are you serious? I have got a serious question mark over that. "It is correct that such an approach is often adopted by employers and does, in our experience, happen in practice. However, in our view, that in itself is not a sound basis on which to extend the qualifying period. If the qualifying period were to be increased, there is a likelihood that the practice of terminating employment shortly prior to the point at which unfair dismissal protection commences would continue. The only difference would be that employment will be terminated at

50 or so weeks rather than 24 or 25 weeks as happens currently. This, in turn, could lead to greater insecurity for employees.” Given the state of the market out there, do we really want to increase the sense of insecurity that our employees are going through? I do not believe we do. I give you the last 2 comments from the Council of Ministers on this particular aspect as to why they are supporting it and suggest that these reasons are woefully inadequate to try and push through this extension and this weakening of the protection that we have for employees. Point 9 says: “In making her decision, the Minister carefully considered the Employment Forum’s previous recommendation in 2013. The Forum reported that when considering whether to increase its unfair dismissal qualifying period, the U.K. Department for Business Innovation Skills found that [and they are quoting the U.K. system] it is not possible to directly quantify the likely impact on business confidence and, in turn, on hiring behaviour and that detecting any effect is challenging.” This, however, did not stop the U.K. increasing its qualifying period from one year to 2 years in 2012. So despite the Department for Business saying: “There is no evidence that this will make a positive difference”, the Conservative Government ... sorry, the Coalition Government went ahead and increased the period. Why? Because it is part of their political dogma. So despite the evidence, despite the absence of any evidence whatsoever that would have a positive effect on employment, the coalition government went ahead anyway. I say: “Is that the way we should be behaving?” I do not think so. It then finally finishes with the following statement and I ask Members to think about this seriously and see if they can get it into their heads in any sort logical way whatsoever. It is a wonderful argument this that you could apply to anything: “While the Forum found no direct evidence that a longer qualifying period would make a difference for job opportunities, it also found no direct evidence that it would not make a difference or that 26 weeks was the correct qualifying period.” I am sorry, I will just repeat that in case you missed it and this is making a decision in the face of evidence to the contrary from the Employment Forum which normally is slavishly followed on the following ground. “While the Forum decided no direct evidence that a longer qualifying period would make a difference to job opportunities, it also found no direct evidence that it would not make a difference.” The dog did not bark. No, hang on, there is no evidence that this would do what you say it is going to do. Do you need really to say: “There is no direct evidence that it would not make a difference”? No, sorry, you just do not do it, surely. This is a nonsense from beginning to end. It has been attempted to push through not being brought to this Assembly and Members should be aware of that and it makes no sense whatsoever and weakens the protection around employment that we should be strengthening rather than weakening. The evidence says it will do no good for job prospects in the Island anyway, so that is the case. Thank you.

The Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? Yes, the Minister for Social Security.

11.1.1 Deputy S.J. Pinel:

The right not to be unfairly dismissed is a crucial one. It is an essential part of the balance that we seek between the rights of employees and the rights of employers. It is important for any Minister to look at that effect that the law is having and to determine whether the right balance has been struck. While we want to protect employees from unfair treatment, we also want to make sure that employers do not feel so burdened with Employment Law that they are reluctant to take on new staff. At a time of full employment, that might not be such a major concern but, at this stage in the economic cycle, it is one which we cannot ignore. Two years ago, my predecessor asked the Employment Forum to consider whether the qualifying period for protection against unfair dismissal should be increased. The Forum decided to recommend - although tellingly, not unanimously - that it should remain at 26 weeks. Their recommendation was carefully thought out

and balanced. They acknowledged that there were arguments on both sides and said that they were not opposed in principle to a one-year qualifying period.

[17:00]

