

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 18th JUNE 2013

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

[09:30]

CONNÉTABLE OF ST. CLEMENT - APPRECIATION

1. Senator P.F. Routier:

If I may just comment on the fact that today is a remarkable day because Connétable Norman has now been included in the roll call in this Assembly for the last 30 years. **[Approbation]** His fantastic record of service is that he was first elected to the States on 17th June 1983 as a Deputy of St. Clement. He was re-elected as Deputy for that Parish in 1987, 1990 and 1993. He was then elected as a Senator in 1996 and re-elected on 12th December 2002. He was then elected as Connétable of St. Clement on 8th December 2008 and again in 2011. I hope Members will join me in congratulating the Connétable and thanking him for his service to his Parish, Island and this Assembly during his 30 years of service. **[Approbation]**

Connétable L Norman of St. Clement:

I am not usually lost for words but I would like to thank Senator Routier for his very kind words and the appreciation of the Assembly shown in the traditional manner. Clearly, I must have done something extremely bad in a previous life. **[Laughter]**

The Bailiff:

Thank you very much, Connétable.

COMMUNICATIONS BY THE PRESIDING OFFICER

2. The Bailiff:

May I welcome His Excellency, particularly on this occasion as it comes shortly after the service to celebrate 60 years since Her Majesty's Coronation. **[Approbation]**

QUESTIONS

3. Written Questions

3.1. DEPUTY J.A. MARTIN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE PROPOSED ELECTRICITY SUB-STATION AT WESTMOUNT:

Question

Will the Minister provide details (by use of a map if necessary) of what part of St Helier the proposed electricity sub-station at Westmount is intended to service and, in view of his comment in the States on 4th June 2013 that "there are going to be problems in the future in relation to the J.E.C.'s ability to deliver supply to homes" in St. Helier if the scheme does not go ahead, would he set out the likely timescale for any such disruption?

Would the Minister also give a list (using a map if necessary) of the other potential sites considered for the substation and explain, in each case, why the site was ruled out?

Answer

The Minister considers that the need to provide a reliable power supply to homes and businesses is a core requirement for the JEC and he is seeking a swift resolution to avoid any disruption to power supplies.

The Minister is advised that this is an urgent issue that needs to be resolved without delay and has sought to expedite the preferred solution with the Parish, as landowner, and the JEC.

The preferred option and other sites considered, together with a commentary provided by the JEC in respect of the pressure on capacity, are set out below.

St Helier West Primary Substation

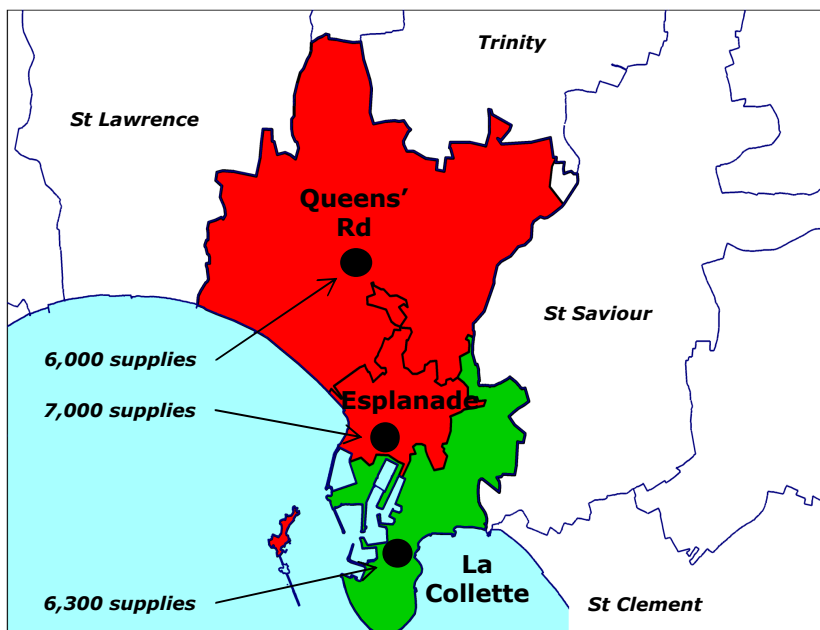
The electricity network in the central and western part of St Helier is presently near full capacity and demand is growing. Several cable circuits and related equipment between Queens Road and Esplanade were installed over 50 years ago and are becoming aged as well as ‘stressed’ due to the high electricity loadings. This could lead to a reduced asset life as well as increased risk of disruption of supplies to existing customers.

There is limited backup infrastructure available to maintain supplies in the event of an ‘electrical fault’ situation especially if an event occurred during the winter months. A sustained fault at either Queens Road Primary or Esplanade Primary would mean that Jersey Electricity could have difficulty supplying customers for up to 1,250 peak hours over the 6 winter months until the fault was repaired. A major fault could easily take 6 months to repair, requiring procurement of assets from specialist manufacturers’ off-island.

Such an event would therefore lead to repeated supply (rota) disconnections and re-connections during the afternoon and evening when the electricity network loads are at their highest (and when the electricity is most needed). Customers affected could include domestic customers as well as existing businesses including those located in the commercial district of St Helier.

Two thirds of St Helier could be at risk depending on the nature and timing of the fault (darker area in Figure 1 below). In addition services to some customers in adjacent Parishes could also be similarly affected as the network topography is not delineated by Parish.

Figure 1 – Potential Area at Risk

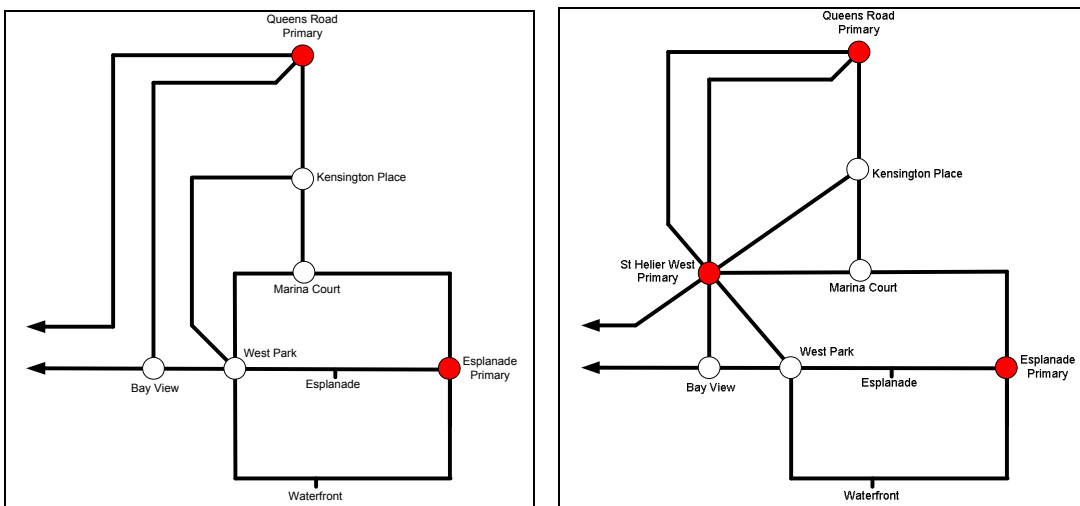


Area of increased risk within St Helier Parish

An additional consequence of this is that Jersey Electricity is unable to provide new supplies to new developments, including the hospital development, housing schemes as well as new supplies to businesses and the commercial district of St Helier.

Jersey Electricity has been looking for a suitable site for a substation for several years. Parish and States officials have been extensively involved in this process. In order to securely reinforce the network in this part of St Helier, the substation needs to be physically located between the Esplanade Primary and the Queens Road Primary. The location is critical as it must be sited close to the load to offer secure integration to the existing Jersey Electricity network with minimal cable lengths and maximum cable separation that is necessary for resilient connections. The network design showing cabling, is shown diagrammatically in Figure 2 below.

Figure 2 – Diagrammatic Representation of the 11Kv Network



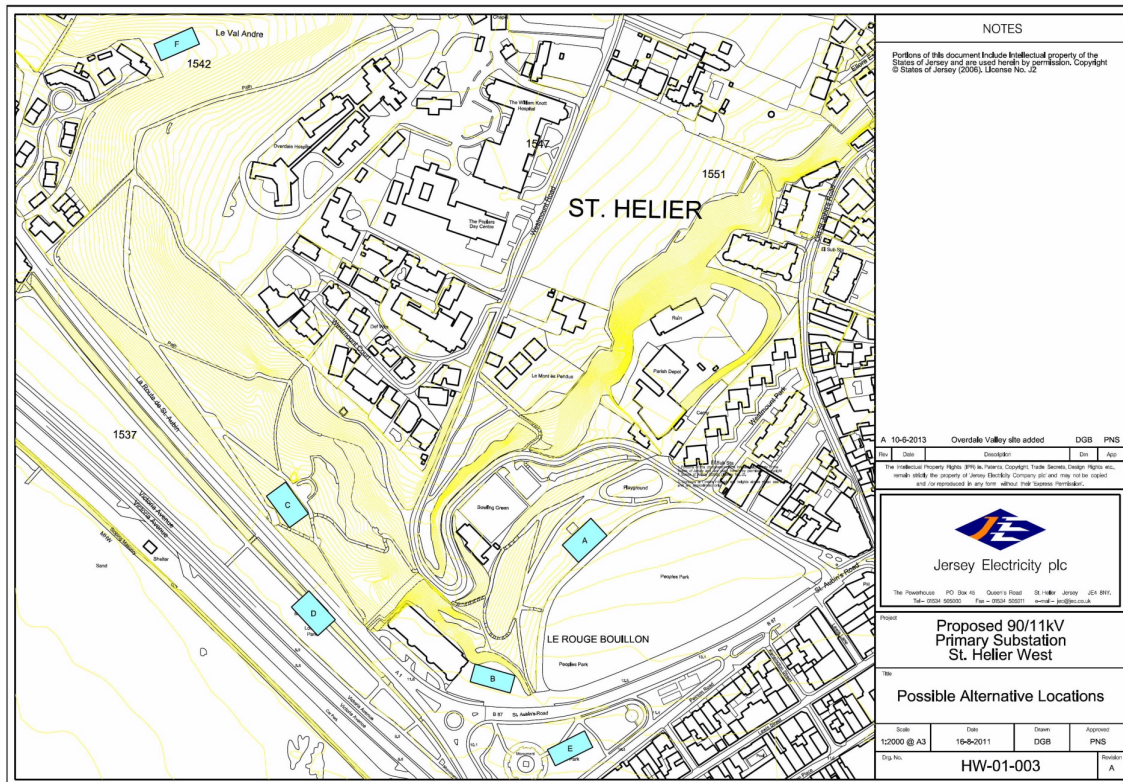
Existing 11kV Network

Network showing new St Helier West

The new proposed St Helier West Primary substation will take load from the Esplanade Primary and from Queens Road Primary relieving those substations of their overload operation. It will also offer additional capacity for existing and new customers in the north, west and central St Helier.

Several options for the new substation have been extensively explored. These are shown in Figure 3 and described in detail below.

Figure 3 – Site Options Considered



The options considered were:-

- A) Part buried in the crescent of Peoples Park - former fountain
- B) In the car park adjacent to the Inn on the Park site
- C) In the old disused quarry opposite Lower Park
- D) As a direct replacement for Fergusson's Folly
- E) In Victoria Park
- F) In the Overdale Grounds Val Andre

The preferred site, taking into account the various trade-offs, is option C. This site was chosen after discussion with both Planning and Parish Officers for four primary reasons:

1. It was felt that the substation was easier to conceal and landscape than would be the case if sited in the open parkland alternatives
2. Whilst more expensive for Jersey Electricity in terms of site preparation and despite some technical compromise, the site was considered acceptable given the minimal loss of amenity, ease of concealment and ease of access for installation and for emergency repair
3. The site is remote from residential areas, minimising any safety risk or noise to neighbours
4. From a Parish perspective, they would no longer be responsible for any future contingent liability risk (and cost) associated with an old and potentially unstable quarry

Details for each option are listed as follows.

A) Part buried in the crescent of Peoples Park (former fountain location)

This location has been discussed with the Parish who welcomed the installation if it included Public Toilets and offered a viewing platform. These facilities could be included in the design.



Proposed St Helier West Primary Substation at People's Park

This is Jersey Electricity's preferred location. It is good secure location to connect into the existing 11kV circuits and 90kV circuits. This proposal was not supported by planning officers.

B) In the car park adjacent to the Inn on the Park

The primary substation could be located in the car park. It could be walled for security as required.

Its location is good for secure connection to the existing 11kV and 90kV cables. This proposal was supported by Planning Officers. Significant objections may emerge from apartment owners who would be within a few metres of the site, and therefore this site has not been progressed.

C) In the old disused quarry opposite Lower Park

This location was proposed by the Parish. The substation would be mostly concealed but the 11kV cable installation would still be challenging as 6 circuits would need to run along the inner road past West Park. However this is deemed achievable. Planning Officers agree with this proposal subject to design criteria.



Disused quarry - Existing Site



Substation cut into disused quarry opposite Lower Park - Proposed

D) As a direct replacement for Fergusson's Folly

The building shell is not quite large enough to accommodate the equipment but the style could be very closely followed if required and certain plant installed underground (under St Aubins Inner Road). The 11kV cable installation would be very difficult as 6 circuits would need to run along the inner road past West Park. If part of the installation was installed under the road, the road would likely have to be closed for about 18 months pending the build process leading to significant traffic problems. This proposal was not supported by Planning Officers.

E) In Victoria Park

This location is good for connection to existing 11kV and 90kV circuits, but it was not supported by Planning Officers due to the sensitivity of the location.

F) In Overdale Grounds Val Andre

This location was proposed by Property Holdings as an alternative site to those previously considered. It is a very difficult (near impossible) location to install large plant and equipment and very difficult to resiliently connect to existing 11kV and 90kV circuits.

3.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF TO THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING EMISSIONS FROM COMPRESSED AIR POWERED VEHICLES:

Question

Following the Minister's recent statement suggesting that compressed air powered cars are environmentally superior to petrol powered ones has the Minister researched the overall energy requirements of using these vehicles compared to other vehicles such as modern diesel cars and is he satisfied in promoting the use of compressed air vehicles that the cleaner environment they may create in the vicinity of the vehicle in question is not offset by a greater environmental problem elsewhere in relation to the generation of the necessary energy to power the vehicle?

Answer

I believe Deputy Baudains is referring to the comments I have made in relation to the recently launched Air Quality Strategy, included in the article published in the JEP on the 28th May entitled 'Call for greener cars in air quality drive'.

Emissions produced from energy used to fuel cars are the main contributor to air pollution on the Island and the Air Quality Strategy provides a framework for ensuring that our air quality is maintained and improved.

We must encourage people to use lower emission and more environmentally friendly powered cars such as electric, hydrogen or compressed air vehicles in the future.

In relation to the total environmental impact of these alternatively powered vehicles, much depends on how clean the source of power to manufacture and run the cars is. As identified in the 'Pathway 2050: An Energy Plan for Jersey', tidal and wind power may play a role in the future for the island and help us towards reducing carbon emissions and improving our air quality.

3.3 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SUICIDE RATES:

Question

How many attempted suicides and actual suicides have there been over the past 5 years?

Answer

Between 2008 and 2011 there were an average of 13-14 suicides each year, ranging from in any one year from seven to 25 (see Figure 1). However figures have dropped significantly during the last 3 years.

Figure 1: Numbers of suicides and open verdicts in past five years

Year	Total	Open Verdict
2008	16	0
2009	25	1
2010	9	1
2011	11	0
2012*	7	1

*provisional: subject to sign-off by Deputy Viscount

In the UK open verdicts are included in research on suicide, for this reason they are also included here.

Initial indications from 2013 suggest that the trend towards a reduction in the number of deaths from suicide is continuing.

Attempted suicide

Attempted suicide is a more difficult question to answer and is usually estimated by looking at attendances at local Emergency Departments.

The Jersey Emergency Department data for 2012 showed 51 attendances coded as ‘deliberate self harm’, the majority of these were for people under the age of 35.

Some of these cases would be attempted suicide, but they could equally have been a ‘cry for help’ or a behavioural issue. We have no way of knowing for sure and, therefore, it is not possible to ascertain with any degree of certainty how many emergency DSH cases were actual attempted suicides.

3.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE RE-INTRODUCTION OF HOSPITAL PRESCRIPTION CHARGES:

Question

Prior to her decision to lodge P.72/2013 on the reintroduction of hospital prescription charges, (‘Hospital Outpatients- re-introduction of prescription charges’) what consideration, if any, did the Minister, in

conjunction with the Minister for Social Security, give to measures to address the underlying problem of the high cost of accessing primary health care through GPs and, if none, why not?

As part of the longer term plans for the reform of primary care will the Minister work with the Minister for Social Security so that appropriate proposals can be brought to the States to address the issue of prescription charges?

Answer

The cost of GP consultations is not within the scope of this proposition, but the Minister for Social Security and I are both committed to working together to develop a more sustainable future model for primary care, which includes the cost of accessing GP services.

The reintroduction of community prescription charges will be considered as part of that wider review of primary care, agreed as part of P.82/2012: *Health and Social Services: A New Way Forward*; which will be undertaken in collaboration with Social Security and other stakeholders, as appropriate.

In this sense the two departments will continue to work together on prescription charges, just as they have during the development of this proposal, in arriving at the list of exemptions which might apply to those on low incomes or other vulnerable groups.

It is important to remember that a number of exemptions to Hospital Pharmacy Outpatient Prescription Charges have been agreed between HSSD and Social Security, including:

- Individuals who receive a personal-care component under the income support scheme
- Individuals who receive assistance from Social Security with their Residential Care fees
- All children under 16 years of age
- Vulnerable groups such as some psychiatric patients

In addition, certain medicines would also continue to be free for all people, including:

- all cancer treatments
- those prescribed for public health reasons

3.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE HIGH COST OF ACCESSING PRIMARY HEALTH CARE THROUGH G.P.s:

Question

What consideration has the Minister, in conjunction with the Minister for Health and Social Services, given to measures to address the problem of the high cost of accessing primary health care through GPs and if none, why not?

What plans, if any, does the Minister have to address the issue of prescription charges, and if none, will he commit himself to assess this issue and to bring proposals to the States in the next 18 months?

Answer

Both the Minister for Social Security and the Minister for Health and Social Services are fully committed to working together to deliver a sustainable health and social care system, properly funded and delivering services to Islanders in the most appropriate, cost-effective manner to meet their needs. Affordable access to high-quality primary care will be an integral part of this system, and Ministers will be co-operating over the coming years to develop a more sustainable future model for primary care, including access to GP services and the availability of prescription medicines.

As outlined in P.82/2012 (as amended) Health and Social Services: A New Way Forward, a Primary Care Governance Team has been established and the Team is currently co-ordinating an independent review of primary care, leading to the production of a Primary Care Strategy by September 2014. Both the current co-payment system for GP consultations and the possible reintroduction of community prescription charges will be considered as part of this review.

The bulk of the current costs faced by people in Jersey for primary health care is in respect of the GP co-payment, given that medicines and charges for dispensing community prescriptions are free to Islanders, met by the Health Insurance Fund (HIF) pharmaceutical benefit. GPs operate as private businesses and the States do not control the fees they levy. The States does however subsidise the cost of each GP consultation in the form of a medical benefit, currently set at £20.28 per visit, paid directly to GPs to contribute towards the cost of a consultation with a patient.

The number of visits to GPs has remained relatively steady over recent years, although there has been a steady annual increase in the number of prescriptions issued and paid for by the Health Insurance Fund. In total, the HIF provided £8.6M towards supporting the cost of GP fees in 2011 and a further £17M in respect of drug costs and the dispensing thereof.

In addition, substantial investment has been provided to establish and maintain the local Primary Care Governance Team and separately the HIF has provided funding of approximately £1 million to improve the IT systems that support GP surgeries.

In addition to the funding provided through the HIF, households with low incomes are able to access additional financial support via the Income Support benefit. Income Support contains dedicated components which are designed to address the extra costs associated with long term medical conditions and additional GP visits.

I must emphasise that community prescriptions are currently free to all Islanders covered by the Health Insurance Fund and that I have no plans to reintroduce prescription charges. Community prescriptions will continue to be available free of charge until the review of primary care is complete; if that review recommends a reintroduction of prescription charges then proposals will be put to the States for debate as part of the overall model of primary care.

3.6 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE ARREST OF MEMBERS OF THE PUBLIC FOR PLANNING INFRACTIONS:

Question

Can members of the public be arrested by the Police for alleged planning infractions and, if so, can such individuals also be legally required by the Police to report to the police station on a daily basis whilst these allegations are investigated?

Answer

The Police have the power of arrest under Article 3 of the Police Force (Jersey) Law 1974 where they with reasonable cause suspect “that any person has committed, is committing or is about to commit, an offence...” That would, therefore, also include a planning offence.

However, in practice the Police do not carry out criminal investigations for infractions of the Planning legislation (Planning and Building (Jersey) Law 2002). These are ‘policed’ or investigated by the Planning and Building Department.

Planning officers do not have a power of arrest and any person who breaches Planning legislation would be invited for interview with Planning officers. If the person refuses to be interviewed, as is their right, Planning officers would submit a file to the Attorney General for consideration of prosecution, without the accused’s input. That person may then be warned or summoned for Court.