They said that if unfair dismissal was being introduced for the first time, then a one-year qualifying period would be a sensible starting point. Prior to making its recommendation, the Forum had tried to gather evidence of whether the 26-week qualifying period deterred employers from taking on new staff and whether a longer period would encourage them to do so. The Forum concluded that any evidence found was anecdotal and that it may not be possible or reasonable to expect that the unfair dismissal qualifying period can be identified as one of the main factors driving employment decisions. I respect the approach that the Forum took in 2013, not last year, was mentioned by the Deputy in his opening lines. Now, as the Minister responsible, it is my job to take a decision on the right approach for 2015, given the changes to the economic situation since then. I have therefore decided that the time is now right to introduce a qualifying period of one year. The fact that evidence is anecdotal does not mean that it can be dismissed out of hand. I am persuaded that a longer qualifying period may encourage employers, particularly small businesses, to have the confidence to invest in new staff. I cannot tell the Assembly how many jobs will be created. No one can. Nor, I suspect, will it be possible to measure the impact of this change in the future. There are simply too many variables in play when a business is deciding whether or not to take on new staff. However, Jersey's representatives of the business community, the Chamber of Commerce and the C.I.P.D. (Chartered Institute of Personnel Development) have both spoken out publicly supporting this change. I believe it is our duty as a Government to create the best possible climate for businesses in Jersey. This must be a place where business is encouraged and, in particular, where small scale entrepreneurs can thrive and grow. My action to implement this change from the beginning of 2015 is an indication that Government can work quickly and can provide meaningful support to businesses to allow them to make the most of the recovering economy and the improvement in confidence levels. As I said at the outset, it is important for the right balance to be struck. If I believed that the benefits to business were outweighed by the impact on employees, then I would not have taken this step, but I believe the balance is fair for the following 3 reasons. First, I think that a one-year qualifying period is a sound, commonsense basis for our unfair dismissal law, which brings us more in line with other jurisdictions, including Guernsey, the Isle of Man and Northern Ireland. It allows the employer to assess the employee's performance over a complete annual cycle. There are many jobs, for example, that have crucial tasks that must be undertaken at intervals during the year. A one-year qualifying period ensures that the employer will see the employee in action for a sufficient period over a full range of seasonal activities to judge whether recruiting him or her is the right decision. Second, this increase does not take rights away from anyone. Even staff who are appointed in December last year can still claim unfair dismissal after 26 weeks' service. The change only applies to new recruits. Thirdly, the change that we are making is a relatively small one. Some people would have preferred me to increase the qualifying period to 2 years, but I do not think that would have been right. It would have left employees relatively unprotected for too long, and may have discouraged them from leaving their established job and taking advantage of a new opportunity. Moving from 6 months to one year, however, does not, in my view, entail that risk. One year is a sensible qualifying period. Two years would be too long, given current employment law and employee concerns. I think we are striking the right balance. We should bear in mind that the compensation available for unfair dismissal, in cases where the employee's service is short is relatively modest. In the U.K., where the qualifying period is 2 years, the compensation for unfair dismissal is capped at one year's pay or £76,574, whichever is the smaller. In Jersey, someone who is unfairly dismissed and who has less than a year's service is awarded just 4 weeks' pay. If removing this modest compensation can do anything to encourage job growth in Jersey, then I think it is worth

trying. When the Forum made its recommendation in June 2013, there was very little protection for employees in Jersey, apart from unfair dismissal under the Employment Law. Since then, we have introduced the Discrimination Law, where there is no qualifying period and workers have rights from day one of their contract. We will also have protections associated with the new family-friendly rights from September. These all bring additional day one protection against dismissal. Employees in Jersey are not unprotected. All these factors persuaded me that increasing the qualifying period to one year is a proportionate and fair way of encouraging employers to grow. This is a topic where it is virtually impossible to gather hard evidence. A further period of consultation would only have rehearsed the opinions we already understand and delayed any decision. We know the arguments. There is no further evidence we can usefully gather. It was right, I believe, to take swift action. I make no apology for taking this measure by way of an Order, because that is the method laid down in employment law. The law gives me Order-making powers, and I exercise them with the full support of the Council of Ministers. Having said that, I welcome the opportunity for Members to debate the issue. I hope the Assembly will share my view that a one-year qualifying period strikes a fair balance and sends the right message to the business community. Thank you. [Approbation]