However, if the person were to refuse to answer to a summons to attend Court, their arrest could be ordered by the Court and they could then be arrested by the Police for failing to appear in Court. If, subsequently, they were released on conditions, these would be conditions imposed by the Court and not the Police or Planning officers. Such bail conditions imposed by a Court could include a requirement to report periodically to the Police. If they did not adhere to these conditions, the Court could order their arrest for breach of bail conditions and they could then be arrested by the Police.

3.7 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING INVESTIGATIONS INTO HISTORIC ABUSE:

Question

Since police investigations began in 2007 in relation to historic abuse can the Minister advise if there have been any cases investigated by the States of Jersey Police where abuse was alleged by both another perpetrator of abuse and corroborated by a victim yet no prosecution was then brought and, if so, what was the reason for this?

Answer

The investigations which began in 2007 in relation to historical abuse are both voluminous and complex. Deputy Trevor Pitman, on the afternoon of 13th June 2013, in response to a request from the Minister, gave the name of the relevant accused person. However, despite this, it has not been possible to produce an answer by noon on Monday 17th June 2013.

The Minister will provide an answer as soon as possible but that answer will anonymise the details.

3.8 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE RE-REGISTRATION OF LODGING HOUSES:

Question

Would the Minister advise whether, in the case of the owner of a self-catering property who has re-registered the premises as a lodging house yet retained one unit out of ten as a (third party) manager’s flat, all of the tenants are still classed as private tenants in law?

Answer

Following the introduction of the new Control of Housing and Work (Jersey) Law, 2012, on the 1st July, 2013, the Residential Tenancy (Jersey) Law, 2011, which itself came into force on the 1st May, 2013, will apply equally to all new residential tenancy agreements entered into for residential units that meet the definitions under the Law, whether the unit is a manager's flat or any other unit, irrespective of the residential status of that unit, or any registration under the Lodging Houses (Registration) (Jersey) Law, 1962.

The relevant provisions of the Residential Tenancy (Jersey) Law, 2011, are included in Article 1 and 2 of the Law, as outlined below.

1 Interpretation

“residential tenancy” means the right to occupy a residential unit under a residential tenancy agreement;

“residential tenancy agreement” means an agreement –

- (a) for the exclusive occupation, by one or more natural persons who are party to the agreement, of a residential unit as a dwelling;
- (b) for value; and
- (c) f or a specified term of 9 years or less, or without a specified term;

“residential unit” has the meaning set out in Article 2;

“tenant” means, in relation to a residential unit, residential tenancy or residential tenancy agreement, the person who has the right to occupy the residential unit that is the subject of the residential tenancy under the residential tenancy agreement

2 Premises to which this Law applies

- (1) In this Law, “residential unit” means a self-contained dwelling, that is, a dwelling that has, for the exclusive use of the inhabitants of the dwelling, a minimum of all of the following, whether or not in separate rooms –
 - (a) a shower or bath (or other facility, no less convenient than those, in which a person may wash);
 - (b) a washbasin;
 - (c) a kitchen;
 - (d) a sleeping space; and
 - (e) a lavatory.
- (2) For the purposes of paragraph (1), the fact that a dwelling has (or is associated with the use of) a garden, a swimming pool, a parking space, a garage or other space or facility does not make the dwelling any less a residential unit.
- (3) For the purposes of paragraph (1), any of the following parts of premises is not a residential unit unless used solely as a place of residence by a person employed on the premises –
 - (a) any part of a hotel;
 - (b) any part of premises ordinarily used for holiday purposes;
 - (c) any part of an educational institution, or of a hospital, hospice, nursing home, shelter, or residential home;
 - (d) any part of a club offering sleeping accommodation to its members.

3.9 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE IMPACT OF THE REFERENDUM ON ST. HELIER VOTERS:

Question

Would the Attorney General advise whether individuals who are aggrieved by the fact that Option B of the Electoral Commission (which gives greater representation to residents of the smaller rural parishes at the expense of St. Helier and other urban parishes) would have any recourse against the States of Jersey via the European Court of Human Rights if this Option is implemented?

Answer

No human rights arguments arise here.

The European Convention of Human Rights does not impose any legal requirement that each vote in an election must have equal value in determining the composition of the legislature. On the contrary, the European Courts have consistently held that there is no obligation on a State to introduce a particular voting system. For example, first-past-the-post elections are considered human rights compliant even in countries whose constitutions protect equality of voting as a fundamental right. In 1979, the Liberal Democrats secured 18.8 % of the votes in a general election in the United Kingdom but only obtained 1.7% of the seats in Parliament. The European Court rejected their complaint that there had been a breach of human rights law.

The European Court affords jurisdictions a wide margin of appreciation and has regard to the particular political history of the jurisdiction. In this case, Option B seeks to preserve the role of the Connétables and, given their historic link to the States Assembly, that is a feature of Option B that would carry significant weight with the European Court.

The European Court would also be struck by the number of politicians that are elected in Jersey, and would be elected in St Helier and other urban areas if Option B is implemented, having regard to the Island's size and population.

The Vienna Commission guidelines are guidelines that do not change the legal position as described above.

4. Oral Questions

4.1 Deputy J.H. Young of St. Brelade of the Minister for Planning and Environment regarding complaints received from members of the public alleging maladministration:

Since the Minister's appointment, have any complaints been received from a member of the public alleging maladministration of his department and, if so, would he advise what proportion of these complaints have been independently investigated and written responses made and detail a number of complaints which are still without reply?

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

My department welcomes feedback and has a customer feedback policy that sets out how customer comments, complaints and compliments are dealt with. This policy is available from the

department and on the States website. Formal complaints and those of a more serious nature need to be made in writing to the department by email or letter and these are fully investigated by the department senior manager and a response provided. The complainant can ask that their complaint be reviewed by the department director or the chief executive officer if they are not satisfied with the response they have received to their complaint. If the complainant is still not satisfied with the outcome, they have the right to raise their complaint with the States of Jersey Complaints Board and their complaint may be heard at a public hearing by an independent board. I would also expect that any complaints relating to illegal or corrupt activity are to be reported to the police. In relation to formal complaints, the department received 7 complaints in 2011, 13 in 2012 and 3 to date in 2013. As might be expected, a large proportion of these complaints relate to planning decisions with a small number relating to customer service issues. All of those complaints received have been investigated and a response given to the complainant and are now closed. I believe the department receives a very small number of complaints in comparison to the many thousands of varied and difficult decisions it makes per year.

4.1.1 Deputy J.H. Young:

Can I ask the Minister to confirm that he does keep a complaints register or make sure that one is kept and could he confirm that 23 complaints in the period is the whole total of the number of criticisms that his department is receiving? Would he agree that seems an extraordinarily low number, given the contentiousness of their decisions?

Deputy R.C. Duhamel:

I can confirm that 23 over the period of 2011 to 2013 are the figures that I have received. The department does keep a complaints register and, as I said, I do think that this does represent a very low number of complaints perhaps compared to other States departments.

4.1.2 Deputy J.H. Young:

Could he say if this complaints register is publicly available?

Deputy R.C. Duhamel:

I will check that. I think it is but if the Deputy would wish to inspect the list that I have in my folder, I would be happy to pass those details on to him.

4.1.3 Deputy M.R. Higgins:

Could I ask is it possible for that list to be shared with other States Members as well who have had complaints made about the department?

Deputy R.C. Duhamel:

Yes, it may need to be doctored a little bit in order to take out any data protection elements but I will sort that with the officers.

4.2 Deputy G.C.L. Baudains of St. Clement of the Minister for Planning and Environment regarding the emissions from compressed air vehicles:

With regard to the Air Quality Strategy, would the Minister concede that the alternative vehicle propulsion methods he proposes are inefficient when compared with vehicles having their own engine and that the end result merely swaps one environmental problem for another?

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

First of all, with regard to the question, I am not proposing any particular alternative vehicles. I am proposing general principles of the States or any other bodies who are interested in looking at

different vehicles that are in a position to reduce the pollutants that are omitted. Likewise, I am not suggesting that vehicles should be adopted that do not have their own engine. Pedal power, for example. While accepting that low emission environmentally friendly powered vehicles such as electric vehicles, hydrogen powered vehicles or compressed air vehicles might not be suitable for all domestic and commercial use, I strongly believe that they can nonetheless contribute towards reducing our carbon emissions and improving our air quality within the built-up area and beyond.

[09:45]

Emissions produced from energy used to fuel cars are the main contributor to air pollution on the Island and we must encourage people to use lower emission, more environmentally friendly powered cars to protect our environment for future generations.

4.2.1 Deputy G.C.L. Baudains:

The Minister appears to be saying he is not promoting these. In which case, I wonder why he is going to the lengths that he is in saying that he prefers this. Does the Minister appreciate that, for example, electric vehicles are less efficient - because of all the transmission losses - than a diesel powered vehicle? A compressed air vehicle is even worse. So is it not the case that each of those alternatives would use more fuel per mile driven than a diesel powered car and how can there be an environmental benefit then?

Deputy R.C. Duhamel:

This is a technical issue and while not wishing to bore Members, I am quite happy to take Deputy Baudains to one side **[Laughter]** and to have a technical discussion with an engineer and a mathematician who do not always get on but, that said, the Deputy makes half a point. The omissions that are to be noted are highly dependent on what the primary fuel to power these vehicles is. So if we take, for example, tidal power or indeed wind power being used with gas compression techniques to drive motor vehicles, then obviously the overall emissions are going to be lower. If, on the other hand, one is suggesting that one has a gasoline station in the middle of the sea or somewhere else where we are burning hydrocarbons in order to compress the gases, then obviously those gas emissions would still be being made in a different place. I take that point entirely and it is all about lifecycle costing both in financial terms and in environmental and emission terms. So I think, in this particular case, I take the Deputy's point on board but we are both right.

4.2.2 Senator S.C. Ferguson:

Which particular emissions does the Minister want to stop?

Deputy R.C. Duhamel:

The Minister wants to reduce overall the carbon dioxide emissions and, more notably, the nitrogen emissions and indeed all of the other hydrocarbon pollutants that we breathe from unburned fuels that are driving through our urban canyons.

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

Given the Minister's very ambitious targets, does he not believe that simply substituting one kind of car for another is not really the solution?

Deputy R.C. Duhamel:

I think there is perhaps a tendency or an impression that when the Minister for Planning and Environment Minister goes off on one, he is way out there on his own but Members have to realise that I am merely indicating - perhaps ahead of the game - those changes that are being made with important car manufacturing companies. If people do a little bit of background research, one will

notice that, for example, on 25th January this year, the car company Peugeot suggested that they were going to be bringing out a hybrid air compressed car, albeit by 2016, so it is a little bit ahead of time. But if large manufacturing companies are looking at these things, I am merely the messenger here suggesting that things are on the horizon which can deliver more important and better environmental benefits to the whole of the population, either born or not born, and this is part of the remit of the Minister's job.

Deputy M. Tadier:

Sir, I do not need to ask my question now.

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

Is the Minister aware that a pair of electric motorcycles took a star turn in the recent Jersey International Motoring Festival and that they were among the fastest recorded speeds in the speed trials on Victoria Avenue? Would he agree further with me that the number of Jersey residents who live on heavily congested roads in and out of the urban areas deserve an enthusiastic and wholehearted pursuit of lower emissions in our vehicles on Island roads?

Deputy R.C. Duhamel:

I agree wholeheartedly with the Constable of St. Helier on this point but will go further to suggest that not everybody would be safe on a fast motorbike and perhaps if those motorbikes had 3 wheels or indeed 4 wheels, it is perhaps the better option.

4.2.5 Deputy S.G. Luce of St. Martin:

The Minister's Air Quality Strategy is informed by data from 2 monitors located within St. Helier. Would the Minister confirm that these monitors do not conform to recognised standards as set out in E.U. (European Union) testing equipment?

Deputy R.C. Duhamel:

I was under the impression that they did and perhaps the sole argument that was being put forward by the Environment Scrutiny Panel was that perhaps further requests should be made to the Treasury in order to pay for further monitoring. If indeed it can be shown that the monitors that we do have are insufficient to assess the state of affairs according to international standards, then I would be seriously concerned.

4.2.6 Deputy J.H. Young:

Would the Minister confirm that at the recent Environment Scrutiny Panel hearing, it was said by the Director of Public Health that emissions from vehicles was responsible for a substantial amount of lung disease in the Island, particularly in locations close to the road. Would he confirm that?

Deputy R.C. Duhamel:

Absolutely, and that is why we have these questions presumably because if the Island can do anything or something more to reduce the amount of emissions that can be attributable to poor health conditions or poor living conditions for those living in town, then so much the better.

4.2.7 Deputy G.C.L. Baudains:

I am not going to get, obviously, into the wider debate of unleaded petrol versus leaded and electric vehicles and battery problems and all that but I have to say that I think everybody realises that compressing air warms it up, so I look forward to the invitation from the Minister to discuss the issue of vehicles powered by hot air. In the interim, I would ask the Minister would he prepare a table showing the total carbon footprint of these alternative vehicles compared with conventional ones?

Deputy R.C. Duhamel:

I will do but people have to realise that, even with nuclear power, there are carbon emissions and if our accounting systems are to truly paint the correct picture, then perhaps the level playing field of lifecycle costing should be how we present our information. If I can do that - and that is obviously a bigger job - then I will do so.

4.3 The Connétable of St. Helier of the Minister for Planning and Environment regarding the listing of St. Helier's parks:

Can the Minister advise whether a process is underway to list St. Helier's parks including the wooded area of Westmount adjacent to St. Aubin's Road and, if so, will he provide details to the Assembly?

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

The answer to the Constable's question is yes. An assessment of the important desired landscapes in Jersey has been undertaken as part of the recent re-survey of all of the Island's heritage assets and this has included St. Helier's public parks. The area referred to by the Constable is part of Westmount Park which is considered to be a typical late 19th Century naturalistic cliffside seaside park which expertly exploits the topography to provide easy walks and marine views. That has obviously been said by people who have not walked up the steep slopes but there you go. This has survived largely intact and its design will probably be of national significance in England. In Jersey, it is of major significance as an early and complex public park of the Island representing part of the history of the Island as a tourist resort and part of an ensemble with the contiguous People's and Victoria Parks. On the basis of this historic interest, I am in the process of considering a recommendation from Jersey Heritage to list Westmount Park along with others in the Parish of St. Helier.

4.3.1 The Connétable of St. Helier:

In the light of the Minister's comments, could he explain why on page 5 of the written answer to Deputy Martin who asked about this matter of the proposed substation on Westmount Park, it says underlined at the top of the page under "The Proposed Use": "Planning Officers agree with this proposal subject to design criteria"?

Deputy R.C. Duhamel:

I am just reading the written question briefly. That may well be because the Planning Officers, in making those comments, are just talking about the design issues of the particular substation and not taking the siting of the substation in a potentially listable area into account.

4.3.2 Senator P.F.C. Ozouf:

Sir, I know you do not normally ask Ministers to Ministers but this is a matter by ... discharge the function of Shell over the J.E.C. (Jersey Electricity Company), which is the matter in hand. I would be obliged if the Minister would confirm that while, of course, there needs to be a high protection of the wooded area, would he confirm his understanding that the area proposed for the substation is, in fact, the small disused quarry which could hardly be described as part of the woodland?

Deputy R.C. Duhamel:

The small disused quarry is not part of the woodland obviously but it is part of the park which might have a listed designation in the near future. That said, also I have not been made aware of

any further suggestions by the J.E.C. or, indeed, the Minister for Treasury and Resources, as to other potential sites that could be used to place this energy substation.

The Connétable of St. Helier:

I have no more questions, thank you.

Senator P.F.C. Ozouf:

May I ask a question?

The Bailiff:

No, Senator. I think as one Minister to another, you can go and discuss it elsewhere.

4.4 Connétable P.J. Rondel of St. John of the Chief Minister regarding the rationale and criteria for sending Jersey delegations to U.K. party political conferences:

Could the Minister inform the Assembly what the rationale and criteria are for sending Jersey delegations to U.K. (United Kingdom) party political conferences?

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

Jersey's most important political relationship is with the U.K. Due to our status as a Crown Dependency, there are a number of policy areas, such as immigration, citizenship, tax and financial services, aviation and maritime issues, where Jersey's interests can be affected by U.K. Government policy. We therefore need to put forward Jersey's position and interests in relation to these issues directly to those who are developing U.K. policy in both government and opposition. Ministerial attendance at the U.K. party conferences is an important means of ensuring enhanced engagement with U.K. Government Ministers, Shadow Ministers and prominent parliamentarians. It has never been more important that Jersey's message is heard so that we can develop a better understanding among U.K. policymakers of our constitutional position, our key economic and social interests, and the value we provide to the U.K. economy.

4.4.1 The Connétable of St. John:

Given that U.K.I.P. (United Kingdom Independence Party) are polling consistently as the third most popular political party in the U.K. and a Survation poll in the *Mail on Sunday* on 26th May have them within 2 percentage points of the Conservative Party, would the Minister look into the possibility of sending a delegation to the U.K.I.P. party conference?

Senator I.J. Gorst:

I would not wish to make government policy on the back of an opinion poll taken out in a different jurisdiction. I do not think anyone in this Assembly would thank me for that. I perhaps could simply remind the Connétable of the amount of representation that that party has in the U.K.'s Parliament itself and perhaps when that increases, Jersey's Government policy will change as well.

The Connétable of St. John:

In other words, the answer is no?

The Bailiff:

I will come back to you, Connétable.

4.4.2 Deputy M. Tadier of St. Brelade:

Perhaps the Constables can be sent to the U.K.I.P conference as a delegation. I would ask the Chief Minister just to clarify how are the delegations ... how do they work? Is it by invite or are the

invites sought directly by the Comms. Unit, by the Chief Minister's Department? If the Chief Minister could explain.

Senator I.J. Gorst:

I am not sure what the Deputy is asking. The invitation in what regard?

Deputy M. Tadier:

Let us phrase it in a different way. When Ministers or whoever attends from the Jersey Assembly at party conferences, are they invited by the individual parties or do they simply pay a subscription and attend and in what capacity do they attend?

Senator I.J. Gorst:

Attendance is decided by Jersey Ministers, those Ministers which are members of what we call F.E.R.A.G. (Financial Services and External Relations Advisory Group) which is the advisory group which advises me with regard to external relations and financial services and often it comes down to previous diary commitments and we divide up in that regard. The party conferences are, as I have said, about engaging Ministers, Shadow Ministers and important parliamentarians and we do not, as such, attend the plenary sessions of the party conference that Members might see televised but we have one-to-one meetings with those policymakers and influencers and occasionally we might speak at fringe events as well.

[10:00]

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

Along the same lines really, can the Chief Minister advise whether the party conferences attended are just for those who currently have seats in power or if they are potentially any political party? I only ask that because U.K.I.P.'s policies are probably pretty similar to the Monster Raving Loony Party. I wondered if we should go there as well.

Senator I.J. Gorst:

I think I have indicated quite clearly what our position would be with regard to U.K.I.P. and we intend this year to send Ministerial delegations to the 2 parties of Government and the official opposition party's conference as well.

4.4.4 Deputy G.C.L. Baudains:

I was unclear by the Chief Minister's answer to Deputy Tadier's question as to whether or not he had been invited or whether he had invited himself.

Senator I.J. Gorst:

I thought I was quite clear. Jersey Ministers decide to go. There is a cost to attendance and that is an approach taken by other similar jurisdictions to ourselves.

4.4.5 The Connétable of St. John:

During Nigel Farage's recent visit to Jersey, he spoke of his support for the finance industry and the promotion of the U.K.-Jersey relationship. Does the Chief Minister agree that we should be working with politicians who are respective and well informed of our Island and its finance industry as well as with individuals such as the Prime Minister and the Chancellor of the Exchequer who continued to write ill-informed letters and summoned our Chief Minister and others to Downing Street to be lectured to?

Senator I.J. Gorst:

The only individual I believe that can summon this Chief Minister is Her Majesty. I get invited to various meetings. As soon as I received the invitation from the United Kingdom Prime Minister... within 24 hours of receiving that invitation, I said that I would be delighted to attend because I support the U.K. Government's approach and its agenda of growth and the priorities that it has got for the G8 so perhaps I can clarify that position. My position with regard to U.K.I.P. and other parties is as I have stated in previous answers.

4.5 Deputy T.M. Pitman of the Chief Minister regarding the Assistant Minister with responsibility for External Affairs reading confidential documents in public:

Following his meeting with the businessmen, plural, who raised concern at seeing the Assistant Minister with responsibility for external affairs reading confidential documents in full view of the public on a flight, does the Chief Minister support the Assistant Minister's views expressed on 14th May 2013 that the allegations were inaccurate and gave a fictitious and malicious account and if not, will he now be asking his Assistant Minister to resign?

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

Senator Bailhache's interest in this matter is as a Back-Bencher and member of the lay community of the Church of England in Jersey. This issue does not form part of his official responsibilities as an Assistant Minister. As to Senator Bailhache's views on the matter, they are his own and do not require support from others.

4.5.1 Deputy T.M. Pitman:

I just draw the Chief Minister's attention to the Ministerial Code of Conduct and perhaps he can explain. It does say that Ministers who knowingly mislead the States will be expected to offer their resignation to the Chief Minister. Does this apply to Assistant Ministers with responsibility for external affairs or are Assistant Ministers permitted to mislead the Assembly at will whenever they are exposed as telling the exact opposite to the truth?

Senator I.J. Gorst:

I can reiterate, as I said in my opening answer, that Senator Bailhache's views on this matter are his own and they are well recorded in this Assembly. They do not require support from myself or others and, of course, as the Deputy well knows, the Ministerial Code of Conduct covers Ministers and Assistant Ministers.

4.5.2 Deputy M.R. Higgins:

Does the Chief Minister think that the 2 businessmen were lying in their version of the events and the fact that it does totally contradict his Assistant Minister's statement to this House, does he not think that his answer is unsatisfactory?

Senator I.J. Gorst:

As I have said, I am not to be drawn ... I have no reason to doubt the 2 businessmen, nor have I reason to doubt Senator Bailhache.

4.5.3 Deputy M.R. Higgins:

How can the Chief Minister square the circle on that? One or the other has obviously got it wrong. Now, which version of events does the Chief Minister take on board because the Assistant Minister told this House he did not have documents that had the names of the individuals on the aeroplane in view of the public and yet the 2 businessmen stated quite categorically that he did.

Senator I.J. Gorst:

Senator Bailhache, if I recall from Hansard, said he did not recall reading anything other than what has become known as the Korris Report.

4.5.4 Deputy R.G. Le Hérissier:

Is the Chief Minister saying in his answer by distinguishing between the Assistant Chief Minister's role on the Executive and that he performs as a Back-Bencher, is he saying in matters of the utmost importance and behaviour that there is a difference to be drawn between the standards applied to our Back-Bench behaviour and the standards that are applied to our Executive behaviour?

Senator I.J. Gorst:

I am not saying that at all but I am saying that, as Senator Bailhache himself said, any information with regard to this particular issue came to him either as a Back-Bencher or as a lay member of the Church of England in Jersey and some Members are trying to draw me in as if it were part of an official responsibility, which it was not.

4.5.5 Deputy R.G. Le Hérissier:

Can I have clarification from the Chief Minister? Does he believe the standards applied in both of our roles should, in essence, be similar?

Senator I.J. Gorst:

As I have already accepted.

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

Does the Chief Minister consider that the use of the description "fictitious and malicious account" given by his Assistant Minister is a breach of the Code of Conduct of Members in requesting Members to treat all members of the public with respect?

Senator I.J. Gorst:

Members seem intent on trying to draw me into something from an activity that was undertaken by a Back-Bencher Member in a Back-Bench capacity and in his capacity as a lay member of the Church of England in Jersey. I do not think that they would request the same of any other Back-Bencher. As I said, Senator Bailhache's views on this matter are his own and they do not require support from me or others.

4.5.7 Deputy G.P. Southern:

Surely on this issue, the Code of Conduct applies to all Members, not just Assistant Ministers, in the conduct of their business?

Senator I.J. Gorst:

If that is the feeling of the Member, perhaps he should refer the matter to P.P.C. (Privileges and Procedures Committee).

4.5.8 Deputy M. Tadier:

Does the Chief Minister accept that he has responsibility for the behaviours and the conduct of his Ministers, irrespective of whether they are performing a role which is directly related to their portfolio or not?

Senator I.J. Gorst:

I have been quite clear. If that were the case, then I should be held responsible for everybody's activity in this Assembly and I do not think that that would be a reasonable position to take.

4.5.9 Deputy M. Tadier:

Obviously this is complicated because if the Assistant Minister were acting in a different capacity, it does relate to external relations, which is his portfolio. But the question here which needs to be answered is that there is an allegation which is hanging over Senator Bailhache's head that he misled this Assembly or, from Deputy Trevor Pitman, that he may have lied because he said that the claims of the Deputy and of the businessmen were fictitious and malicious. The Chief Minister has met with the businessmen. Does the Chief Minister believe that the allegations of the Deputy and the businessmen are fictitious and malicious? That last part is my question.

Senator I.J. Gorst:

As I have said throughout this discourse, Members seem to be wishing me to act as a judge. That is not part of my responsibility as Chief Minister.

4.5.10 Deputy T.M. Pitman:

What an embarrassment the Chief Minister's responses are but I thank him for revealing to the public that he is not fit, in my opinion, to lead this Government. If I could just refer him to his Assistant Minister's answer, because he is not a Back-Bencher, as we just heard. He said: "I have already said that the document is fictitious and malicious" and he said I produced a document purporting, i.e. pretending, to be an email from a member of the public. The Chief Minister has met those 2 gentlemen. He knows they are telling the truth. He knows they can identify documents that the Assistant Minister said that he did not have. Is he going to do something appropriately and at least ask his Assistant Minister to apologise to me and to this Assembly and to those 2 members of the public or is he going to do what he normally does, show utter weakness and do nothing?

Senator I.J. Gorst:

I have been quite clear in my answers this morning. Members are trying to get me to act as investigator and judge on these matters. That cannot be appropriate. Perhaps I could say, however, in Senator Bailhache's defence in this regard, it was the questioner this morning who thrust into my hand 5 minutes before a States sitting, at the last but one States sitting... and I passed that on to Senator Bailhache. There was no name attached to that. It could not from that document be ascertained whether it was a fictitious document or not.

Deputy T.M. Pitman:

It is a leading answer. I must put that on the record.

Senator I.J. Gorst:

I beg to differ. That is exactly the point as was at that point in time and I believe now 2 weeks ago.

Deputy T.M. Pitman:

And the Senator has met with 2 physical people.

4.6 Connétable J. Gallichan of St. Mary of the Minister for Education, Sport and Culture regarding the development of a language immersion school in Jersey:

As language immersion schools have become increasingly popular in North America and are now appearing in Britain, has any research been undertaken into the benefits of these schools and if so, does the Minister consider that Jersey should develop this concept to the advantage of our own students to increase the Island's skills base?

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

I thank the Connétable for her interest in language teaching, particularly French. We are going to visit a bilingual school in London in the early part of the autumn term and, at the same time, we

will be investigating the question of total immersion schools as well. There is much research that we need to do. The research is at a very early stage and while there may be significant advantages to bilingual education generally, including immersion schools, it might not be suitable for all pupils, particularly those that have difficulty learning their first language and there are also other factors that will need to be carefully considered and a lot of consultation will have to take place.

4.6.1 The Connétable of St. Mary:

The thrust of my question is really to talk about language immersion and not about bilingual education because the research that I am reading is showing that the benefits to pupils, particularly those who are not linguistically able, the benefits across the curriculum in other subjects apart from languages are proving to make the worth of these schools ... make it stand alone and I would like to know whether the Minister will be looking specifically at benefits to non-linguists?

The Deputy of St. John:

I think we will be looking at the benefits to all children right across the piece and I do understand that full immersion can work very well in places in the world where the population is genuinely bilingual or, in fact, even biased not towards English, towards the second language, for example, as some areas of Canada and some areas of the United States where there are very, very high populations of Chinese people.

[10:15]

4.6.2 Deputy M. Tadier:

Will the Minister address why he seems to already have reservations about the notion of immersion schools when he has just said he is going to go over to London and can he reassure the Assembly that he is going into it with an open mind and that he will look for the benefits and even drawbacks for all students?

The Deputy of St. John:

I would not use the same words as the Deputy did. Cautious is my approach because this is a big subject and if we are going to do anything, we need to get it right but yes, I can reassure the Deputy that I have a completely open mind. In fact, I would go slightly further, in fact, that I have quite a positive view on the benefits of improving our language education in general.

4.6.3 Deputy M. Tadier:

On the back of that, will the Minister give an update to the Assembly of where he is with the modern languages strategy for schools which I think he has spoken about in the past, certainly with me?

The Deputy of St. John:

I am not sure if this is strictly to do with immersion schools but I am happy to or perhaps the Deputy would like to ask me again during ...

Deputy M. Tadier:

If it helps I can ask a question about immersion heaters.

The Deputy of St. John:

I think the Deputy is referring to French language assistance principally? No. Well, I mistook the question. We are looking at those things. We are keeping an open mind. I have a Curriculum Council that advises me. We have to be careful though with the curriculum because it is already quite crowded and we have to see where the demands lie.

4.6.4 The Connétable of St. Mary:

I am concerned from the Minister's answers that he is not understanding the thrust of my question. I am not talking about areas where there are indigenous populations who speak a second language. I am not talking about that. I am talking about developing language immersion as a way of education and adding it as a string to our bow. Does the Minister not consider that Jersey may be missing the boat yet again? We are in a uniquely placed environment to offer language immersion to attract inward students. We could become a centre of excellence. Would the Minister first of all confirm, does he understand the difference between immersion as an educational tool and immersion as a way to overcome a societal problem with immigration?

The Deputy of St. John:

I have read much of the same research already that the Constable is referring to. Yes, I absolutely understand the differences between a bilingual school and a full immersion school but there is as much research which prefers bilingual rather than full immersion as there is research that prefers full immersion as opposed to bilingual. We need to carry out all of the research. I have already said that I am very receptive to all of these kinds of suggestions and that we will carry out very careful and detailed research and consultation and it will include those Members of the Assembly obviously who are particularly interested as well.

4.6.5 The Connétable of St. Mary:

I thank the Minister for his invitation, I think that is what I just heard, but I would just like to close by asking the Minister will he arrange to contact or to visit perhaps, if that is possible, one of the State schools in the United Kingdom which is opening up its immersion programme to see what the benefits they have already encountered with their first programmes of French and Spanish to see how they are looking at Mandarin as a third option and to see how this could possibly be the niche educational market for the Island that we have been looking for?

The Deputy of St. John:

Our research will obviously include all of those areas that the Constable is suggesting, yes.

4.7 Deputy R.G. Le Hérissier of the Minister for Health and Social Security regarding the evaluation of new management positions:

How are new management positions such as those in the new Commissioning Unit evaluated in order to ensure, for example, that the annual expenditure of £269,450 for this unit is fully justified?

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

My department will be delivering on an ambitious £34 million project to improve health and social care in Jersey. This comes at a time when we also need to find £7 million in savings through the C.S.R. (Comprehensive Spending Review) programme. The Commissioners are fundamental in achieving this. Their responsibilities include supporting delivery of the White Paper initiatives worth a total of £11 million, negotiating and managing overseas contracts for hospital services worth a further £11 million, negotiating and managing placements for children and adults in the U.K. worth a total of £4 million, negotiating and managing a further £8 million on-Island contracts. The Commissioners are also crucial to building key relationships and improving partnership working as well as contributing to our C.S.R. My department expects the Commissioners to deliver these initiatives and as such, I consider the cost to be fully justified.

4.7.1 Deputy R.G. Le Hérissier:

Firstly, would the Minister acknowledge then that all the savings that are anticipated were not being sought by previous management structures and the department was, in fact, wasting an awful lot of money? Secondly, would she not acknowledge that a commissioning system is very much a system oriented to creating competition within health delivery and is it not a total over-structured system to apply to a small Island where the possibilities of encouraging competition often lead to wasteful fragmentation, both of effort and of money?

The Deputy of Trinity:

No, I would not agree with the Deputy. Part of it over here is partnership, working especially with the voluntary and community sector. Up to now, it has been a bit of a one-way expectation on the contracts but now it is very much 2-way. It is not only what we expect from the voluntary sector but importantly, what the voluntary and community sector expect from the States of Jersey and our department and that is a key change. As I say, building up relationships is vital.

4.7.2 Deputy G.P. Southern:

When can the States expect to hear what progress has been made in achieving those very ambitious targets set out for the Commissioning Unit? When will we hear what progress has been made?

The Deputy of Trinity:

The Commissioners have only been in post for 5 months and have undertaken a lot of work in that short time. The work is of some benefit too if you talk to the voluntary and community sector of improved partnerships but it is also about raising standards right across not only contracts and service level agreements that we have in Jersey but also overseas.

4.7.3 Deputy G.P. Southern:

Can the Minister point to local improvements in the relationship between voluntary bodies and the hospital which are already in place?

The Deputy of Trinity:

Yes, most of the service level agreements have been in the process of being updated and renegotiated and, as I said, for the first time, the voluntary sector are expecting some feedback, some understanding of what is expected from the States of Jersey for them. The feedback so far has been very excellent. They say for the first time, and Deputy Southern is very happy to talk to anyone within the voluntary and community sector, that they feel valued and appreciated and welcomed the opportunity to contribute actively to the developments.

4.7.4 Deputy J.H. Young:

Would the Minister inform the Assembly that the responsibilities of these new management positions that have been created that she has explained, whether these are new responsibilities and if they are not, could she tell us how those functions were being discharged before we invented this new structure?

The Deputy of Trinity:

The Commissioners are new within Health and Social Services. Before, the department, as I said, negotiated with 80 different hospitals, for example in the U.K. regarding the medical treatment, children and adult placements and mental health. At that time, the agreements were managed through the hospital as an add-on for people who were doing other important jobs. From now on, we will be able to benefit from further and more detailed negotiations of service to ensure best value for money, consistently high standards, both off-Island and on-Island, which will benefit patient care.

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

The Minister was asked: how are the new management positions evaluated? Perhaps she could answer the question.

The Deputy of Trinity:

How are they evaluated? Well, we did wonder which side the Deputy Le Hérissier wanted. The posts were Hay evaluated.

4.7.6 The Deputy of St. Ouen:

I think if the Minister reviews the question that was asked by Deputy Le Hérissier, she will see it was regarding value for money and the fact that they were going to deliver as per their engagement so perhaps, again, the Minister could answer the question.

The Deputy of Trinity:

As I have said, they have only been there in the job for 5 months. They have delivered service contracts, some off-Island and some on-Island, and how they are evaluated is the data that will come back informing service deliveries going forward.

4.7.7 Deputy R.G. Bryans of St. Helier:

Contrary to what the Minister just stated, is the Minister aware of a growing dissent among doctors and the third sector with a feeling of dislocation in relation to the commissioning structure?

The Deputy of Trinity:

The commissioning structure is regarding the on-Island contracts. Regarding primary care, this is a separate issue that we are dealing with sustainable primary care going forward and we are in firm negotiations with primary care which includes G.P.s (General Practitioners), dentists, opticians and pharmacists.

Deputy R.G. Bryans:

Could she just answer the second part of the question which is in relation to the third sector?

The Deputy of Trinity:

Could he repeat that on the third sector?

Deputy R.G. Bryans:

Yes, I could.

The Deputy of Trinity:

Is he talking about voluntary and community services?

Deputy R.G. Bryans:

Yes, I am.

The Deputy of Trinity:

Sorry, I forgot that bit of the question.

Deputy R.G. Bryans:

Sorry, it is just again we have got this situation where the third sector is feeling that the commissioning structure is not resolving the situation that they find themselves in and there is a growing dissent.

The Deputy of Trinity:

I disagree with Deputy Bryans. The voluntary and community sector - known as the third sector - have really appreciated the commissioners because they have taken the time to understand their services and negotiating a way forward. As I said at the very beginning, up to now it has been a one-way traffic what the States of Jersey expect but this time now the voluntary sector is very much what the voluntary and community sector expects from the States of Jersey.

4.7.7 Senator S.C. Ferguson:

To return to the original question, how does the Minister justify the annual expenditure of £269,450? Can she say that that money has been saved within the first 5 months or that it will be saved in the future?

The Deputy of Trinity:

It is very difficult to put an amount on the salaries. Part of it is negotiating better contracts with service providers to endorse patient care and it is very difficult to put a sum of money on patient care because we need to endorse ... especially with all the 80 different hospitals that we negotiate with the U.K., we need to ensure that we have the right data back from them and that we understand what their services are and what our Islanders need and be much sharper in achieving that.

4.7.8 Senator S.C. Ferguson:

That was not my question. My question was: we did a service last year; we did a service this year - how much have we saved?

The Deputy of Trinity:

I have not got ... as I said, it is very difficult to come up with exactly ... you cannot do so because how can you put a cost to improving patient care?

4.7.9 Deputy R.G. Le Hérissier:

Given that the whole justification was based on money to be saved, I am afraid that is a bit of a cop-out. I wonder could the Minister again inform us why, for internal Jersey-based partnerships why were not the strengths of line managers ... why were they not given new skills and why was their role not strengthened rather than insert yet another layer of bureaucracy in the health system of people who have to speak to people who then have to speak to further people. Secondly, will they be moving to payment by results?

[10:30]

The Deputy of Trinity:

People think there is a lot of management in the health service. Let me say that there is not and we have had various reports saying that there is not. As I said, we are talking about an awful lot of money and we need to make sure that we get value for money at the end of it of all negotiations whether it is here on-Island or off-Island.

Deputy R.G. Le Hérissier:

But will they be moving to payment by results?

The Deputy of Trinity:

No, we will not.

4.8 Deputy J.A.N. Le Fondré of St. Lawrence of the Chief Minister regarding the terms of reference for the Dame Heather Steel investigation into the Korris Review:

Further to his answer of 4th June 2013 when he stated he had requested the Bishop to make public the terms of reference to the Dame Heather Steel investigation into the Korris Review, would the Chief Minister advise whether he has received an update relating to this matter, given that a visitation connected to the investigation has just commenced for which the terms of reference are available?

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

I have again requested that the terms of reference are made public and I have also confirmed that there are no objections to their publication from a Jersey perspective. I understand that this matter is being considered by the Bishop in consultation with Dame Heather Steel and hope that the terms of reference will be made public in due course.

4.8.1 Deputy J.A.N. Le Fondré:

A question that does spring to mind is that given that the Steel review is apparently considering areas surrounding the validity of the Korris Report while the visitations are currently predicated on ... or already assumes the validity or reliability of the findings of the full Korris review, what is the Chief Minister's opinion on having ... the Gladwin visitations start, I believe, today, before the Steel Review is reported. In addition, what possible justification could there be in keeping the terms of reference of the Steel Review secret?

Senator I.J. Gorst:

Perhaps if I take the last item first, I can see no possible reason for not publishing Dame Heather Steel's review. With regard to the opening question, the Deputy makes a very good point. I would expect that the Steel review would be completed in advance of the visitation and would then feed in and help in the visitation process.

4.8.2 Deputy M. Tadier:

Is the Chief Minister answering this as a private member of the Church of England or as Chief Minister and if it is the latter, can he explain what responsibility he has as Chief Minister with regard to this area?

Senator I.J. Gorst:

Not being a private member of the Church of England, I could not answer in that capacity. It seems that on the one hand, Members want me to answer on every given question that they might have and on the other, we are now suggesting that I should not be answering such a question. Of course, the relationship with the Church and State in Jersey is a very important one. The church is intertwined almost indivisibly from our parochial system and therefore I would expect that Members would expect me to have an interest in this matter, being Chief Minister.

4.8.3 Deputy M. Tadier:

Could I ask, then, where does the Chief Minister stand on the separation of Church and State?

The Bailiff:

That does not arise out of this question, Deputy.

Senator I.J. Gorst:

But I would like to answer it.

4.8.4 Deputy T.M. Pitman:

You certainly should separate the Church and the State. However, could I ask the Chief Minister, given the concerns expressed by many within the church, but to use the words quoted on the media:

“This issue has been hijacked by crackpots”, will the Chief Minister be stressing to the Bishop that we must, in the interests of refocusing on the actual abused young woman here, that all political interference is kept from any investigation?

Senator I.J. Gorst:

The Deputy is right. There should be absolutely no political interference. I met in a courtesy call yesterday with the Bishop John and the visitation team and they seem already to be understanding the great and what will be a timely task ahead of them. There needs to be a healing process but at the same time, they need to focus squarely on safeguarding and ensuring that there are appropriate safeguarding processes in place and that the interaction of those processes in the church interacts smoothly with those that we have in regard to the State’s processes.

4.8.5 Deputy J.A.N. Le Fondré:

Could I just add that I entirely endorse the comment that there should not be any political interference in the investigation side at all and also just make the comment that obviously the Chief Minister’s predecessor did obviously lodge the Canons of the Church of the England in this Assembly and also has responsibility for international relations and the Bishop of Winchester is a Member of the House of Lords. So I think, putting all that into the mix, the question I would like to ask is does the Chief Minister have a view as to whether there is presently an increased risk of the relationship between Jersey and the Diocese of Winchester being permanently and irrevocably damaged?

Senator I.J. Gorst:

As I have said on a number of occasions in this Assembly, I personally, and I believe that this Assembly is saddened that an individual suffered while they were in Jersey and we must not forget that and we must make sure that appropriate processes and procedures are in place to deal with the vulnerable and those with very complex needs and that is the first thing I should say. Having said that, it is quite apparent to me that the way that some of the issues have been handled and where we have arrived at today have caused great distress also to the church in Jersey and members of that church and I am hopeful that the visitation recognise that and they see that part of their role is to act as a healing process between the Jersey Deanery and the Diocese of Winchester. For some people, they may not be able to go on that journey and it may be too much for them because, as you know, Jersey is proud of its history. It has changed dioceses in the past and for some people, that is more recent in their minds and therefore they have perhaps looked at that as an option on this occasion again.

4.9 Deputy M. Tadier of the Chief Minister regarding aggressive tax planning:

Given the Chief Minister’s commitment that Jersey wants no part of aggressive tax planning, why in his letter to the U.K. Prime Minister did the Chief Minister confirm his commitment to fight tax evasion but not avoidance, aggressive or otherwise?

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

The letter from the U.K. Prime Minister to which I responded on 20th May focused mainly on the G8 summit and transparency of beneficial ownership which is concerned with combating tax evasion. That is why my letter focused on our shared commitment to fight tax evasion. By way of contrast, of course, in my letters of the same date to the Irish Presidents of the E.U., I wrote to welcome the conclusions of the European Council in recognising the need for further efforts at national E.U. and global levels to combat tax fraud, tax evasion and aggressive tax planning and I

remain fully committed to my previous statements that Jersey wants no part of aggressive tax planning.