11.1.2 Deputy M. Tadier:

I think it is good in itself that this has been brought to the Assembly. Much smaller decisions have been brought to this Assembly for approval by Social Security and other departments, Ministers, correctly. But this is no small decision. This is a monumental decision, not simply because we are dealing with what is essentially a hardcore right for workers in the Island, and of course it is a hardcore right which is replicated elsewhere. But it is also something which the last Minister for Social Security, somebody who I think was well-respected, both by the public and this Assembly generally, although of course no one is going to agree with everybody 100 per cent, and he was not automatically a fan of our party or the left. He could not be accused of being a socialist, I do not think, or a pro-union lackey, whatever one might want to call him, but he said in his comments less than 2 years ago, and I think it is probably less, it is a year and a half ago, essentially, in June, he is quoted, his decision following what was asked for, as saying that he did ask the Forum to consult as soon as possible. They reported back. He said: "The call for employers for additional leeway and flexibility must be balanced against the importance of this relatively low level but hard fought right of employees. I am not prepared to remove this protection from potentially 12,000 employees, a quarter of the workforce in Jersey. We must remember that an employer can still dismiss an employee who has 26 weeks' service, but they must do so fairly." That is reflected in Deputy Southern's report. He has listed quite clearly, I think, on page 4, the ways in which one can already dismiss fairly, and that is after the 26-week period. Of course, before that, you do not even have to adhere to those criteria, you can just say: "Sorry, mate, it is not working out. I am going to have to show you the door." Fair enough; you do not go through the process. But after a 6-month period, which is I think, you know, usually seen as a decent probation period, then of course the fair dismissal applies. I am concerned about this, because I would hope that nobody should be unfairly dismissed, no matter what the period. We should not have a 6-month period for unfair dismissal. You should never unfairly dismiss somebody from their job. It should always be for a fair reason, and that scope there is quite clear. There were good grounds to dismiss somebody and there is a protocol and a process by which you go through. So, I do not see what the argument is here. What is the nub of the problem? Because I fear that the Minister's decision is a very early decision, and one of the first decisions she is making as a Minister, clearly wants to be seen to be decisive, and that, I think, the intent there is laudable. She wants to be seen to be taking action, but I fear strongly that she is taking the wrong action. She is taking an action without any evidence. The Forum themselves have said there is no evidence to suggest this would make difference. So she is willing to take away a hard-earned right of workers across the Island, no matter where they work,

which will of course anger the unions. It has done already. It will of course radicalise the union, hopefully, if this goes through today, and say: "Why are we having our rights taken away from us, so that employees in a difficult economy can sack us unfairly, not for 6 months but for a year." Why are we sending that message out to employees and I believe, good employers, who are doing the right thing the majority of the time and saying: "Well, we want to make employment even more precarious. We want you to be even more concerned about whether you are going to have a job in 6 months and a year, and pay the bills, pay your mortgage, pay your rent, look after your children." On top of that, if you leave your job after perhaps 9 months, whether you are sacked, constructively dismissed, we may withdraw your benefit and say that you have left your job for something that is not a good reason. We are causing people anxiety, fear, and all on the back of the fact that there is no evidence. This is not the correct way to make the decision. If we are going to make a decision, let us do it in this Assembly. Let it be the decision of the Assembly. But let us at least make the right one and make it on the back of proper evidence, and I hope that Members will see clearly that this is not the right way. We need to look at what the nub of the problem is. If there is a problem that some say that it is too easy for an employee who has been dismissed to take a case to the Employment Tribunal, and that there are ways to deal with that, that there are certainly things that can be done around that. But I do not think the nub of the problem is the fact that we want to be able to unfairly dismiss people in this society. We have businessmen in front of us in the Assembly. I am sure if they stand up and speak, they will echo that. They do not want to sack someone for spurious reasons. If they want to get rid of someone, it is a difficult decision. It is not taken lightly, and it will be done on the grounds of fairness, so I do not see that this is addressing the nub of the issue. There has to be a better way to do it, and I would ask Members to support this proposal today and find a better way to help small businesses across the Island generally, but not to do it at the expense of those ... of creating precariousness even more so, in the workplace.

11.1.3 Deputy M.J. Norton of St. Brelade:

I agree with the last speaker, that nobody who is an employer would like to unfairly dismiss or treat an employee wrongly and to get rid of them. It is not in their interest. Certainly, speaking as someone who has employed people - 20, 25 people - over the last 12 years on 2 businesses, I can tell that certainly Deputy Southern knows his social security issues, and nobody would question those; probably almost expert in this Assembly. I do, however, have questions of his experience of taking his own money, putting it on the table, signing a long lease and betting, when he takes on a whole pile of employees, that he is going to make some money at the end of it, and that he is going to have a successful business. Because let me tell you, it is not easy. It is difficult. It is tough. You work more hours than you ever think you will; you make less money than you think you do; and you are going to have an awful lot more problems than you first thought you were going to have. Some of those problems will be staffing issues. It is not easy to dismiss somebody. It is not nice to be able to dismiss somebody, because you do not want to do that. You want your employees to be very, very happy. But the nub of the problem here really is that if we could train plumbers, electricians, mechanics, chefs and all other trades within 6 months, so we know that they are going to be a good employee and worthwhile for our business for the way going forward, then all apprenticeships would be 26 weeks and under. All training would be 26 weeks and under. It is simply not enough time to know, in a lot of cases. You may have an idea. You may have an inkling. I can give several examples of other employees who have let people go in the 23rd, 24th and 25th week, because they are just not sure that this person is going to make it, and those people are now unemployed. They would still be employed if the 12-month rule had been in, in that place.

[17:15]

That is facts, and I know other employers who would have taken people on, but instead, are struggling on as one-man bands. When I ask them why they are doing this, they will just simply

say: "I cannot afford the risk. I cannot afford the tribunals. I cannot afford the worry that, after 26 weeks, I will not know if they are right or wrong." There are people in this Assembly who have been or are employers. There are some that are not. I speak from one who has been an employer and I speak as one who is there trying to protect employees and give them work, but I cannot do that with one hand tied behind my back, looking over my shoulder all of the time, when I have all the other worries of a business to do as well. You have to give employers something to run at. If they are going to commit to a 21-year lease at £50,000 a year, just do the sums and realise what they are putting in as their bet, what they need employees, and they need good ones. If they treat them right, and if they treat them fairly, they will remain their employees. They do not want to dismiss anyone, fairly or unfairly. What they want is a decent period of time, when they can employ them, train them, and bring them into the employment forum going forward. While I talk about Employment Forums, I disagree with what they come up with, in terms of facts. I disagree because I know first-hand what it has been like, and I know other employers that do the same. I cannot support Deputy Southern's proposition in this case. I understand why he is bringing it forward and I sympathise in some cases with employers who have not been entirely straight, but I think this is a case in 2015 when we need to lift and encourage employers to employ more people, and the strength of business is going to be based on that in the next 2 or 3 years, going forward, so I cannot support it.

11.1.4 Deputy J.A. Martin:

To me, there we have an employer who seems to miss the complete point of ... the risk. He is talking about risk, but he is talking about, you cannot dismiss someone unfairly after 26 weeks or whatever, a year or 2 years. He is not getting the "unfairly". If the person is not up to the job, and Deputy Southern read out every part where you can, after the magical, whether it is 6 months or one year, you can dismiss fairly. It is just the difference of 6 months or one year. The Deputy said he knows many people who cannot take the risk. Well, what you would do if you have a fantastic employee and obviously you want to keep hold of them? You are telling me employers cannot tell if you have somebody who is up to the job after 6 months? After one month ... I have worked with people. I have said to the person above me: "Come on, this person is not pulling their weight. I am doing 3 times their work, and I am under them. I am not even being paid as much." It is not rocket science, absolutely not rocket science. I am absolutely ... was amazed when this came in, and I was asked these questions. The employer Deputy sitting to my left is still amazed, saying that he should have known, and he cannot employ people because he has invested money. I will get back to the point, because it is absolutely fundamental. This law came in 2003. It was being debated. I was in an unfair dismissal case with a very good friend in 1983, in the Lincoln's Inn Fields courts. This law was over 20 years of dragging behind the U.K. Consultation; consultation after consultation. What would be right? What would be wrong? This was what we came into. We have been running it for over 12 years, and then one day, suddenly a well-thought through ... a new Minister who has only been in the job for 3 weeks says: "No, we are going to put it up to a year." And that was done under the points, under the Council of Ministers, and it was done quickly because the regulation came in as an Order. It gave the power to prescribe the different qualifying period by an Order. What I do not think anybody really realises, it was a quick decision. It was also a very bad decision. It was an unevicenced decision. If you listen to what the Minister said about: "Well, let us follow the U.K. They have 2 years." Did you hear what she said, what the compensation there is for unfair dismissal after 2 years? It is either one year's wages or up to £76,000, which is very, very much more than our tribunal has ever, ever contemplated. In here, just over the 6 months period, it is 4 weeks' wages. So let us compare like with like. I really do not think the Council of Ministers ... and I do feel sorry for the new Minister for Social Security, because somehow, she has just stood up and she has no apologies, she does not care. This was brought in as a Ministerial Decision. She may well have got it if she had brought it to the States, but it is now the way, and we