4.9.1 Deputy M. Tadier:

The letter from the Chief Minister spoke both of tax avoidance and evasion. I hope the Chief Minister acknowledges that but will the Chief Minister, given the fact that he has reconfirmed his commitment to being against aggressive tax planning - whatever that means - can he say whether he has now identified the company which was used by Jimmy Carr and many others for the K2 scheme which was based in Jersey? Does he know which trust company was administering that scheme?

Senator I.J. Gorst:

The Deputy seems to fixate on a particular case that I have quite clearly said is not part of Jersey's future and there is no doubt that the Jersey Financial Services Commission, together with government, together with the promoter, needs to develop a policy for ensuring that in the future that sort of business does not find a home in Jersey and, as I said at the last States sitting, we have already set up a Sound Business Practice Committee and they will have the job of ensuring just that. So the Deputy, while wanting to fixate on one, and he knows my answer from the last sitting, can rest assured that we are taking this issue seriously.

Deputy M. Tadier:

May I ask a supplementary?

The Bailiff:

No, you have had one supplementary already, Deputy. You can come back at the end.

Deputy M. Tadier:

The Chief Minister did not answer the question. He was asked a specific question, does he know the name of the firm. He was not asked to tell us the name of the firm but does he know who was behind that scheme and he has not answered the question.

The Bailiff:

Well, that was fair, that was the question. Do you know the identity of this person?

Senator I.J. Gorst:

I thought I had answered it, Sir, albeit perhaps in a roundabout fashion. Ministers have access to large amounts of confidential information and therefore I suspect that while, as the Deputy said, he does not want me to make it public, which I am not in a position to do, I am obviously aware.

4.9.2 Deputy G.P. Southern:

Yes, the Chief Minister is being very light on his feet today. Does the Chief Minister accept that since we are clearly in the business of tax competition with our neighbours under Zero/Ten, we must therefore be in the business of tax avoidance, aggressive or otherwise?

Senator I.J. Gorst:

Tax competition is a perfectly acceptable competitive position for jurisdictions to take. The Prime Minister, when he wrote to not only myself but also the other Chief Ministers of Crown Dependencies, himself reiterated the U.K.'s commitment to tax competition and he would like to reduce the tax rate in the United Kingdom. We have long known that tax competition is important and it helps us deliver the quality well-regulated financial services sector that we have and so we must continue to retain that competitive advantage.

4.9.3 Deputy G.P. Southern:

If I may, a supplementary. Does the Chief Minister accept then that inviting companies to register here and thereby pay zero tax, this is aggressive marketing of a fundamental tax avoidance mechanism?

Senator I.J. Gorst:

Absolutely not.

4.9.4 Deputy R.G. Le Hérissier:

I wonder, given the Chief Minister's absolute commitment on our behalf to tax transparency, this clearly has caused a lot of concern among the population. Could he tell us where he sees the sources of the financial industry's success in the future coming from?

The Bailiff:

Is there a precise answer in 30 seconds there?

Senator I.J. Gorst:

I am not sure I can do that. The question was indeed rambling and covered a very broad subject. It is hardly fair to expect me to answer it in 30 seconds. I am absolutely confident about Jersey's future and the future of its financial services sector. We have taken decisions as a Government and this Government has continued that but our differentiating factor is being a quality jurisdiction, being a well-regulated jurisdiction, being a F.A.S. (Financial Accounting Standards) follower, complying with relevant international standards, having an independent and well-respected judiciary, having a stable Government, having a balanced budget, having a skilled workforce and they are things that we should be proud of, that we should protect ...

Deputy R.G. Le Hérissier:

Where is it coming from?

Senator I.J. Gorst:

... and that we should be promoting and this last weekend was an opportunity like we have not had in many a year to promote what Jersey does to acknowledge and have acknowledgement from around the world that we are part of the solution, not part of the problem, that we have a long track record and I believe that we will see the use of our financial services increase because of that.

Deputy R.G. Le Hérissier:

A wonderful riposte but where is it coming from?

The Bailiff:

Deputy, you asked such a general question that it is not surprising that the answer was very long. There is a supplementary. Where is it coming from, Chief Minister?

Senator I.J. Gorst:

From around the world. We have ...

The Bailiff:

Very well, that is the answer.

Senator I.J. Gorst:

No, Sir, we have ...

The Bailiff:

We are not going to have such general questions and expect people to give focused answers. Now, I saw next Deputy Trevor Pitman.

[10:45]

4.9.5 Deputy T.M. Pitman:

Given that all of us who live in the grown-up world know that the difference between evasion and avoidance is nothing more than semantics - a type of legalese nonsense you hear in courts - could the Chief Minister confirm that he really applauds Deputy Tadier for standing up and saying the right thing to the U.K. media this week?

Senator I.J. Gorst:

Could I just initially say that it is not a matter of semantics. It is a matter of what is legal and what is not legal and they are 2 quite different things. This Assembly glories in having independent Members and not being a party Assembly. We are a democracy, despite what some Members of this Assembly might like to think, and therefore, of course, Deputy Tadier may have a view which is different from mine and is different from this government and in a democracy, he is perfectly entitled to articulate those views. Of course, I disagree with them wholeheartedly and I believe that they damage our interests. We are working to promote the best interests of Jersey which I believe is in the best interests of every single individual in our community. Other Members disagree with me but I believe that they damage Jersey by doing so.

4.9.6 Deputy M. Tadier:

The Chief Minister disagrees with me wholeheartedly and I wholeheartedly believe that we should be fighting aggressive tax avoidance/evasion and not undermining the tax basis of other people's countries. The Chief Minister has said publicly that he disagrees with me wholeheartedly which is unfortunate. You see, it does not matter whether you ask a short question or a rambling question because the Chief Minister does not answer it anyway and he runs the clock out but we are more savvy because we have had some question training this week from the Solicitor General. The Chief Minister has told us that he knows which firm administered the K2 Jimmy Carr scheme which was an aggressive tax model yet he will not tell us which trust company that was so how do we know whether or not that is continuing? How can the public have any confidence when he will tell us, under duress, that he knows what it is but hides behind the veil of confidentiality? Will the Chief Minister tell us here in the States Assembly which company was used to administer that because he should not be protecting ...

The Bailiff:

I am sorry, Deputy, that is a very old question.

Deputy M. Tadier:

Yes, that is the question, Sir, will he tell us ...

The Bailiff:

You have asked the question, then because ...

Deputy M. Tadier:

Will he tell us the name of that company?

Senator I.J. Gorst:

I quite clearly said that Ministers get information on a confidential basis and that is how it should remain. I do not accept that there is a disagreement between Deputy Tadier and myself with regard to aggressive tax avoidance. That is one area where we do agree but Deputy Tadier, of course, said

many other things in the international media for which there was no basis in fact and it is those that I disagree with. As I said, we are taking this matter seriously. The Sound Business Practice Committee has been set up and they will be coming forward with proposals in order to deal with this past business and into the future.

4.9.7 Deputy M. Tadier:

Can I ask why it is confidential? We already know that the U.K. accountants that devised this scheme are called Peak Performance Accountants and the Chief Minister is keen to tell us that this is a U.K. scheme but it is based in Jersey. If he is serious about tackling aggressive tax avoidance, why will he simply not tell us which trust company administers this so that we can ...

The Bailiff:

That is your question, Deputy. Why ...

Deputy M. Tadier:

Why is it confidential?

Senator I.J. Gorst:

Once again, the Deputy is making comments which are not quite an accurate record of the facts. The company is not based in Jersey. It is a U.K.-developed scheme. It is U.K. legal advice. It is U.K. promoted. It just so happens that administration took place in Jersey and it could have taken place in any number of jurisdictions.

4.10 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding the imposition of Goods and Services Tax on aircraft fuel:

Given the Minister's recent optimistic comments regarding tax receipts, would he advise whether he is now contemplating imposing Goods and Services Tax on aircraft fuel and if so, why?

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

I am pleased to be able to answer this question to clear up some concern within the aviation community. Under the law, G.S.T. (Goods and Services Tax) is chargeable on fuel in respect of general aviation but not commercial aviation. Following the introduction of G.S.T., representatives from the aviation industry represented that applying G.S.T. to general aviation could damage the local economy and certainly compromise economic development plans to set up an Aircraft Registry. When G.S.T. was therefore introduced, it was agreed to suspend G.S.T. on the collection of general aviation pending the review of the Aircraft Registry. However, the charging of G.S.T. on fuel for those flights that take off and land in Jersey but do not land anywhere else was retained. This includes, for example, local training flights. I am advised by the Tax Department that although the charging for local flights was agreed with the relevant providers, it has not yet been implemented. It is now planned to do that although the amount is not material. This is not a change in policy but simply the putting in place of the law as it stands. The Treasury team will continue to work with Economic Development to ensure that G.S.T. is certainly not a barrier to Jersey establishing a competitive and, I hope, successful Aircraft Registry which will in turn create economic activity and jobs for the Island.

4.10.1 Senator S.C. Ferguson:

How far in the future is the Minister looking?

Senator P.F.C. Ozouf:

The Aircraft Registry is a matter for Economic Development and we will do everything we can to support the Minister and his team in setting up the Aircraft Registry. The fact is that this local issue of local training, local flights for private domestic use, certainly should be charged with G.S.T. The amounts are not material. I am advised that it is less than £10,000 per annum. That will be put in place by the department, I am told, with some degree of retrospectivity for the last few months.

4.10.2 Deputy M.R. Higgins:

When the Minister says, for example, the tax will be applied to local flights, pilot training is undertaken at Jersey Airport. Surely at a time when we are trying to encourage the growth in business in Jersey, a tax should not be applied to pilot training because, again, anyone coming into the Island is obviously spending money not only on the flying but also on accommodation and so on while they are here and it seems to me for a sum of less than £10,000 overall, this is probably a wasted effort and will the Minister consider not applying it at all?

Senator P.F.C. Ozouf:

I think it is quite clear. Jersey to Jersey flights should be charged with G.S.T. That would put the same arrangements on private aviation as exists in the marine area. I am always happy to receive representations on this but, of course, I think that Members would say that there is an unfairness in not charging effectively a pleasure domestic aircraft use in the same way that marine fuel attracts G.S.T. in that same way.

4.10.3 Deputy M.R. Higgins:

Sorry, just following up, in particular, pilot training which is a potential earner of money for Jersey. Does he think that should be subject to the G.S.T.?

Senator P.F.C. Ozouf:

I am hugely supportive of the growth of Jersey as an aviation centre. I think the Aircraft Registry has got huge benefits. The good work that the airport has done in now securing increased hangar space, all that is good, all that is very positive. I do not think that G.S.T. on aircraft fuel ... obviously, if it is a business expense, then that is going to be offsettable in the normal way with G.S.T. in the way that G.S.T. is applied and I do not think that there should be any difference. The amount is really not material and I certainly do not think it is a barrier to any of the aspirations that we have for setting up Jersey as a centre as the Deputy will want to, I am sure, support for aviation in the future.

4.10.4 The Deputy of St. Ouen:

What assessment has been undertaken by the Minister's department to determine the likely impact on our local economy by this introduction?

Senator P.F.C. Ozouf:

The issue is simply ... to be absolutely clear, when G.S.T. was originally approved, it was always clear that for Jersey to Jersey or pleasure aircraft for private aviation that is not commercial - the definition is quite complicated but I have tried to simplify it - it would be imposed. It is less than £10,000, as I ... I think it is about 40,000 litres. I do not think that it is going to be material. Indeed, I think the benefit, though, however, of putting an Aircraft Registry in place and using Jersey as a centre for aviation I think has lots of economic benefit but, of course, economic growth is a matter for the Minister for Economic Development and I can certainly get some information from him to talk to the Deputy about if he is interested.

4.10.5 The Deputy of St. Ouen:

Could the Minister confirm whether or not visiting aircraft will be exempt from paying G.S.T. on this general fuel?

Senator P.F.C. Ozouf:

We are getting into quite technical ground here. If a visiting aircraft is commercial aviation, then it will not be charged. If it is for pleasure aircraft, that is Jersey to Jersey, then it will not. I think it is very difficult to deal with the definitions of what is quite complicated and perhaps I could agree to send out a note of the definition of private aviation versus commercial aviation. I have got a whole series of lists of notes here and I will circulate those in order to assist Members.

4.10.6 The Deputy of St. Ouen:

Please... I could not have made my question clearer. I was talking about visiting aircraft. That does not, I do believe, describe Jersey to Jersey. This means France to Jersey, Guernsey to Jersey and so on. Perhaps the Minister could answer the question.

Senator P.F.C. Ozouf:

If it is visiting pleasure aircraft that fuel in Jersey, then I do not think that G.S.T. is charged on that, because that is effectively for private aviation, for pleasure purposes. But I need to check on the detail of that. I will circulate a note to the Deputy later on. These are certainly not material numbers at all.

4.10.7 The Deputy of St. Ouen:

One last question, Sir? The answer, I do not think, hardly encourage me to believe that much work has been done in this area. Could the Minister please confirm to all States Members and indeed those involved in the aircraft business and economy exactly what is being proposed before any introduction of G.S.T. on this general fuel?

Senator P.F.C. Ozouf:

Ministers deal with policy. The policy on this was set when G.S.T. came in. I am happy to circulate to Members the definition of what is private aviation, if that assists the Deputy. It is all about the size of aircraft, whether it is less than 8 tonnes, whether it has been designated or adapted for recreational use. The definition is really quite complicated. But, aviators understand it very well. I will circulate a note for the Deputy's benefit.

4.10.8 Senator S.C. Ferguson:

Just following on from the Deputy of St. Ouen. I think this is quite simple. If a private plane comes from England, stops in Jersey to refuel and goes on to France then that is a visiting aircraft. It is very useful for the tourist trade. These are the ones that, if they go to Guernsey, they will pay less for their fuel than they pay in Jersey. So, we do not want to put any more cost on the fuel in Jersey to send them away, because of the tourism effect. Does the Minister understand this?

Senator P.F.C. Ozouf:

The Minister understands this very well. One Minister - the Chief Minister - is asked questions on tax avoidance and the next minute I am being asked to put in place effectively a tax avoidance mechanism outside of the Jersey area. We do, as Ministers, get mixed messages sometimes. I do not believe that the imposition of 5 per cent of G.S.T. on aviation fuel is the barrier to visiting our fantastic Island. I have always received and the department has always received representations from industry. The bigger issue is setting Jersey up as an aircraft registry, which is not going to be affected by G.S.T. It is not, because corporate aviation is not covered.

4.10.9 Senator S.C. Ferguson:

Supplementary, Sir. The Minister has lost me entirely. Is he now saying that planes coming in as tourists from England, stopping off here to refuel, because they have nearly run out and then going on to France for a tour will pay G.S.T. on the fuel that is taken up in Jersey?

Senator P.F.C. Ozouf:

It depends on the size of the aircraft. It depends whether or not they are undertaking that trip for financial reward. I think the Senator knows better probably than I do the definition of what is commercial and what is not commercial aviation. It depends on a number of circumstances whether or not G.S.T. will be applied. Certainly we collect tax and tax is the right thing to do. In the same way that we have imposed G.S.T. on the marine... there is a cost for the environment of using fuel, there is a cost of using facilities and governments need to collect an appropriate level of tax. G.S.T. is a very low level of tax for private, domestic, pleasure use. If it is commercial then it is not charged for G.S.T.

Senator S.C. Ferguson:

The Minister is saying that he is changing the practice and he will be charging. Is that correct?

The Bailiff:

Senator, we have spent a long time...

Senator P.F.C. Ozouf:

That is not what I have said.

The Bailiff:

We come next to the next question which Deputy Southern will ask of the Chief Minister.

[11:00]

4.11 Deputy G.P. Southern of the Chief Minister regarding the exact terms of the Organisation for Economic Co-operation and Development (O.E.C.D) agreement on tax information exchange:

Yes, I hope Members are not busy reading the side and a half related to this question that has just arrived on our desks. I will try not to impinge upon that. Will the Chief Minister inform members of the exact terms of the O.E.C.D. (Organisation for Economic Co-operation and Development) agreement on tax information exchange which has been put to the Crown Dependencies and British Overseas Territories by the U.K. Prime Minister and under what terms he has agreed or will agree to ratify the agreement?

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

The main terms of the O.E.C.D. multilateral convention on an administrative assistance in tax matters are to provide for exchange of information and to assist in the recovery of tax claims. As the convention can only be signed by sovereign states, Jersey will join the convention through the U.K. issuing an agreed letter of declaration that will provide for the extension to the Island of the U.K.'s existing ratification of the convention. The implementation of the convention will be subject to the States approving the necessary Regulations.

4.11.1 Deputy G.P. Southern:

Could the Chief Minister inform Members whether the exchange of tax information is automatic or on request only?

Senator I.J. Gorst:

As the Deputy should know from having looked at the convention, regulations will give effect to the ability to transfer information automatically. Although it is a multilateral agreement there have to be bilateral agreements or documents agreed with each country underneath that.

4.11.2 Deputy M.R. Higgins:

Just having quickly read the statement, I know this is pre-empting in a sense, you have mentioned the fact that Jersey does have a register of beneficial ownership. But, this is not a public document. It is held by the Financial Services Commission and the information is given on request. Will that now become a public document so everyone can see it? Secondly, is the Minister also committing to moving away from a system where the knowledge of who owns trusts is held by the trust companies to having a central register held by the Financial Services Commission, which will contain that information? Will that also be a public document?

Senator I.J. Gorst:

I cannot see how that question arises from the O.E.C.D. convention. It does arise, of course, from my statement which I will be making in due course.

The Bailiff:

I do not know enough about the convention to know whether it arises out of it or not.

Deputy M.R. Higgins:

I think he could just give us an inkling now before later.

Senator I.J. Gorst:

The central register is not covered by the O.E.C.D. convention. That is a separate issue. I am looking forward to reminding Members of this particular area, because it is one where we lead the world.

The Bailiff:

We do have a statement on this, so perhaps we will deal with it then.

4.11.3 Deputy T.M. Pitman:

It is fine for the Minister to talk about the register and it is available on request. Is it not a fact that you almost have to know what is in there before you can ask about it? Is it not subject to what people might term fishing expeditions? If that is the case, how useful is it?

Senator I.J. Gorst:

I am not trying to be obstructive. But, I have at least another question on these related matters. If I answer in regard to every single issue that I have been involved in over the last number of weeks and commitments that I have given each time I stand up then we will be here all week.

The Bailiff:

Deputy, perhaps you can repeat the question, because I found it difficult to follow. Was it relating to registers or was it relating to the conventions ...

Deputy T.M. Pitman:

Yes, Sir. I was saying the Minister is making fairly big play out of the register, we have heard. All I am asking: do you almost have to know everything that is in that register ...

The Bailiff:

I think I have already said, the register apparently does not arise out of this convention, so we will deal with that when we get to the next matter. So, final question, Deputy Southern.

Deputy G.P. Southern:

I do not know what I can and cannot ask.

The Bailiff:

You can ask about ...

Deputy G.P. Southern:

I will ask about the automatic exchange of information, Sir.

The Bailiff:

Deputy, please do not continue talking when I am talking.

Deputy G.P. Southern:

Sorry.

The Bailiff:

You can ask questions which relate to your question.

4.11.4 Deputy G.P. Southern:

Right then, what consideration was given at these talks over the weekend or otherwise to country-by-country reporting for companies?

Senator I.J. Gorst:

I am afraid I would have expected the Deputy to have understood what he was asking in his question with regard to the convention. Of course, the convention does not cover country-by-country reporting either. There was no discussion in the meeting with the Prime Minister with regard to country-by-country reports, but as I am sure Members would expect, there was indeed discussion of that subject at the Open for Growth G8 meeting on Saturday afternoon. While it makes for an interesting proposal there are some issues which would need to be considered very carefully. Some companies are already providing information on that basis and there are arguments about how that should be done in the future.

Deputy G.P. Southern:

Supplementary, if I may, Sir. It relates to the answer.

The Bailiff:

The answer does not relate to the question originally posed, because your supplementary question apparently did not.

4.11.5 Deputy G.P. Southern:

Never mind. Does the Minister accept that country-by country-reporting is an essential step along the way to true transparency?

Senator I.J. Gorst:

That is a debate which is yet to be had. From my past experience, I know that it is indeed very difficult to get common accounting standards across Europe. It was a whole other issue when we introduced the American accounting standards. There is work that needs to be done there, because there is no point having country-by-country reporting unless the accounting basis upon which it is reported is, again, universal and is global in its application. Having said that, of course, some

countries are already producing information on a country-by-country basis. Of course, part of the discussion on Saturday - totally unrelated to the original question, I hasten to add again - was about building capacity in developing countries. That is something that Jersey again is absolutely committed to.

4.12 Deputy M.R. Higgins of the Attorney General regarding the accountability of the Chief Officer and Deputy Chief Officer of the States of Jersey Police:

Will H.M. Attorney General advise Members to whom the Chief Officer and Deputy Chief Officer of the States of Jersey Police are accountable for their conduct and who would determine whether they should be investigated in circumstances in which they are alleged to have perverted the course of justice?

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

In respect of disciplinary matters concerning the Chief Officer and Deputy Chief Officer, then of course the Minister for Home Affairs is responsible for such issues. In the event of a criminal allegation being made, as described in the question, the Attorney General would advise as to whether or not a criminal investigation is merited. If the Attorney General advises that there should be a criminal investigation then the Minister for Home Affairs has various powers at his disposal, that include appointing police officers from another police force in the British Isles, to investigate the matter.

4.12.1 Deputy M.R. Higgins:

Supplementary, Sir. Can I ask the Solicitor General, if the Minister for Home Affairs has not consulted with the Attorney General or will not admit to having consulted with the Attorney General and takes no action whatsoever, what recourse is there for members of the public or anyone else who is interested in the integrity of the criminal justice system?

The Solicitor General:

I would not expect a Minister to say whether or not they had taken advice from the Attorney General. That is a well-known rule.

The Bailiff:

I think there was a supplementary question there as to what would a member of the public do then if he thought there was criminal conduct.

The Solicitor General:

If the member of the public thought the Minister was doing nothing then I suppose the member of the public could make direct contact with the Attorney General.

The Bailiff:

Let me just see if there are any questions. No. Final question then, Deputy Higgins.

4.12.2 Deputy M.R. Higgins:

This is not a political question for the Solicitor General. If the Minister for Home Affairs takes no action whatsoever and will not explain his actions, what course is available to the Members of this Assembly's interest that regard?

The Bailiff:

I do not think that is a matter which falls within the Attorney General's purview. It is to give political advice to States Members. Very well, we will come to the next question which Deputy Higgins will ask of the Chief Minister. Deputy.

4.13 Deputy M.R. Higgins of the Chief Minister regarding grounds for instant dismissal for gross misconduct for public sector employees:

Would the Chief Minister agree that a public sector employee should not knowingly lie or try to deceive a civil or criminal court or tribunal and that such an act would constitute grounds for instant dismissal for gross misconduct?

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

There is a clear requirement under the Civil Service Code of Conduct and an individual's contract of employment for all civil servants to act with integrity and honesty. In the unlikely event such an episode occurs the matter would be investigated under the relevant employee's disciplinary policy and an appropriate penalty applied which is consistent with the facts of each case.

Deputy M.R. Higgins:

I shall be bringing a case to the Chief Minister for that action to take place.

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

Can I ask the Chief Minister if the code for civil servants is available to all Members?

Senator I.J. Gorst:

I will check that, but I believe that it is.

4.13.2 Deputy T.A. Vallois:

Could the Chief Minister also confirm whether there is a requirement for a duty of care by civil servants to the public and to States Members?

Senator I.J. Gorst:

I do not have the code with me this morning, so I cannot confirm. One might imagine that there would be, but I cannot confirm that.

4.13.3 Deputy T.A. Vallois:

Can I just ask a supplementary, Sir? Does the Chief Minister believe that there absolutely should be and what the remedy if a Member or a member of the public believe that a civil servant has broken that duty of care.

The Bailiff:

Deputy, we are getting a long way off the original question which was lying and deceiving at court as grounds for misconduct. We are now on to a very wide-ranging issue whether civil servants should have a general duty of care.

Deputy T.A. Vallois:

I understand, Sir, it was about a public employee whether lying or deceiving.

The Bailiff:

That has been answered, but you are now asking about duty of care which is a very wide-ranging concept.

Deputy T.A. Vallois:

Okay. Thank you, Sir.

Deputy M. Tadier:

Sir, my question was going to be even further away from the subject, so I doubt it will be allowed. I will sit down.

The Bailiff:

Deputy Higgins, do you wish a final question?

4.13.4 Deputy M.R. Higgins:

Yes, Sir. I will just try and help Deputy Vallois. Would the Chief Minister publish to all Members the Code of Conduct for Civil Servants, please?

Senator I.J. Gorst:

As I said, I believe it is in the public domain, but I will double-check and if not I will ascertain to try and do so.

4.14 Deputy R.G. Le Hérisier of the Chief Minister regarding an independent inquiry into allegations that the Assistant Minister for External Relations obtained and read in public confidential documents associated with the suspension of the Dean:

Would the Chief Minister establish an independent inquiry to report expeditiously about the allegations that the Assistant Minister for External Relations has obtained and read in public confidential documents associated with the suspension of the Dean and, if not, why not?

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

If an offence is alleged under the law, a Statutory Code of Practice has been breached or a Code of Conduct for Elected Members has not been complied with then a complaint should be submitted to the relevant authority or body who will then investigate.

4.14.1 Deputy R.G. Le Hérisier:

Despite having drawn a line between people in their Back-Bench and their Executive role, would the Chief Minister not acknowledge in order that the integrity of the individuals concerned and of the House be upheld that a proper independent inquiry would be a much better way rather than avoiding the issue continually.

Senator I.J. Gorst:

Personally I have to say I agree with P.P.C.'s proposal for a commissioner that would deal with these exact issues, because then it takes the politics out of them and they can be reviewed appropriately once appropriate complaints, if they are to be made, have been made.

4.14.2 Deputy T.M. Pitman:

Given that the Minister himself is very keen to make complaints about people when they tell the truth - I have been a victim of that - should he not now, as Chief Minister, put a complaint in when someone is certainly not telling the truth. My 2 businessmen, good, honest, hard-working contributors to the economy stand accused of being malicious, fictitious and liars, as I do myself.

[11:15]

Senator I.J. Gorst:

I do not believe that they do stand accused of that. The Deputy will know that I had a meeting with them. Unfortunately since that meeting the first time I have seen Senator Bailhache was this morning in the States Building. Of course, I will relay the contents of that meeting, but as I have said previously I stand by the answer I gave. That certainly is not my interpretation of what Senator Bailhache said in answering the question previously.

4.14.3 Deputy T.M. Pitman:

Can I have a supplementary? If I may refer back to that meeting with the 2 businessmen, if I can pretty much quote the Chief Minister's words to the 2 gentlemen. He said they should consider complaining to P.P.C., but must be aware that the person they would be complaining about sat on that committee. Does he agree that that was a bit of intimidation there?

Senator I.J. Gorst:

Absolutely not. It was merely a reflection of that body. I would not wish for those particular individuals to be unaware of that prior to making a complaint. If a complaint was made about a Member of this Assembly to P.P.C. and a Member of this Assembly sat on that body I would have no doubt whatsoever that the Member of P.P.C. would remove themselves for the purposes of both hearing and dealing with such a complaint.

4.14.4 Deputy T.A. Vallois:

The code of conduct for the Ministers is fairly open and wide and also includes the code for the Assistant Ministers. Could the Chief Minister advise whether the complaints that have been made have been made about the Assistant Minister or whether they have just been made about Senator Bailhache?

Senator I.J. Gorst:

That is a very good question. I have maintained, as Senator Bailhache did when he has been dealing with these particular issues that he was acting, yes, as a Member of this Assembly, but more importantly as a lay member of the Church of England in Jersey. That is where the differential arises from.

4.14.5 Deputy M.R. Higgins:

As the documents that Senator Bailhache was supposed to be reading on the plane included police statements and various other documents, if he was a member of the church, where did he get those documents? He is a Member of the States, just as we are, he is no longer a member of the Judiciary, how did he get access to official documents of that sort that has the names?

Senator I.J. Gorst:

I am not sure how I am expected to answer such a question. This is part of the problem I find myself in today. I am being expected to be investigator, judge and jury in a particular case. I do not think that is the role of the Chief Minister. Having said all that, I do understand that Senator Bailhache is intending, whether it is able to happen today or not is in doubt, because of the workload, with your permission, Sir, to make a personal statement on this matter.

The Bailiff:

Very well. Deputy Tadier and then final question Deputy Le Hérissier.

4.14.6 Deputy M. Tadier:

I am concerned with the Chief Minister's response both to this question and the previous one, because it seems to me the Chief Minister could quite happily respond to these by saying the reason we do not need an investigation and the reason that I am not going to take any action is because my

Assistant Minister has not acted inappropriately. He has done nothing wrong. In the absence of the Chief Minister making that statement to the Assembly it forces Members to read between the lines and to presume that there is a grey area as to the allegations that have been made by another Member in this Assembly. So, will the Chief Minister take swift action, whatever that may be, whether it is an independent investigation or his obligations under the code of conduct to give a response to ascertain whether or not the Assistant Minister has acted entirely appropriately or inappropriately.

Senator I.J. Gorst:

As I have just indicated, a number of questions this morning really would be more appropriately and rightly addressed to Senator Bailhache, who is in a position to be able to answer them. As I said, I think it is his intention to make a public statement and we shall await that statement.

Deputy M. Tadier:

Sir, a point of order, if it a statement by the Assistant Minister in his independent capacity, surely that is a personal statement which does not allow the questions to be asked of the Assistant Minister.

The Bailiff:

That is correct. Final question then Deputy Le Hérissier.

4.14.7 Deputy R.G. Le Hérissier:

Would the Chief Minister not acknowledge that in order that the impugning of both sets of individuals does not continue, we should stop trying to take sides - or people do - and that he will make a strong recommendation to P.P.C. to set up in anticipation of the commissioner role... to set up an independent investigation, so that we do not have to continue hearing 2 very different sides of a story. Thank you.

Senator I.J. Gorst:

That might indeed be a good way forward. I am, of course, disappointed that we do not yet have the commissioner. I understand why that has been delayed to work with Guernsey. But, we should not be in this Assembly... and I know that is exactly what Members are trying to get me to do, take sides as such. However, Senator Bailhache has been clear. I have not yet had the opportunity to speak to him and I will be doing so in due course. I hope that he, indeed as he is intending to do - whether that be today or not - is intending to make a personal statement.

4.15 Deputy T.M. Pitman of the Solicitor General regarding the Court's powers to ensure that full indemnities awarded to members of the public at the conclusion of a court case are enforced:

What powers, if any, does a Court have to ensure that full indemnities awarded to members of the public at the conclusion of a court case are enforced and the injured party is not left thousands of pounds out of pocket?

The Solicitor General:

If a court orders that a party should receive their costs in respect of a case then the party can rely upon that court order to obtain payment of those costs. Quite often that is a 2-stage process. If the court has not fixed a precise amount to be recovered and has, for example, awarded costs in the case, then the first stage is to assess the exact amount of cost it should be paid. This process is called taxation. At the end of the taxation process a cost certificate will be issued indicating the precise amount to be paid. We then move to the second stage. The party who should receive

payment can now use the cost certificate to enforce payment through the courts if no payment is still forthcoming. But, the court will take steps to enforce payment as it would with any other debt that has proved to be outstanding.

4.15.1 Deputy T.M. Pitman:

I thank the Solicitor General for that. If a wronged member of the public has been awarded those full indemnities - he has even been through the bâtonnier - and nearly 8 years later the other party, the lawyer, has refused to pay up. Where can that individual go in theory? It would seem, from what the Solicitor General has advised us, his only recourse is perhaps to spend more money probably making him no better off than if he just took the hits, if I can put it that way.

The Solicitor General:

I am not entirely clear as to the facts, but assuming for the moment that the party has a costs order from the court in his or her favour, then all that is left for the process of taxation is to determine the amount that should be paid to him or her, not whether they should recover anything. That party in whose favour a costs order has been made will usually recover their costs of taxation. The same applies if you get as far as stage 2 enforcement. If a party, who has a costs order has to go to those steps to get their payment then they will recover their costs.

4.15.2 Deputy T.M. Pitman:

Yes, I will try again. I am not trying to be difficult. As I say, I find it very strange that this gentleman I am in contact with has been waiting 8 years. Everything was found in his favour. His lawyer refuses to hand over that money. Is there no other recourse such as through the Law Society again? Is there no other recourse without spending more money that this gentleman can make? I cannot go into details, obviously, but the gentleman has already tried to make complaints to the police about other issues relating to this case and the police will not even accept the complaint. It seems he is in limbo, which obviously I think the court would not want and we would not want. Can the Solicitor General give us any other hope of where he could go?

The Solicitor General:

I am afraid I do not understand why this party is in limbo. As I say, assuming that I have understood correctly that there is a costs order in his or her favour then they were entirely entitled to seek taxation of the costs, get a cost certificate and if the other party will not pay, for whatever reason, then the party who is owed the money can enforce it through the court. I do not understand at the moment why it is said that somebody is in limbo. If they have a costs order, they are not in limbo they have a right that they can properly exercise.

Deputy T.M. Pitman:

I would just thank the Solicitor General for his answer and perhaps I can come and visit him and I might be able to give him some details I cannot give here. Thank you.

Senator B.I. Le Marquand:

Sir, may I ask a question?

The Bailiff:

May you ask a question?

Senator B.I. Le Marquand:

Yes, Sir.

The Bailiff:

No, you are a Minister. We do not usually allow Ministers to ask questions.

Senator B.I. Le Marquand:

Oh, I was going to try to help elucidate the position, Sir, by a helpful question.

The Bailiff:

Very well.

Senator B.I. Le Marquand:

May I, Sir?

The Bailiff:

Yes.

4.15.3 Senator B.I. Le Marquand:

Would the Solicitor General agree that because the test applied by the court on taxation is a reasonable sum reasonably incurred in favour of the receiving party that there is sometimes a substantial gap left because the costs incurred have either been unreasonable in amount or unreasonable in the ambit of the work done?

The Solicitor General:

Yes, I can confirm that the principle purpose of taxation is to have an independent party, i.e. the Judicial Greffe, in the first instance, assess the costs claimed and they consider the amount claimed, having regard as to what was reasonable, taking into account the issues and complexity of the case.

4.16 Deputy M. Tadier of the Chief Minister regarding action undertaken to assess whether Jersey's limited involvement in Associated British Foods avoidance of tax via subsidiaries based in the Island constituted 'aggressive tax avoidance':

Further to the response given to a written question on 19th February 2013, regarding the Action Aid report *Sweet Nothings* concerning Associated British Foods' avoidance of paying taxes to Zambia via subsidiaries based in Jersey, what action, if any, has been undertaken to assess whether Jersey's limited involvement in this case constituted "aggressive tax avoidance"?

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

As was said in February, the Jersey company involved has ceased to be active for some time. For this reason no action has been taken to assess whether Jersey's past limited involvement in this case constituted aggressive tax avoidance. Furthermore, Associated British Foods issued a statement strongly denying that it is engaged in aggressive tax planning. However, action has continued to be taken to support jurisdictions such as Zambia in building up their own defences against harmful tax measures including aggressive tax avoidance. Jersey has agreed to join the O.E.C.D. multilateral convention on mutual and administrative assistance in tax matters and has offered to join with the African tax administration forum and others in providing technical assistance to developing countries.

4.16.1 Deputy M. Tadier:

The involvement of Barclays Trust in this in Jersey may not have been an aggressive tax avoidance measure at all. It may have been perfectly legitimate. But, does the Chief Minister acknowledge that this does have reputational damage for the Island? Does he acknowledge that this *Sweet Nothings* report has had reputational damage for the Island?

Senator I.J. Gorst:

Negative publicity, publicity which is not based upon fact, supposition and such like can indeed have negative implications for Jersey which is why I made the comments I did with regard to some of the comments that Members of this Assembly have made in recent days. However, it must be remembered what the sugar company's response was with regard to the factual accuracy of this report.

4.16.2 Deputy M. Tadier:

Presumably it is not for the Chief Minister to act as a spokesperson for the sugar company. However, he has implied in his statement that the Action Aid report was not based on fact, yet having read it, all 48 pages, it seems to me that very much research was done in there. So, can the Minister confirm which parts of the Action Aid report was fictitious?

[11:30]

Senator I.J. Gorst:

I am not an apologist for the sugar company, as I am sure the Deputy is not an apologist for Action Aid, Tax Justice Network or any other N.G.O. (non-governmental organisation) in this Assembly. If I simply read the statement that the sugar company themselves, who one would expect would know their own business, would make declarations in the relevant jurisdictions, would pay taxes in the relevant jurisdictions at the relevant rates, denies emphatically that it is engaged in anything illegal, immoral or in any way designed to reduce the tax rightly payable to the Zambian Government.

Deputy M. Tadier:

Sir, a point of order. The Chief Minister refuses to answer the question. Again, I have asked a simple question. He said that reports which are not based on fact will ruin the reputation of Jersey. But, will he tell me which part of the Action Aid report was fictitious or will he retract the statement?

Senator I.J. Gorst:

I simply reiterated what the sugar company has said in their correspondence and in their letter that parts of that report were factually incorrect.

4.17 Deputy J.H. Young of the Minister for Planning and Environment regarding the delegation of powers to officers to enter into planning obligation agreements which require land transactions and monies to be paid:

Will the Minister inform the Assembly whether he has delegated powers to officers to enter into planning obligation agreements which require land transactions and monies to be paid, as proposed for the Plémont development and, if so, does the delegation allow those powers to be exercised where there is a formal complaint pending under the Administrative Decisions (Review) (Jersey) Law 1982 which could justify independent investigation?

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

I can confirm that I have delegated powers to officers from my department to enter into planning obligation agreements relating to land transactions and the payment of monies. Having sought advice from the States Greffe, I can also confirm that there is no statutory requirement under the Administrative Decisions (Review) (Jersey) Law 1982 for me or my department to delay or stop the issue of the Plémont Bay Holiday Village planning approval and expect to issue the approval once the planning obligation agreement has been signed by both parties.

4.17.1 Deputy J.H. Young:

The Minister has said that there is no statutory requirement, but is there not a requirement of good justice and equity in the affairs of the way government makes its decisions that where a body puts forward a complaint using a procedure, which in his previous answer the committee explains is a vital component safeguard. Is it right? Is there not an argument that that transaction should be held back pending the outcome of the chairman's decision on that whether an inquiry goes ahead or not?

Deputy R.C. Duhamel:

I am not sure to what extent I should answer that question. Other than to say that no complaint as yet been made. The protocols for making that complaint have been suggested to me, that complaints can only be made once the decisions have been formally taken.

4.17.2 Deputy J.H. Young:

Can I seek clarification from the Minister? The Minister suggested there that a complaint has not been made in relation to the Plémont decision. Could he reconsider that? He suggested also that this decision on the planning obligation agreement is a new matter. Surely that is not the case. It is an integral part of this permission and a complaint has been made. Could he not confirm that?

Deputy R.C. Duhamel:

The complaint is to be made to the States Greffe.

The Bailiff:

I think the question was: has a complaint be made rather than to whom should it be made.

Deputy R.C. Duhamel:

I do not specifically have a complaint. I have a letter from a certain Mr. Dubras, outlining that perhaps I should withdraw and reopen the inquiry on specific grounds, to which I have replied. Having taken legal advice, we are where we are.

4.18 Deputy G.P. Southern of the Chief Minister regarding an investigation into the use of zero hours contracts across the Island:

Will the Chief Minister agree to instigate an investigation into the use of zero hours contracts across the Island in order to assess whether the use of such contracts by employers is appropriate, and if not, why not?

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

The Minister for Social Security has committed to keep the issue of zero hours contracts under review, which seems to be appropriate, including an investigation of the extent to which these contracts are used. However, as the Minister has also said, zero hours contract correctly used form a useful part of modern business practice and provide flexibility to both the businesses requiring the support and the individual supplying the labour. Furthermore, the Employment Tribunal has indicated that presence of a zero hours contract does not diminish an employee's rights under the employment law if an employer/employee relationship has been established. It is therefore not possible for employers to avoid their legal obligations. This has been highlighted by the Director for the Jersey Advisory and Conciliatory Services recently.

4.18.1 Deputy G.P. Southern:

Figures from the U.K. suggest that the use of the zero hours contracts is going up markedly. If that is the case in Jersey as well, is it not appropriate that we should know the extent to which zero hours contracts are being used on the Island?

Senator I.J. Gorst:

As I said in my very opening response, I understand that the Minister for Social Security has already committed to investigate the extent to which these contracts are used.

4.18.2 Deputy M.R. Higgins:

Is the Chief Minister aware of the damage that zero hours contracts are doing, not only to individuals who are on these contracts, but also to the economy of Jersey, as the people who are on these contracts cannot get bank loans, cannot get mortgages. This is because they do not have a regular income. Therefore, they cannot spend or invest in our economy. Therefore, the increased number of zero hours contracts are having a detrimental effect on our economy. Is the Chief Minister aware of that and the damage to the people concerned?

Senator I.J. Gorst:

As I said, the Minister for Social Security has undertaken to investigate the extent to which these contracts are used to ascertain if there has been an increase? I am aware of the difficulties that zero hours contracts can place upon individuals with regard to the issues that the Deputy has mentioned. There are legitimate reasons for using zero hours contract, as I have outlined, as Jersey Advisory and Conciliatory Service accept. It is where they are being used in a way which is not appropriate that we must try and encourage the use of normal contracts.

4.18.3 Deputy M.R. Higgins:

Supplementary, Sir? Does the Minister not think though that the more these contracts are adopted the more damage it will do to the economy, because it provides so much uncertainty for not only the people concerned, but also for the economy itself?

Senator I.J. Gorst:

I am not sure how it damages the economy. It does, however, place constraints on the individuals who are employed with zero hours contracts and thereby their families.

4.18.4 Deputy T.M. Pitman:

Really I was coming from the same place as Deputy Higgins. However, if I can perhaps put a slightly different angle on it. In my experience, while it is true that zero hours contracts can benefit both, I would say it is probably 9:1 that it benefits the employer. Not only does it have the impacts that Deputy Higgins pointed out, it also leaves people in limbo, unable to shape their lives, plan ahead. But the key to this, I think, is what the Minister said when he said there is no problem if an employer/employee relationship has been established. Could he just explain for Members who may not be aware what that "if" means? Because it is a big "if", is it not?

Senator I.J. Gorst:

The difficulty is that the "if" would be determined by the Employment Tribunal and therefore for me to try and second guess exactly what it would mean this morning is not appropriate, but my layman's understanding is it would be with regard to whether regular hours have been worked, whether it has been continuous or not. The Tribunal would take into account those types of issues.

4.18.5 Deputy T.A. Vallois:

Could the Chief Minister advise how zero hours contracts meet with his Strategic Plan objectives?