have been told how many times in this new House, this is the way business is done. Senator Ozouf says: “We are not mucking around anymore. We can do this, and we have done this by Order.” The Forum was concerned about all the thousands of employees. So what they have done is not respected, so we have now got 2 types of employees out there, ones that were employed up to 31st December, and ones who are now employed on the 1st. Absolutely mad. I do not feel sorry for employers who cannot spot a bad employee before 6 months, but it is not that. It is about the “unfair”. If you have had an employee working for you for 15 years, has been absolutely fantastic, suddenly maybe the marriage breaks down or they have a problem. They find they have a different problem. Something happens in their life, sends them off course and it affects their work. You go through the unfair dismissal process. You give them the warning; you give them the second warning. It is all written down clearly, and I think this is where the Employment Forum struggles, many employers over here have not got to grips with that we do have an Employment Law. Although it is bedded-in, bedded-in now for nearly 10, 12 years, they still do not like it. “Oh, more red tape. Do not want it.” What about the protection? As you said, there was ... the unions who came out, and I am not particularly Unite, but their absolute disregard for the thousands of employees who are members of the union had no idea that this was going to happen by a Ministerial Decision until they read it in the *Jersey Evening Post* or it was on the radio. Absolute disrespect for years of work and consultation with employees, employers and the Forum. It was done wrong. It is still wrong. The Minister just said there is no evidence that anyone is going to employ more people. I absolutely support Deputy Southern, and I hope this is the first of the last we see of quick decisions that should have come to this House, may have got passed in this House, but they are avoiding this Assembly so they do not have this sort of debate. Well, at least somebody has learnt one thing: we do have the right for rescindment. Thank you. I fully support what Deputy Southern is trying to do.

11.1.5 Senator P.F. Routier:

It was back in 2003, this law came into place. I remember it very well. I remember the debate, because I was the Minister at the time, and I remember all the various amendments that Deputy Southern attempted to bring to the law. He was successful with one, but I still want to put that one right at some stage. But the point I would like to ... sorry?

Deputy G.P. Southern:

It is personal, is it?

Senator P.F. Routier:

No. That is the issue. It is about a youth rate. It is still causing unemployment for young people.

Deputy G.P. Southern:

Yes. It was at the time of the Employment Forum then as well.

The Bailiff:

Can we just crack on with your speech? **[Laughter]**

Senator P.F. Routier:

We can, Sir. I would like to pick up on the point that the Minister appears to have some sort of disregard for this House, and it should have come to this House, or this Assembly. I keep on saying “House” because that was the word that Deputy Southern used. I do apologise. It should be “Assembly”. The law was structured in a way that certain things are in Order, and some things are Regulations, which do need to come to this House. It was structured in that particular way, that this particular number could be changed at any time, because it was recognised when the law was structured that it could be appropriate to change that piece of the legislation at any time to suit the

circumstances that we find ourselves in. So it is not something that the Minister can be criticised about, for not coming to this Assembly for a decision, because it is structured in a way that it is accepted that that sort of number is possible to change. I have to say, and it was this House, this Assembly ... structured in that way, and I think it was the foresight of the Minister at the time who set it up in that particular way. The Forum has been quoted several times about their position on this, but it needs to be recognised, and I think it has been recognised by Deputy Southern and the supporters of this, but this was not a unanimous decision by any form. It was a marginal decision because it is such a difficult thing. The evidence does not balance out either way. One of the issues which is causing a lot of employers difficulty with the 6 months is because if they were considering a particular employee with regard to whether they felt they were considering dismissing them, there is, as we know, an unfair dismissal process, which does take quite a considerable amount of time to go through. You have to go through written procedures. You have to have meetings with the employee and allow time for consideration of that, and that can take up to about 4 months. What we need to accept, that the Employment Law was structured in a way to protect employees and to put some structure with the relationship with the employer, but there is a process to go through when they considering somebody leaving. So that, as I say, can take up to 4 months, so we need to have that in consideration.

The Bailiff:

Senator, I think you may have an electronic machine nearby.

Senator P.F. Routier:

Okay. I will perhaps stand away from it. So I would just like to pick on one point, which I have to say ... Deputy Martin did just make the differentiation about those people who were ... it does not affect 12,000 people already employed. Because I think there was some consideration that there were 12,000 people would be affected by this. That is not the case. It is only the people who are going to be ... I appreciate that, but I think, in some people's minds, they were thinking that it was going to rights taken away from existing employees. It does only affect those who are going to be new employees, and I think that is the nub of the matter. The nub of the matter is, we want to have a position where we are creating jobs. That is what it is about, is to encourage employers to take on staff. We are in a situation where we need to ensure that the business community do feel able to take on staff and not have the worry of the current situation. I am unable to support this proposition to annul this Order, and I hope Members will see the very sound words of the Deputy of St. Brelade, who is an experienced businessman.

Deputy M. Tadier:

Thank you, Sir. [Laughter]

Senator P.F. Routier:

I will leave you to decide which one it was. I will leave it at that. Thank you very much, and I am not sure if we have more speakers or not.

The Bailiff:

Yes. Can I, perhaps to assist Members, how many other Members would wish to speak? Yes, we have several, so does the Assembly wish to adjourn, then?

Senator P.F. Routier:

I propose the adjournment.

The Bailiff:

The adjournment is proposed, so we will adjourn, and reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:29]