Senator I.J. Gorst:

If they are helping to create jobs albeit on a very temporary basis, we know that it has been easier to get work from work. Therefore, I do not think we should say that they cannot be appropriate in certain circumstances. If they are doing that then it is very much in line with the Strategic Plan priorities. If they are being used in appropriately then no they are not. The Deputy is right is that is what she is intimating.

4.18.6 Deputy G.P. Southern:

Will the Minister encourage his Minister for Social Security to examine his own practices and to see whether his use within his department of zero hours contracts is appropriate. Also, to engage with the Minister for Economic Development to see whether a simple addition of one further question to the Manpower Survey which takes place twice yearly would solve the problem of assessing how extensive this practice is?

Senator I.J. Gorst:

I do not know how the Minister is intending to undertake his investigation nor if it has started. But the Deputy makes a very good suggestion and the Social Survey is a very good way of gathering information right across the community and helps to inform government policy.

Deputy G.P. Southern:

Point of correction: not the Social Survey, but the Manpower Survey.

Senator I.J. Gorst:

The same principles apply.

The Bailiff:

Very well. That brings questions to an end.

5. Questions to Ministers without notice - The Minister for Education, Sport and Culture

The Bailiff:

We now come to questions without notice. The first period is to the Minister for Education, Sport and Culture. Deputy Trevor Pitman.

5.1 Deputy T.M. Pitman:

Could the Minister for Education, Sport and Culture, whether confirm or deny, that a child suffered a gunshot wound to the face from a starting pistol handled by a teacher at Le Rocquier School and that that teacher was subsequently and is still suspended?

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

I think normal course under these circumstances would be to suspend that teacher pending a police inquiry. In fact a police inquiry is underway. As I understand it, is still underway so I can make no comment further.

5.1.1 Deputy T.M. Pitman:

Supplementary, Sir? I respect what the Minister said there. But can he at least advise us that the child is in fact okay and, on the same lines, can he advise, assure us, that teacher's suspension has been continually reviewed as this inquiry goes?

The Deputy of St. John:

All teacher suspensions are kept reviews, yes. My understanding is that the child is okay. But, it is still subject to a police inquiry.

5.2 Deputy S. Power of St. Brelade:

My question will relate to Les Quennevais School. The Minister has been in office since the end of 2011 - 19 months. What options are being considered for what is now regarded as a major investment to be needed in a second level school in the west of the Island? Has the redevelopment of the existing school been considered, given that many consider it to be in a congested residential part of a 2-estate housing residential area?

The Deputy of St. John:

I thank all States Members - Deputy Power is one of them - who have expressed their support for the school generally. Officers from E.S.C. (Education Sport and Culture) and Property Holdings have reviewed the original proposals, which date from 2002. They have produced a feasibility study with all of the realistic options. In fact, there is another one just been added only in the last few days. That includes the refurbishment and building of a new school and all of the various options that go with it. Additional work, however, is underway and I am hoping to be able to present the options by October.

5.2.1 Deputy S. Power:

Can the Minister clarify whether an intensification of the use of the existing site that the school sits on, given that it is already regarded as congested, is being regarded as an option?

The Deputy of St. John:

That is one of the options, yes, but it is only one of 10 options.

5.3 Deputy S. Pinel of St. Clement:

With reference to P.36 on 30th April - the proposition for the music service user pays - I asked the Minister 2 questions, both of which he said he would look into. The first one was: will the loan of an instrument at a small charge be indefinite or will the students have to purchase their own instrument after a year. The second one was: will shared lessons be charged at the same rate as individual lessons, £55, a term for one-to-one tuition instead of a group? Thank you.

The Bailiff:

Your question, Deputy, is: will he answer them now. Is that right?

The Deputy of St. John:

Both of those particular questions are currently under consideration by the Jersey Music Service who are in the process of redesigning everything they do. I have brought those 2 questions to the notice of the Director of the Jersey Music Service. As yet no final decision has been made on them, but we are certainly aware of them and it is under consideration. Fairly soon we will know the answers. Thank you.

[11:45]

5.4 Deputy M. Tadier:

Would the Minister comment on the cultural importance of the Sunset Concerts which are taking place on Friday, 28th June and Saturday, 29th June at Grantez? Will the Minister be attending in person to represent the department?

The Deputy of St. John:

I think all sunset concerts of all variety and everything cultural is significant and important. I have an Assistant Minister who looks after culture. I am sure he would like to make comment separately to the Deputy on that. Will I be attending personally? I have not decided: yes, I hope to be able to. I cannot guarantee it: it depends on the other things in my diary, which is quite full.

5.5 Deputy J.M. Maçon of St. Saviour:

I certainly endorse the Sunset Concerts, they are fabulous events. What I would ask the Minister is: further to the former Senator Shenton's proposition being adopted by this House, when will this Assembly be debating the White Paper on the structure of the higher secondary education? Thank you.

The Deputy of St. John:

A group of Ministers has met 3 times to consider the questions that the Deputy is referring to. So far we have looked at the background, the history, previous reports. The Ministerial sub-group... it has now been decided that we will be formally constituting this by Ministerial Decision and then there will be terms of reference that will go with that. That is due to be brought to the Council of Ministers at the next opportune moment, which will be either the next meeting or the one after that.

5.5.1 Deputy J.M. Maçon:

Supplementary Sir? Can the Minister please explain when the States Assembly has requested the Minister for Education, Sport and Culture to submit a White Paper to this Assembly that any action going forward will be done by Ministerial Decision? Can the Minister just explain that process, please?

The Deputy of St. John:

Yes. The Council of Ministers, as are all Members of this Assembly, are very interested in the education system and its structure. It is felt that if there is to be a White Paper it will come as a Council of Ministers White Paper in the same way that major reforms to do with housing and health were brought through the Council of Ministers in one way or another. So, it is likely that anything will be a Council of Ministers proposal rather than a Minister for Education, Sport and Culture one.

5.6 Deputy J.H. Young:

Would the Minister advise the Assembly on when he will be publishing his plans for the future use of the d'Hautree School site, which has been reserved for educational use for about 2 decades? If he is unable to do so, would he be releasing the site for other purposes?

The Deputy of St. John:

The old d'Hautree School site is earmarked for educational purposes. We are currently, as the Deputy will probably be aware, seeking co-operation between Highlands and Hautlieu. There are many things going on in the Education Department, many things under review at the moment. One of them is the d'Hautree School and the possible expansion of vocational facilities. For example, Highlands currently has over 1,000 students, which is quite intensively used. There may be some issues there that we need to consider in the future. So, where we are at the moment is that we are keeping our options open on d'Hautree and we want to keep it that way. There is also the added question that it is one of the options for a possible new primary school for the St. Helier area. We keep our options open for that one as well.

5.7 Senator L.J. Farnham:

Does the Minister happen to know by what level funding for sport, including investment in new sporting facilities has reduced by over the last 10 years?

The Bailiff:

You would be quite lucky if he has those figures.

The Deputy of St. John:

I do not have those figures in detail that I can give the Senator. But, I appreciate that. That is one of the things that the new Sports Strategy is looking at under the other one of my Assistant Ministers, Department Le Hérissier. The whole question of this will come out in our White Paper, which we are hoping to bring by the end of the year. So, there will be a lot of detail around sports funding in that White Paper, yes.

5.8 Deputy G.P. Southern:

The issues seem to move rather slowly through the Education Department. I am asking a question which might require quite prompt action. In the light of the ballot of teachers, which was overwhelmingly in favour, of action up to and including strike action and in the light of the pending head teachers ballot on action, what measures does the Minister have in place should it come to strike dispute?

The Deputy of St. John:

I obviously, sincerely hope that it does not come to that. But, I cannot pre-empt the outcome of any ongoing pay negotiations as the Deputy well knows. As I say, I would like to acknowledge the valuable contribution of teachers across Island schools generally. We have many talented and committed individuals throughout the service. I am sincerely hoping that it will not come to strike. If it does, then any actions taken are operational. I would not necessarily be involved, although I would be no doubt kept informed. I do not have that information here today.

5.8.1 Deputy G.P. Southern:

The Minister does not have what options he has in place... does not know what options he has in place, in the light of potential strike action. Is that what he is saying, because I cannot believe the Minister does not know what would happen in the case of strike?

The Deputy of St. John:

I do not know personally, but of course I know a man who does and that is my Director of Education. Obviously they are discussing with head teachers what their options would be in the unfortunate situation where a strike happens. So, if that looks likely then of course I will be briefed in detail. I am not briefed at this point in time and I continue to say that I sincerely hope that it will not come to that.

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

How often is bullying in schools reviewed?

The Deputy of St. John:

There is a bullying policy and on-going action groups within each and every school. So, bullying is reviewed, I would say to the Connétable, almost on a daily basis.

5.9.1 The Connétable of St. Lawrence:

Supplementary, Sir? Is the recorded incidents of school bullying increasing or decreasing?

The Deputy of St. John:

My understanding of the latest statistics is that bullying is being treated extremely seriously on a zero tolerance basis across all schools. On that basis I am pretty confident that it is reducing.

5.10 Connétable S.W. Rennard of St. Saviour:

We have just heard about the sports funding being cut. I would like to know what happens to the world dancing people. Do they get help? I have been asked to sponsor 4 young people to go to Brighton to compete, which I have done, having gone to watch them perform what they are going to be doing for the competition. I have an interest in dancing, although you might not look at me now and think I did, and did do a lot of dancing in my youth. I found that the children, when I went to see them at New Street and again another time, were dancing very, very well and there was a lot of them there who could have been otherwise employed in all sorts of other things. Are we supporting these children who are dancing, which may be not considered a sport? I think it is just as important to have these children who are dancing and going to represent us on the world stage. I would like to know if we are supporting them or if their funding has also been cut.

The Deputy of St. John:

I do not think it is a question of their funding having been cut or not, but we do make grants to several arts organisations including the Jersey Arts Trust, who are there for this very purpose, to assess each and every application for grant assistance to the various arts and culture bodies. I would say to the Constable and through you, Sir, that I am very supportive of the dancing that takes place by those children. I would encourage the parents and/or their organisation backing up them to make the necessary applications to the Jersey Arts Trust and see where that can go.

5.11 The Deputy of St. Ouen:

Following an article in the *J.E.P. (Jersey Evening Post)*, could the Minister confirm whether he or any other Ministers have met with a local hotel proprietor to discuss the possibility of creating a youth centre at Fort Regent?

The Deputy of St. John:

My understanding is that my Assistant Minister, Deputy Bryans, has in fact been in touch with that person.

5.11.1 The Deputy of St. Ouen:

Are there any particular actions that the Minister is planning to take, following that discussion?

The Deputy of St. John:

This is just imminent, as the Deputy probably knows, it has only just happened in the last very, very short period of time. I know that my Assistant Minister is on the case. I have not had a personal briefing from him yet but I am confident that he is on the case and can respond to the Deputy almost immediately but I am not aware of the detail.

The Deputy of St. Ouen:

Sir, just a final supplementary.

The Bailiff:

You have had 2 already. [Laughter]

5.11.2 The Deputy of St. Ouen:

Will the Minister inform this Assembly when he can update this Assembly on the potential actions that would follow this meeting?

The Deputy of St. John:

I am not sure what the actions are but, as I say, my Assistant Minister has delegated responsibility for Art and Culture and would cover this area. I have no doubt that he will be informing the

Deputy and any other Member that is interested and I believe he can do that pretty well straight away.

The Bailiff:

Very well. That completes questions to the Minister for Education, Sport and Culture. So we now come to the questions to the Minister for Health and Social Services. Deputy Tadier?

6. Questions to Ministers without notice - The Minister for Health and Social Services

6.1 Deputy M. Tadier:

Will the Minister explain whether waiting lists for joint replacements includes the time that it takes to see the consultant in the first place and then when the extra period of time ... whether those are amalgamated in the official waiting lists that are published?

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

The length of waiting lists have been - and quite rightly - cause for concern within the hospital. I can reassure the Deputy that once a referral comes into the hospital - and it depends obviously upon which consultant - that the clock starts ticking, so to speak. We try and keep to a 3-month waiting list to see a consultant and if they need to go on and have an operation, we try and keep to that 3-month operation time. The outpatient list, especially in orthopaedics, is long just because there is a lot of pressure from people needing to see the orthopaedic surgeon. But 82 per cent, I think, are patients who need an operation and we try and do within the 3 months.

6.1.1 Deputy M. Tadier:

A supplementary, Sir. How does the Minister measure the success of keeping to the 3 months for waiting to see a consultant? I ask this because I have heard people who say they have waited 6 months to see the consultant and then they wait another 6 months for the referral and in all that time, the pain in their knees, for example, is getting worse and worse. So, what measures are there to measure the success of keeping to those aspired waiting times?

The Deputy of Trinity:

Every referral letter that comes in for a G.P. outpatient appointment is what we call, "triaged", so the consultant would review the letter and depending on what the referring G.P. says, if it is urgent, it can go and be on the list. That is how it is done. The G.P.s are in very close contact with consultants but the outpatient department is a very, very busy department. There are over ... well, there is nearly ...

The Bailiff:

I think you are moving on to another matter now, Minister. So, Deputy of St. Peter?

6.2 Deputy K.L. Moore of St. Peter:

Could the Minister describe what checks and balances are in place to ensure that the accommodation provided by her department is of a good standard and suitable for the staff members that they are housing?

[12:00]

The Deputy of Trinity:

As I have said here many times that staff accommodation is not up to scratch. Some of the staff accommodation is really well below standard and that is one of the problems that we have because it is not part of our core business. We have been in discussions with the Housing Department and

looking at getting out of it but the work is underway and I think if it is not just about completed, it is completed ... of doing a review of all staff accommodation, both that which we own through trusts as well as by Property Services now. That work, as I said, is either just about completed or completed.

6.2.1 The Deputy of St. Peter:

Thank you for the answer but in the interim period, could the Minister tell the Assembly how the people who are experiencing substandard accommodation will be housed given that there are vacancies in the private sector?

The Deputy of Trinity:

It comes down to (j) cat and some of our nurses cannot afford to rent in the private sector. We have somebody within our department who looks after staff accommodation, as you would expect, and they work very hard to try and match and if necessary offer to move. But if you have not got the accommodation, it is very difficult to move people to more suitable accommodation in the first place.

6.3 Deputy J.M. Maçon:

Is the Minister aware that due to the cost of foot dressings, particularly among the diabetics in the Island, this leads to greater costs due to the inability to care for feet in particular and therefore, would the Minister give an undertaking to work with the Minister for Social Security to possibly look at bringing these types of foot dressings into the rounds for these people to avoid greater cost to her department?

The Deputy of Trinity:

As I understand it, dressings out in the community are paid for by the patients themselves with the Family Nursing Services and I have had a meeting with the Director of Family Nursing Services about this very issue. She did present to me a report about it but there are still quite a few questions that we needed to discuss and so she is going to go back and do that work and come to see me as soon as she can. But I do appreciate that to some patients out in the community, it is an awful lot of money.

6.4 Deputy J.P.G. Baker of St. Helier:

Could the Minister comment on the appointment of the new paediatricians at the hospital and the significant additional cost to the department for no quantifiable gain?

The Deputy of Trinity:

I am sorry. I wonder if the Deputy could repeat his question, because I did not quite hear it over here.

Deputy J.P.G. Baker:

Certainly. The question was could the Minister comment on the planned appointment of new paediatricians at the hospital and the additional cost to the department for these appointments.

The Deputy of Trinity:

I am not aware that there was an issue. Consultants do leave from time to time and quite rightly, we need to replace them. I am not aware that it is an increased budget, but if the Deputy and I could have a chat about it afterwards and I will try and give him a clear answer.

6.4.1 Deputy J.P.G. Baker:

That would be helpful. As far as I am aware, there is an increasing number of advertised posts coming up. It is not a replacement and I will take it up with the Minister afterwards.

The Deputy of Trinity:

Just perhaps a point of clarification. There are a number of consultant posts coming up because, like all of us, some of our consultants are getting to retirement age and they need to be replaced. Also, we have added some new consultants in the emergency department. There is a business case being worked-up for an extra orthopaedic surgeon.

The Bailiff:

I think the question is about paediatricians, Minister. Very well, Deputy Southern?

6.5 Deputy G.P. Southern:

Will the Minister circulate to Members the savings or other results already made by the commissioning unit during its first 5 months?

The Deputy of Trinity:

Coming back to this question, they have only been in post for 5 months. So how can they achieve what the Deputy says in 5 months? Part of their work is negotiating contracts, S.L.A.s (Service Level Agreements) and grants with the hospitals, *et cetera*. Quite a few of these contracts are to 2014 but as soon as I have any meaningful information, I am very happy to share it with the Deputy.

6.5.1 Deputy G.P. Southern:

A supplementary, if I may. The Minister suggested earlier that already third sector involvement with the hospital and medical services was already satisfied and had their terms and conditions changed. Surely there are some results locally from this commissioning unit.

The Deputy of Trinity:

The monetary feedback has been very positive feedback of what a good process that is and that is very positive because, as I said before, before it has been a bit of a one-way negotiation. But this time the voluntary sector has been listened to as to what they expect from the States of Jersey.

6.6 Deputy T.M. Pitman:

Can the Minister advise: have many General Hospital patients passed away while her department haggled with a U.K. hospital over payment for treatment when an individual has been sent to the U.K.? A contributing factor in that person's death.

The Deputy of Trinity:

As I understand it, there is an understanding or agreement or whatever you wish to call it ... I am not too sure what the correct word is, that no matter what the cost, if a patient needs treatment, they will have treatment. Financial concerns are a separate issue which was negotiated in a different sphere. If a patient needs medical treatment, whether it is here, the U.K. or whatever, then the cost should not prevent them from having that treatment in the first place.

6.6.1 Deputy T.M. Pitman:

I have to say that clearly I have to disagree on whether money comes before people. However, if someone has passed away, which I know they have, what actions would the Minister have open to her to discipline those responsible, such as finance officers, for such a complete cart-before-the-horse approach to looking after people?

The Deputy of Trinity:

Like anyone else, if the Deputy raises an issue like that, he is very within his rights ... or the family if he is acting on behalf of the family or constituents, providing he has their permission, to put a formal complaint into place and it will go through due process.

6.7 Deputy R.G. Le Hérisier:

Given the increasing and acute concern about G.P. and dental costs by members of the community, could the Minister tell us when her department will be reporting upon options to the provision of G.P. and dental services and what options are currently on the table?

The Deputy of Trinity:

Regarding primary care, which includes all of these issues, it is going to be a long process. At this moment in time, there are terms of reference being brought up for the actual scope of the work because, be under no illusions, it is a big piece of work. It is out to tender at the moment to looking at a firm to help with this work and the tender process is in place now.

6.7.1 Deputy R.G. Le Hérisier:

Just a clarification. Is it a big piece of work because of the political obstacles or because it is complicated?

The Deputy of Trinity:

On all accounts it is complicated because you have G.P.s, pharmacists, dentists and opticians. But also, it is a political challenge, shall we say, as well. You have got quite a few ... 107 G.P.s all with their own thoughts, understandably, and concerns. But it does not mean to say that we should not do the piece of work.

6.8 Deputy M.R. Higgins:

Does the Minister accept that reintroducing prescription charges now or in the near future would hit ordinary people with a double whammy; the existing high costs of doctors' fees at £50 a time, high medicine costs when real incomes are stagnant or falling, thus leading to a system whereby those on high salaries can afford health treatment and the others cannot.

The Deputy of Trinity:

Reintroducing prescription charges is for hospital and pharmacy prescriptions only and within outpatient appointments. As I said earlier, the pressure within outpatient appointments is huge. We have nearly 220,000 outpatient appointments a year, so those who can do the maths will work out how many that is a week, and with that we have about 120 prescriptions issued by consultants and it costs the health service, just for outpatient appointment items, about £3.5 million. Prescription charges were not done lightly and we have tried within to make sure those who need support are supported and the rest is within the proposition. Some who are on income support, all children under 16 as well as those receiving cancer treatment and some psychiatric treatments.

6.8.1 Deputy M.R. Higgins:

Supplementary, Sir. The Minister was talking about people on income support. I am talking about ordinary people. A lot of people in this Island are suffering; they cannot afford medicine if they have to pay for it. Equally, can the Minister say, as a Member of the Council of Ministers, as Minister for Health and Social Services, does she support the general introduction of prescription charges that seems to be being floated by the Ministers at the present time?

The Deputy of Trinity:

The prescription charges did come to the Council of Ministers twice. The first time, it was fair to say that it did not have overwhelming support. When it came back again, we had support from the

clinicians within the hospital who are very keen that this is reintroduced. So, it will help to make sure that the G.P.s continue to follow-up with their own patients rather than patients continuing to come back to hospital time and time again. That is why the work within primary care is so important.

The Bailiff:

Very well. I am afraid that brings questions to the Minister for Health and Social Services to an end.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

7. The Minister for Social Security will make a statement regarding proposals for the long term care scheme

The Bailiff:

There are no matters under J. and then we come to K: Statements on a Matter of Official Responsibility, and the Minister for Social Security will make a statement regarding proposals for the long-term care scheme. Minister?

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

In May last year, I issued a Ministerial Statement on the timetable for the introduction of the long-term care benefits. Today, I am very pleased to announce, that substantial progress has been made on the development of the new benefits over the last 12 months and I can confirm that I will be lodging a proposition next month for debate in September setting out the full details of the scheme. Subject to the approval of States Members, I will be introducing the new benefit from 1st July 2014 with contributions being collected from 1st January 2014. As Members are aware, the Island faces a substantial increase in both the number and proportion of older residents over the next 30 years. Care costs are predicted to more than double by 2044. The younger generation, just starting out on their working lives, will bear a significant burden in terms of supporting not only the long term care costs, but also the health costs and the pensions of the baby boomer generation as they reach the age of 80 and beyond. The original long term care proposals outlined in 2011 would have led to a contribution rate of approximately 4.6 per cent by 2044 and I do not believe that that is acceptable for the current generation to knowingly impose such a heavy burden on our children and grandchildren. Over the last 12 months, detailed research has been undertaken to identify a benefit scheme that will provide significant assistance to homeowners and those facing very high care costs, while at the same time setting the long-term contribution rate at an acceptable level.

[12:15]

I believe that my current proposals achieve this balance and share the responsibility for care costs fairly between individuals who are receiving care and the general population who will provide the funding for the long-term care fund. A ring-fenced, long term care fund will collect contributions from across the community and provide benefits to support the costs of those of us who may need long term care. As suggested in my previous statement, long term care contributions will be leveraged on both earned and unearned income and the Jersey Taxes Office, acting as the agent of Social Security, will use existing methods to collect the contributions. In future, anyone who pays income tax will also make a contribution to the ring-fenced, long term care fund. My proposals will limit the maximum amount that anyone will have to pay for their long term care to £50,000, putting an end to the current uncertainty and concern generated for homeowners and their families when faced with unknown and potentially very significant care costs. Once the cap of £50,000 is reached, the on-going care costs will be met from the new ring-fenced fund. People receiving care

in a care home will make a separate co-payment of £300 per week towards their accommodation and living costs throughout their time in care. The proposed scheme will also protect homeowners. The value of the family home, up to the average value of a 2-bedroom house, which is currently £391,000, will be excluded from any assessment as well as at least £25,000 of other savings. Individuals with larger properties will be able to register a charge against their property in respect of the £50,000 care cap. A similar exemption will apply to the savings of people who do not own their own home. By sharing the cost of care in this way, the contribution rate in 2044 is reduced by nearly 40 per cent from the original estimate of 4.6 per cent, down to 2.8 per cent. In the short term, rather than the 1.5 per cent contribution rate previously suggested, I will be proposing an initial long-term care rate of one per cent. However, as existing income tax allowances thresholds and marginal rates will be used in the calculation, the effective rate for most long-term care contributors will be well below the headline rate of one per cent. It is my intention that this one per cent rate will remain fixed for at least 5 years. Sharing the cost of care in this way has several major advantages. The scheme can be introduced next year in 2014 knowing that the long-term care costs are affordable. Individuals and their families will no longer need to worry about how they would meet potential care costs of hundreds of thousands of pounds. People will be able to plan for their future care costs by setting aside this fixed amount and all standard care fees in excess of £50,000 will be met by the long-term care fund. Lower income claimants will continue to receive support to cover the cost of both their care fees and their living costs on a means tested basis. The new benefit will be available to individuals receiving care in their own home and the details of the scheme are being designed to encourage care at home as far as possible. Over the next year, while these arrangements are being put into place, the existing income support residential care scheme will continue and anyone worried about the cost of care fees should approach the department for advice. Thank you. **[Approbation]**

The Bailiff:

Very well. Opportunities to ask questions? Deputy of St. Ouen?

7.1.1 The Deputy of St. Ouen:

If contributions are to be levied on earned and unearned income, will the Minister confirm that the effect will be to the Island's headline income tax rate of 20 per cent to increase to 21 per cent?

Senator F. du H. Le Gresley:

I do not necessarily share the view of the Deputy of St. Ouen. As I explained, the tax allowances, thresholds and marginal rate will all be taken into consideration and currently only about 10 per cent of the population pay the 20 per cent rate. Many people will be paying far less than one per cent on their gross earnings and therefore I do not necessarily agree with the Deputy's conclusion.

7.1.2 The Deputy of St. Ouen:

Please, just a supplementary. The Minister, by his own admission, has identified that 20 per cent of our population currently pay 20 per cent. The reality is that this introduction charge will increase that rate. Would you agree or not agree that that will be the effect?

Senator F. du H. Le Gresley:

Again, I want to reiterate that we are working with the tax office to collect the insurance contribution on our behalf. It is not a new tax, it is a Social Security contribution, which is being put in a ring-fenced fund to provide the care of people in our community whose care costs exceed £50,000.

7.1.3 Deputy G.C.L. Baudains:

I wonder if the Minister could clarify for me: I presume that the £50,000 referred to is a cumulative amount over the length of time that a person will need care or is it a per annum amount?

Senator F. du H. Le Gresley:

Yes, it is a cumulative figure. The person receiving care either in their own home or in a care home will be assessed by officers from the Social Services in the normal way that we presently use for income support residential care and we will be keeping an account of their standard care costs, excluding the £300 weekly allowance and therefore, these costs will accumulate and once that person's care costs exceed £50,000 then all future care costs will be paid from the fund.

7.1.4 The Connétable of St. John:

I note in the fifth and sixth paragraph, it reads: "The ring-fenced long term care fund will collect contributions from across the community ...", *et cetera*, and it goes on to say that it will be administered by the Tax Office. Given that we have seen the ring-fenced fund currently supposed to be collecting our pensions and the like and our health contributions being breached on at least 3 occasions now by the Treasury... and the Minister for Treasury and Resources can shake his head, when on the first occasion we were told ...

The Bailiff:

Can you just come to the question?

The Connétable of St. John:

Yes, I am coming to it, Sir. Allow me to put it ...

The Bailiff:

There are other Members who wish to ask questions too.

The Connétable of St. John:

I appreciate that, Sir, but we were told it was a one-off situation that the fund would be breached once. It has happened 3 times. Can the Minister guarantee, can he guarantee, that this funding will not be able to be manipulated in any way whatsoever by the Minister for Treasury and Resources? Thank you.

Senator F. du H. Le Gresley:

As long as I remain Minister for Social Security, I can give that absolute undertaking to the Constable.

7.1.5 The Deputy of St. Peter:

For those who are already in care, from what date will the £50,000 cap that is spent on care be taken into account?

Senator F. du H. Le Gresley:

For those people currently in care, the bill will start to accrue from 1st January 2013, which means that people who are currently receiving nursing care at the highest level will be immediately eligible to receive benefit from 1st July. Those in residential care at the lower end of the care costs will be coming into receiving care after December 2014.

7.1.6 Deputy G.P. Southern:

The Minister says this is not to be regarded as a new tax, but new Social Security payments. But he appears to be treating it exactly like tax in his proposals. Surely it would be better, if he wants to reduce the long term costs, to front-load and rather than going down to one per cent from 1.5 per

cent, what effect is front-loading on this if a higher contribution rate were applied now and what effect would it have if all contributed at the same rate rather than this taxation-like issue that he is proposing?

Senator F. du H. Le Gresley:

I looked back on the Hansard as to when I made my statement last year and I have already had 2 of the same questions from 2 of the same people. Deputy Southern, again, has asked the same question and I would stress that my proposals are far more progressive than using the Social Security system, whereby everybody would have an extra deduction from their salary as an earner. Whereas the tax system means that only the higher earners who pay tax will be contributing and I am sure that that would fit in with the Deputy's political aspirations. However, as far as front-loading, we are front-loading by asking current people, who are in care or going into care, to pay £50,000 in the first instance. I would call that front-loading.

7.1.7 The Connétable of St. Mary:

I hope that my concerns that were initially raised will be dealt with when I get the detail of the actual proposition, but as this really - from my point of view - came to a head because of the inequalities with regard to homeowners that were acknowledged under the current system. I have still got concerns about the level of the cap. Does the Minister not think that the only really fair way to deal with this, especially when we have a lot of elderly people living in houses that are on paper worth a lot, but in practice are not, is to disregard the family home entirely?

Senator F. du H. Le Gresley:

We used Oxera to produce a model in order to arrive at our recommendations for this new benefit and those were validated by Professor Forder. We are satisfied that we have a proposition which I will be bringing forward later in this term which all the parts fit and if we were to tinker with the asset disregard, we would end up with a higher rate, which as I said before, is unfair on the current generation to pay extra costs for those currently needing care over the next 30 years. We have come up with the best compromise and I would remind Members that when the White Paper was originally circulated, one of the options was that all assets up to £500,000 would be regarded. My proposition is £416,000, all assets, including within that a 2-bedroom house. It is a compromise, but it is the only compromise we can reach.

7.1.8 Senator A. Breckon:

Can the Minister confirm that it will be proposed to have a Jersey residential requirement before anyone can receive any money from the fund?

Senator F. du H. Le Gresley:

Yes. The original report that accompanied the draft law suggested that there should be a 10-year continuous residence as an adult, and that will be one of the conditions that will be imposed by regulation, subject to States Members' approval. For somebody who has been out of the Island and does not have their 10 years continuous leading up to their registering a claim for the benefit, they would have to be back in the Island for at least one year, so in those cases it would be 11 years.

7.1.9 Deputy J.H. Young:

Would the Minister not agree that by announcing today an extra 1 per cent levy, open-ended with no ceiling, on all taxpayers, he is effectively announcing a rise in our basic rate of tax which will not stay at 1 per cent, which according to this could reach 4.6 per cent, so 24.6 per cent? Does he not feel that such a measure discourages personal saving and thrift and a move towards dependency in our societies?

Senator F. du H. Le Gresley:

There will be an upper earnings limit of £152,232, which is the upper earnings limit for paying Social Security contributions. Anybody earning above that, they would not be liable to pay extra money into the long-term care fund. As to whether we are changing the tax or the system for Jersey, this has been a long time coming. There have been many, many calls for a scheme that will protect people's assets and help people avoid catastrophic long-term care costs. The U.K. have been struggling with this for years and at least we have a proposal. The timing is unfortunate, but we cannot delay this decision, we have to get on with it, and I ask for Members to support me.

7.1.10 Deputy R.G. Le Hérissier:

When Scrutiny studied the Guernsey system, there was a system whereby it was not called commissioning, but the managers went around and got much better deals from blocks of residential homes and did not pay those awful costs we know about in Jersey. How does the Minister propose to deal with that?

[12:30]

Senator F. du H. Le Gresley:

All care costs will have to be approved by the departments. We currently have a tariff for the 4 levels of care, both in residential and nursing homes, and we will also be arriving at a figure for care in your own home. Any attempt to incur costs above those figures will have to be paid for by the person in care, in other words, if they choose to have a room with a view or whatever, but we will be working with the care providers, in particular the homes, to arrive at a scale of fees that we believe are acceptable and which we will work with.

The Bailiff:

Very well. I am afraid that brings questions to the Minister to an end. Before we move on to the next statement, can I just inform Members that 2 matters have been presented for their reading. One is R.63- Pension Increase Debt: options for early repayment - presented by the Minister for Treasury and Resources, and R.64 - Land Transactions under Standing Order 168(3): Southwood 30-31 Belmont Road, St. Helier – Lease - also presented by the Minister for Treasury and Resources.

Senator L.J. Farnham:

I wonder if I could register the fact I am slightly disappointed that the report on the pension repayment has been lodged. I was discussing the issue with the Treasurer, as I lodged the original proposition and I understand there was a dialogue ongoing, so I just wanted to register that.

8. The Chief Minister will make a statement regarding discussions with the Prime Minister of the United Kingdom

The Bailiff:

Very well. So we come next to a statement which the Chief Minister will make regarding discussions with the Prime Minister of the United Kingdom. Chief Minister.

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

As Members know, I attended a private meeting at Downing Street at the weekend as part of the G8 'Open for Growth' Meeting at Lancaster House. David Cameron invited Chief Ministers from all the Crown Dependencies in overseas territories to the meeting, where we discussed global information exchange and tax transparency in the run-up to the G8 summit. After the meeting,

David Cameron commended the leadership we had shown in these areas, saying it would enable the U.K. to speak with a stronger voice at the G8 summit. Members will be aware that Jersey has a long track record of commitment to meeting global standards on tax transparency. We have already agreed to an enhanced tax information exchange agreement with the U.K. We have joined the pilot project, now embracing 17 E.U. states, that with the O.E.C.D. is seeking to achieve a single international standard for automatic exchange of information. We have agreed to join the Multilateral Convention on Mutual Assistance in Tax Matters, which will offer an accessible route to increase the number of jurisdictions able to benefit from information exchange. I firmly believe that if changes are to be made to the international financial system, then these should be done by all the key economic players, including the G8. I therefore support the multilateral approach that the U.K. Prime Minister is advocating and look forward to hearing of the action to be taken by the G8. To coincide with the G8 summit and to share in the G8 action to enhance transparency on beneficial ownership of companies, Jersey is publishing its own action plan today. This builds in Jersey's existing leading position on beneficial ownership information, recognised by the World Bank, which forms a key part of our continuing commitment to tackling tax evasion and fraud. Jersey already holds a central Register of Beneficial Ownership of Companies. In addition, we regulate those who form and administer companies and trusts. They are required by statute to maintain up-to-date and accurate information on the ownership of those for whom they act. All the information held in the Island is available to tax authorities and law enforcement agencies on request. I am confident that the quality of this information meets current international standards and will allow us to meet any new international standards which are agreed by the G8 and applied globally. Jersey is committed to implementing the revised Financial Action Task Force standards in order to improve the transparency of beneficial ownership. This is a matter of good governance, as a means to tackle a wide range of illicit activity. The International Monetary Fund found Jersey to be fully or largely compliant with the earlier F.A.T.F. (Financial Action Task Force) standards and we are confident of a similar outcome when Jersey is next independently assessed in 2015. Our action plan makes it clear that Jersey will support improvements in international co-operation, including the timely and effective exchange of beneficial ownership information, in compliance with international standards. We also hope to be directly involved in the work necessary to develop these new international standards, particularly through our role as advice chair of the peer review group of the O.E.C.D. Global Forum on Transparency and Exchange of Information for Tax Purposes. At the G8 Open for Growth event on Saturday, presidents of African countries spoke of their need for assistance. I believe we can use our own experience to be part of the solution for improving global standards. Last year, we contacted the African Tax Administration Forum, the U.K. Department for International Development and others, offering to provide technical assistance to developing countries to help improve the capacity of their tax administrations in combating tax evasion and avoidance. We will continue to comply with international standards, respond promptly and effectively to requests for information from tax authorities or law enforcement agencies and give every assistance to developing countries. As Members will be aware, we have fully signed-up to the G8 agenda on beneficial ownership and I have welcomed the Prime Minister's leadership and willingness to work in partnership with us in seeking a step change in international standards through the U.K.'s G8 presidency. Taken together, the events of the last few days mark an important turning point for the Island. There is now, perhaps for the first time, recognition of what Jersey has already achieved in financial regulation and this has put beyond doubt the Island's commitment to combating tax evasion. On the basis that the international community moves ahead together on a new global standard for tax information exchange, our financial services sector can look forward to a positive and confident future. I thank Members for their continued support on this vital agenda.

The Bailiff:

Very well. Members have the opportunity to question the Chief Minister. Deputy Higgins.

8.1.1 Deputy M.R. Higgins:

Would the Chief Minister tell us, the Register of Beneficial Ownership that we have at the present time is a closed document, it is not available to the public, it is available to the Financial Services Commission, and equally, trust company ownership is not known to the Financial Services Commission, it is only revealed if the Commission goes to a trust company and asks who the beneficial owners are of a particular trust. Is that information now going to become a public document, so in other words, is the existing register we have now going to be open to the public to see rather than have to apply for? Secondly, will there be a central register of trusts as opposed to the current system?

Senator I.J. Gorst:

Let me just start by being absolutely clear on the position we find ourselves in in this regard. We are at the forefront. I fail to be aware of any jurisdiction that already has the Central Register of Beneficial Ownership as we have in Jersey. In fact, many jurisdictions across Europe do not even have that information available by corporate service providers and therefore we should be congratulating previous Governments, the Jersey Financial Services Commission and Jersey Finance for the work that we have done and the lead that we are providing in this area. What we see proposed over the last few days is jurisdictions, including the United Kingdom, proposing to meet the same standards that we meet. It is not, as the Deputy suggests, proposed that the United Kingdom will have a public register. What is being proposed and what will be discussed today at the G8 is a central register which mirrors Jersey's model, which is why I was able to talk about that in my meeting with the Prime Minister on Saturday.

8.1.2 Deputy M.R. Higgins:

The Chief Minister has a habit of waffling on about lots of things to minimise the amount of time he answers questions. The question simply was our register at the moment... yes, we have a register and it is something that we should be proud of. It is not open to the public. You cannot just walk into the Commission and just look at a company and see who owns it. Is that information now going to be totally transparent and available to the public? Secondly, is the Prime Minister and the U.K. trying to get a central register of trusts where the same information is contained?

Senator I.J. Gorst:

I did answer the Deputy's question, and I am enjoying answering the Deputy's questions, because what we have heard over the last number of weeks and days is other jurisdictions saying that they are going to commit to a central register of beneficial ownership and thereby following the Jersey model. There is not a proposal, as far as I am aware, to go beyond what Jersey already does.

8.1.3 Deputy G.P. Southern:

I think we are due to have a redefinition of the word "automatic" the way we used to have the redefinition of the word "sustainable" so that just to summarise, who would have access and under what conditions to the Central Register of Beneficial Ownership of Companies? Will it be automatic? I believe it seems to be, as we are now, on request, which leaves us to go on with tax competition and tax avoidance in this offshore finance sector.

Senator I.J. Gorst:

Standards are evolving and they are evolving very quickly. The O.E.C.D. convention, as I said, is about automatic exchange of information, but while it is called a multilateral convention, obviously formal agreement - if I might use that term - will need to be agreed between countries once this Assembly has agreed the Regulations, should they do so, to bring it into effect. But information

will be then available automatically to tax authorities and law enforcement agencies in those countries. Of course, what we know at the same time is that the United States has produced something called F.A.T.C.A. (Foreign Account Tax Compliance Act) and the United Kingdom is trying to engage in F.A.T.C.A.-type agreements with other jurisdictions. We have got the G5 pilot, which now 17 E.U. states have agreed to join, and what they are doing is looking at a new standard altogether, possibly based on F.A.T.C.A., but more likely delivered through the O.E.C.D. So it is a changing situation, and to some extent - I do not want to use the word "competition" - the Americans would like to see one standard, the U.K. is looking at another standard, the Europeans potentially would like to see an extension of the E.U.S.D. (European Union Savings Directive) and the O.E.C.D. are of course the international standard setter, and so therefore they are involved as well.

8.1.4 Deputy G.P. Southern:

A supplementary, Sir. We are still in the area of defining "automatic." Does that "automatic" mean by request, as it does in the fifth paragraph, or does it mean otherwise? Is there a timescale for the publishing, making public the Register of Beneficial Ownership?

Senator I.J. Gorst:

Perhaps the Deputy has not been listening to the answers that I have given to his question and previous questions with regard to the Central Register of Beneficial Ownership of corporations. The register is not public and at this point, other jurisdictions are quite simply making proposals that would bring them up to the Jersey standard, which would not be public either.

8.1.5 Senator L.J. Farnham:

Can I congratulate the Chief Minister and the Minister for Treasury and Resources for their strong representation of the Island in London at the weekend, and can I ask the Chief Minister what assurances he received from the Prime Minister on the subject of an even playing field, and given Britain's position with their dependencies and territories, were they not to receive the same amount of commitment from the other G8 members, what would be the position?

Senator I.J. Gorst:

I thank the Senator for his words there, and perhaps I would like to publicly thank the Minister for Treasury and Resources and my official that accompanied me on Saturday in London. The reason I have confidently been able to support the United Kingdom Prime Minister's approach and his agenda for the G8 summit is because it is in Jersey's best interests to see standards globally applied and for standards to be global standards, and I believe that, I hope, the Prime Minister is successful in his conversations with other G8 members today and that they will indeed produce action plans which will be able to be delivered in due course, because I believe it will increase Jersey's competitive advantage if all comply and have the same high standards that we currently have.

8.1.6 Deputy M. Tadier:

Does the Chief Minister agree that tax is not simply a budgetary consideration, but that it is also a moral issue?

Senator I.J. Gorst:

It seems I am trying to be drawn on a number of areas, which I do not think effectively are my competency.

[12:45]

I do not see it in those terms. Tax allows governments to provide services for the community, and each government makes sometimes difficult decisions about its tax rates, where it will gather tax

from and then therefore where it will apply them to. Therefore, I suppose in that regard it is about social cohesion and one could argue that there is a moral implication to how governments and communities approach tax.

Deputy M. Tadier:

A supplementary, Sir, if I may. It was ...

The Bailiff:

I am sorry, Deputy, time has run out.

Deputy M. Tadier:

I was trying to put in the good training that the Solicitor General gave us.

The Bailiff:

Oh, I see.

Deputy M. Tadier:

That is a shame.

The Bailiff:

There will be other occasions, no doubt, when you can put it into practice. Very well.

LUNCHEON ADJOURNMENT PROPOSED

The Bailiff:

So the adjournment is proposed, so ...

Senator P.F. Routier:

May I also remind Members, if they wanted an update on the Control of Housing and Work Law, there is a briefing in the Church House at lunchtime. There are sandwiches available.

Senator P.M. Bailhache:

Before the Assembly rises, an accusation was made by Deputy Trevor Pitman this morning that I had misled the Assembly and I hope you will allow me to say, Sir, that that allegation is strongly refuted and I would like also to correct a number of other misapprehensions that have emerged during the course of questioning this morning. It seems to me that the only way in which I can do that is through a personal statement, as I have no Ministerial capacity, and I shall therefore be submitting it to you as soon as I can - but it probably will not be before the end of the day - a draft statement for your approval.

Deputy T.M. Pitman:

Can I say that I will be seeking a request to make a personal statement, given the Senator's insinuation that I am a liar.

The Bailiff:

Very well. The Assembly will adjourn and reconvene at 2.15 p.m.

[12:47]

LUNCHEON ADJOURNMENT

[14:15]

PUBLIC BUSINESS

9. Draft Wills and Successions (Amendment No. 2) (Jersey) Law 201- (P.38/2013)

The Bailiff:

Very well, we now come to Public Business and the first matter on the Order Paper is Projet 38 - Draft Wills and Successions (Amendment No. 2) (Jersey) Law - lodged by the Chief Minister. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Wills and Successions (Amendment No. 2) (Jersey) Law. A Law to amend further the Wills and Successions (Jersey) Law 1993. The States, subject to the sanction of her Most Excellent Majesty in Council, have adopted the following Law.

Senator I.J. Gorst:

This is a legislative change that has arisen from the Legislation Advisory Panel, and as such, I would like to ask my Assistant Minister, who is chairman of that panel, to act as rapporteur.

9.1 Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):

The purpose of this Bill is to achieve 2 amendments to the Wills and Successions (Jersey) Law 1993. The Bill has been promoted by the Chief Minister following the conclusions of a report commissioned by the Jersey Community Relations Trust. The report by Professor Meryl Thomas, visiting Professor at the Institute of Law, who teaches the law of succession to aspiring advocates and solicitors, concluded that it was arguably contrary to the European Convention of Human Rights that the treatment of men and women in relation to the reserved rights of the surviving spouse in a testate succession were different; in other words, the different rules applying to a widow's right of dower and the widower's right of *viduité* Professor Thomas thought ought to be changed. The Chief Minister referred the report to the Legislation Advisory Panel, which considered it and reached the conclusion that there was no longer any tenable reason to differentiate between the rights of widows and widowers and instructed the Law Draftsman to prepare the necessary legislation. The draft Bill, once in existence, was circulated to the Law Society of Jersey, and in due course the panel received a report and some constructive comments from the members of the society. Not surprisingly, because the members of the Law Society are independent advocates and solicitors with independent views, there were significant differences in some of the comments expressed. Some members wanted dower abolished and replaced by a life interest in the matrimonial home; some members wanted it abolished and replaced by a life interest in the matrimonial home and an uncertified interest in any other immovable property owned by the deceased; some wanted a wholesale review of the law of succession, the introduction of total testamentary freedom and right to ask the Court to decide whether any provision should be made for a widow or other dependant. The panel considered all these views and decided that reform should proceed one step at a time. Many of the views expressed by members of the Law Society were controversial, but there was unanimous approval for the proposition that men and women should, in this context, be treated equally. The panel accordingly recommended to the Chief Minister that this reform should be taken forward. Deputy Young has circulated to Members a summary of the views expressed by members of the Law Society and I am very grateful for the interest that Deputy Young has shown. The Electoral Commission commented on the generally low level of scrutiny of legislation and it is, if I may say so, excellent that Deputy Young has analysed so carefully a technical piece of draft legislation in this way. Having said that, unfortunately the panel did not agree with the recommendations that Deputy Young made. The principal reason for thinking differently from Deputy Young is that the kind of reforms of which some members of the profession have spoken would require extensive consultation, not just with

lawyers, but with the members of the Court, other interested groups, and indeed the public itself. Respect for rights of property is a fundamental pillar of a democratic and civilised society. One should not seek to change the freedom which a testator has to dispose of his property without giving society as a whole the opportunity to comment upon any such change. For the last 160 years, people in Jersey have had the right to dispose of their immovable property as they see fit, subject only to rights of dower and *viduité*. The abolition of *viduité* and the substitution for it of a right equivalent to dower does not raise any substantial issues, but the substitution of a right of usufruct or life enjoyment of the matrimonial home, or perhaps all the immovable property of the testator or testatrix, does raise important questions. It may be that it would be a sensible move. I am perfectly prepared to concede that to Deputy Young, but there are a number of other reforms that could be considered if dower were abolished, and indeed, much more significantly, there are grounds, some members may think, for a wholesale look at the law of succession. In any event, the public, in our view, would be entitled to have its say. So the question for the Assembly this afternoon is whether one puts off a decision on what is a completely uncontroversial issue, that is to say the equal treatment of men and women in this context, or one goes ahead with this reform, and in the fullness of time and after proper consultation with all those who ought to be consulted, one comes back perhaps with a completely new look at the law of succession. So the purpose of this Bill is to do 2 things. First, it is to abolish *viduité*, that is the right of a widower to the life enjoyment of all the wife's immovable property in a testate succession, and secondly, to provide for the same legal test to be applied by the Court in both testate and intestate successions where there is a question of barring the right of life enjoyment or dower, as the case may be, to a spouse or civil partner on the grounds that that spouse or civil partner has deserted the deceased partner or there has been a judicial separation. Those are the issues for the Assembly and I propose the principles of the Bill.

The Bailiff:

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

9.1.1 Deputy J.H. Young:

I apologise to the Assembly for having to do this, but I did from my email yesterday,, and Members will know that I did have a meeting with the Assistant Minister to discuss this to seek to persuade him that we should widen out the scope of these proposals, but the Assistant Minister considered that the Assembly should be tested on this point. Normally I would wait until later in the day, but I think in this case I might as well do it straight away and save the House time. There is a long history of this, I did some research, and the customary law of Jersey - very historic, traditional - set very traditional rules and of course the question is do they meet the current needs of society? I think the evidence is from the record that many years later - those words were first spoken about in 1984 - that question is still there. There is still this need for reform and I think the current needs of society really do bring this question of the wider reform that the Assistant Minister spoke of to the fore. I thank him for his remarks about legislative scrutiny. I was not seeking to score points in respect of any of this, it is just that having had some background in working for a law firm, I was very struck when I first read the items in the media where practising lawyers were expressing publicly views that the draft law was not satisfactory and was not up to the job of meeting the current needs of society. So I then followed up the matter in more detail and I found that there is a history of previous legislation committees who all had a look at this in 1980, in 1984 another committee and then in 1999 and then in 2001 there were reports which particularly focused on the succession rights of children born outside marriage and that issue was cleared up. But the substantive issues about the question of a bereaved husband or wife or now civil partner having a life interest in the matrimonial home, that is the key issue for me. I copied you some papers. I am

not intending to go into them in detail, I am sure you will be relieved, and these matters were discussed in the States debate of 1984. Now, the pattern has been previously that we had policy debates and then we had a draft law. For example, in 1984, the policy report was then followed by the actual Wills and Successions Law in 1993, and in 2003, it took until 2010 until we got the first amendment to law. So the pattern has been in this whole business, there is a very, very long, long delay between having policy debates about important changes and then the Assembly being given the opportunity to approve a draft law. That is one of my motivations for bringing this today to the Assembly, that I think that if we were to just rubberstamp this law as it is and not address the bigger issues, then I think it is probably likely we will see another 10 years again, because there will not be law drafting time, it will not be a priority and we will not get these things addressed.

[14:30]

I think the key question in the 1984 debate was in relation to the right of life enjoyment of the matrimonial home of the bereaved wife, husband or now civil partner, because this applies in a testate succession, which means where there is a will. The law covers the situation when somebody dies and there is no will, because in an intestate situation, that was covered in the law change made in - got to get the date right - 1993 that there is a statutory right of life enjoyment where there is no will for the surviving spouse. So that is good, but we have still got this issue about where there is a will and so we are having, I think - and I am disappointed, really - this debate on a draft law which is really a policy matter. The reasons why the Legislation Advisory Panel, who advised the Chief Minister, has said that this cannot be done, and the Assistant Chief Minister covered it in his remarks... it says that they did explore the ability that there would be a change in this area where there was a will of immovables instead of a right of a dower, but it says: "This threw up difficulties in considerations about testamentary freedom in a wider sense and more fundamentally, the nature of law in immovable property and would have entailed a far-reaching and fundamental review of the whole law of succession better suited to another phase of the panel's review." That is the only thing that you can find in that report that explains there is going to be some more work. Really, it says it is too difficult and I find that very difficult as a Back-Bench Member to just accept: "Oh well, it is better to have something rather than nothing." No, I would much sooner have the thing done properly and have this review. There is nothing in here about the timescale and so we have got real missing information in the report of the Chief Minister about what would be the intention if this law is approved as it stands and when would it come forward. My concerns were alerted when I read a *J.E.P.* article - and I copied it in your papers, page 9 in the first bundle of documents - where the lawyer challenges, this is a practising lawyer ... and having worked as a practice manager in a law firm, lawyers do not normally get involved in matters of public policy issues. They generally keep heads below the parapet in these matters. So I thought this was quite exceptional. The article says, and I followed it up, so the quotes are correct: "The States could be wasting a golden opportunity to overhaul Jersey's inheritance laws if the Assembly approves proposed changes to existing legislation, according to a senior advocate", and this advocate warned against taking a piecemeal approach to updating the Wills and Successions Law. It says: "Whilst it is admirable that the States are seeking to equalise rights of inheritance between men and women", absolutely, yes, but my point is we substitute a bad situation for both. It will be equally bad for either. She goes on to say: "...a golden opportunity has been wasted to carry out a wholesale review of the inheritance law, something that has recently taken place in Guernsey." How many times do we hear this? Guernsey have done their reviews. She said "...that it would be more sensible to have a statutory life enjoyment of the family home" because "How does it work in circumstances where the deceased spouse or civil partner only owns one property? Does the surviving spouse/civil partner have a right to enjoy only one-third of that property...?" and so on. So I think that alerted me strongly to the concerns, so I followed it up in an email exchange with her. She says: "I am concerned that this is the wrong amendment to be making, because I believe

we should introduce a statutory life enjoyment of the matrimonial home, and moreover, the inheritance law needs a substantial overhaul and it makes sense to approach it all in one go.” So there are 2 points. First of all, the question of a statutory life enjoyment, and secondly, overall reforms. Then she says: “The reforms historically have gone nowhere, except in the case of children born outside marriage” and so on. Then later on she says: “Rather than tinkering with the existing concept of *viduité*, it would have been sensible to do away with the customary law concept of dower altogether and introduce a statutory life enjoyment of the matrimonial or civil partnership home, similar to that given in an intestate distinction. It makes no sense to have a distinction between a situation in a testate succession and those in an intestate one.” So she goes on, but in order to shorten the debate, I think that really sums up the key issue that she raised. I have not copied that email, because I have given that to the Assistant Chief Minister. I had consent to do that, but not to circulate it wider. But then I approached the Jersey Law Society and I asked for a copy of their comments, because I thought: “We have had one lawyer. Let us see what all the other firms say” and you have that document, which is in pages 1 to 8 of the pack that I asked to be circulated. You will be pleased to know I am not going to do more than pick a few points from it. But the point is this is a comment of 7 law firms who are dealing with this in practice. Absolutely. We had the Assistant Minister tell us that the proposals have an evolution route of a very expert academic kind of debate. But I think what the law firms are saying in practice that there is a theme coming through, there is a strong case for a right to life enjoyment in the matrimonial home for a surviving partner. It is right and so I will not read all of those comments. They say there is no point in modernising it by converting another ancient customary law to fill a role it was never designed for. I think what they say, one point here: “Most people’s immovable of property rights will be limited to one house as dower only applies to one-third.” That is the key thing. The amendment will still leave a situation and make it universal that there will be a right of dower, which is one-third life interest to the immovable property, which is the land and building owned by the deceased. But that is one-third but the common situation is that for most people they own one home. There is one family home. Thankfully, in the majority of cases, they are the safeguards that people can use. People have those homes jointly owned or they make them subject to a will in favour of their spouse or they are not subject to a will, in which case we have the intestate rules. But in some cases, which is quite common, many marriages result in divorce and a subsequent marriage later in life where there are nearly always children and grandchildren of previous marriages. We know that in those cases having a deceased party where the surviving one receives one-third life enjoyment of her matrimonial home later in life without those protections, either being jointly owned or subject to a will, is problematic. Disputes can arise and lead, ultimately, to homelessness. That is one of the points being made in the comments by the practicing lawyers. I checked back through the States decision and, again, in 1984 that the debate there and particularly makes the point, I believe, that in 1984 this principle that I am advocating was agreed. There was an amendment by the late Senator Ralph Vibert, a very distinguished lawyer and Jerseyman, recorded in this. You do not have his amendment but I have given you the debate in the *J.E.P.* Amazing how the *J.E.P.* recorded the debates in those days. It was almost as good as the States Minutes. You can see who spoke and what they said and one assumes it is accurate and reliable. I have also copied out on the third page the debate on the amendment of the late Senator Ralph Vibert, that is in the bigger print on page 3 of the second pack. I have to confess there is a bit of ambiguity in this, that it is not clear to me entirely whether that debate was addressing the issue of the life enjoyment to the matrimonial family home, both in an intestate and a testate situation. That is not totally clear. There are certain ambiguities in the documents, mainly because of the way States did things in those days were slightly different. I think it matters not. The principle is right. If it is right in one’s circumstances it must be right for others. There is some protection for the surviving spouse who finds himself in a situation where they do not have more than one-third interest of their family home and, potentially, have to leave it. Very unsatisfactory. I asked myself,

what is the best way forward here? I had hoped that I do not have to argue against the draft law and vote against it. The Chief Minister has given us a very clear account of its evolution. It comes from an academic sense. It comes from work done by the Community Relations Trust but, of course, it is a narrow piece of work. It only focuses on one small part and ignores this larger task. For that reason the report does not give us the reasons adequately as to why these factors have not been taken into account. It does not explain why previous States decisions have not been put into the draft. It does not explain the difficulties. It does not explain the issues that need to be looked at and it does not explain what would happen in terms of when we would see this draft law if it goes ahead approved. I thought of what to do and I thought the best thing I can do is propose a reference back on the grounds that I had asked for the information I believe to be missing from this report that would then leave the Chief Minister to do further work and then we would have the option of either to resume the debate as it stands or withdraw that and produce a substitution. I think that is more constructive than me trying to do procedural moves, like move to the next item because I do not think it is right to have to vote against this. We have just got ourselves in a situation where we have gone straight to a draft law without a policy debate. I think that is not the right way. It is a difficult and complex subject. I cannot see how it is right to go into a public consultation with professional lawyers in practice and they ignore what they have to say. There is a clear consensus there. Just one last remark in closing, the Chief Minister said that we would have to do public consultation. Absolutely right. Are we supposed to be standing here passing laws that do not have any public consultation? Absolutely not. I think back to me, add it to my proposal. Sir, if I may be allowed, on the grounds of asking for reference back to receive that information I have outlined, would you be prepared to accept that reference back?

The Bailiff:

Thank you, Deputy. I do not think this is a case for a reference back because the issue is simply whether one wishes to go for a life interest, as you do, or whether to go for a dower, as the proposer does. I do not think there is any question of any further information here. It is a straightforward issue. I think, if I may say so, that you have a number of options open to you to achieve your objective. First of all, you could support this but make it clear that you want to come back later and request a more wholesale reform. Secondly, you could oppose it, do the same thing. In other words, if it is defeated you could then come back and make it clear and request them to come forward with a better reform. Thirdly, you could ask for the matter to be referred to Scrutiny if you wish or, fourthly, at an appropriate time but not now you might be able to suggest a move to the next item of business, which would then, if it was carried, result in the matter falling and no doubt the message would be received that Members wanted what you were suggesting. But I think this is not a matter for a reference back and, therefore, I cannot accept it.

Deputy J.H. Young:

Thank you, Sir. Would it be okay if I then just stopped at that point? If I chose any of those options, have I got to propose those now or could I come back later and debate when I hear what other Members have said?

The Bailiff:

No, you can propose them at any stage.

Senator I.J. Gorst:

Sir, I would never wish to question a ruling from the Chair ...

The Bailiff:

You are not going to start now. [Laughter]

Senator I.J. Gorst:

No. Indeed I am not, Sir. I am simply going to ask for clarification on your fourth proposal to the Deputy. Is it correct that the Deputy, having now spoken, is still in the position to be able to request ...

The Bailiff:

Yes, that got changed. It used to be that you could only do it if you had not spoken but under the current rules any Member can stand up and make that proposition.

Senator I.J. Gorst:

I stand corrected, Sir. Thank you.

The Bailiff:

Very well, does any other Member wish to speak? Deputy Le Fondré.

[14:45]

9.1.2 Deputy J.A.N. Le Fondré:

The reason I am rising is I was Chairman of the previous Legislation Advisory Panel. Indeed, the proposition in front of us is very similar - obviously further work was performed but I think particularly in Article 8 - to one of the last acts of that particular panel in giving a report and a proposition to the previous Chief Minister. I think it might be helpful to give some background. Obviously the problem here is this is, to anybody who is non-legally minded, all hideously complex - and I include myself in that category - in terms of understanding fundamentally because one is going back into Norman roots as well. In very much layman's terms the problems that we faced as the previous panel, as in fact Senator Bailhache has referred to, is, firstly, among various lawyers who give definitely some very strong and differing opinions. Secondly, quite a number of lawyers are trained, and I am going to be very simplistic here, in English law, whereas, as I said, obviously what we are often in this instance dealing with is Norman law and going back to very much cultural roots if you like. The significance there is that English law, and I use that phrase deliberately and I hope I will not be corrected too many times by the number of actual professional lawyers in this Assembly, in this instance is very much you can leave what you want to who you like almost and there are various safeguards, whereas European law tends to have what I will call provision for family protection and that is a little bit about what we have been talking about here. The issue is, I believe, the significant majority of European countries has - something like 20 or 22 out of the entire European Union - some form of provision. The reason I make reference to English law is that Scottish law, for example, I believe includes and I believe it is going to continue to include some form of family protection in matters of inheritance. The significance that the previous panel were faced with at the time, and the reason I make reference to it is this is about the wider review that Deputy Young is referring to, is that we had inherited something that had been sitting around for 10 years, which is the treatment of - I will use the expression - illegitimate children. It is a horrible one: children born out of wedlock is the better one I suppose. It had taken 10 years to get to the point it was presented to our panel. We then had representations again from one side of the legal bodies in Jersey about what they would prefer and then representation from another side identifying equal and opposite difficulties. The point there was that we took a view, effectively, to deal with 2 phases. One was the dealing with children out of wedlock, which was approved by the previous Assembly and I think it was in 2010, I cannot remember. Then phase 2 was the issue that is in front of us today, which was, in our view, a very simple matter of discrimination. In fact it was very much influenced by the Community Relations Trust and the report they produced. I think that is where we are because it was improving the issue in front of us from the point of view of not leaving it sitting around for another 10 years or whatever the time was

going to be. However, the point was also made in our deliberations, I am sure it will be the view of the present panel as well, is that there should be a further phase of work. In that instance I do have a lot of sympathy with what Deputy Young is saying in terms of whether that should be an issue for a further piece of work by the Legislation Advisory Panel in the future. Certainly my preference would be not to throw out this particular piece of work. It improves a matter that needed improving. It does not seek to solve every problem under the sun because if one wanted to do an overall review, bearing in mind these competing views out there in the legal profession, it is going to take a piece of work to do it and quite a long time. I know at the time we looked at it, for example, and it is a political decision at the end of the day. There was a case in the U.K. over a daughter, obviously an adult at that time, who had been caring for 2 elderly parents. The father/husband had died and the mother subsequently died. It then transpired, the way it was reported in the press, that the father was of very strong personality, I think was their way of putting it, had persuaded the mother to leave her will, and the family business or the family farm that the daughter had been extensively involved in running and caring for her parents and all that sort of stuff, had been left to a charity. If you like, she had been disinherited of the main property. That is what I call a family protection issue. The point was the concern was it became, for want of a better expression, a lawyer's charter. In that instance, my recollection is that the legal fees incurred by both sides were huge, in the order of £500,000 on each party I believe. That was why in fact we wanted to deal with ... it is a slightly piecemeal approach but, as I am trying to recall, 10 years with one matter being outstanding was unacceptable and that needed a resolution. This issue is the next issue. The Community Relations Trust were very much in favour of it: sort that one out. If there is further work to do, do that. There are other anomalies that do need to be resolved and do that in a calm and considered way. The trouble is you can try and do it all at the same time. Again, in the circumstances we were dealing with we did not think you would achieve anything in the foreseeable future. To sum that up today, my view is I agree entirely with the standing issue about the matrimonial home and the protection there, to me is very valid, absolutely. I would love to see the Legislation Advisory Panel look at that as a piece of work and come back with the recommendations that they need to. But to me I would support this particular piece of law and then wait for a further piece of work to come back, rather than delaying matters even further.

9.1.3 The Deputy of St. Martin:

Deputy Young's points are all well made but he asks us to consider a larger more general, more overall reform of this law. I think the proposition today is asking us not for that overall reform but to be more specific and to look at a current need of society, that is especially the equality between men and women. When debating more general overall reform of legislative proposals, like this law would give us, again, to huge confusion, huge complication. But today is a sort of a compromise. Deputy Le Fondré has just described the first steps that were taken a few years ago and today is a second step. As Deputy Young reminded us this all kicked-off in 1984 and I think if we had the toddlers who took 29 years to take their first 2 steps we might describe them as slow developers. Certainly we are slow developers in this case. But the previous panel made a start and this panel are making a little bit of further work. I would ask Members to approve this proposition in the hope that the further work that Deputy Young asks for can happen in the near future.

9.1.4 Senator B.I. Le Marquand:

The 1993 law came in about 3 years after I had left private practice, so I never in fact had to deal with the problems that were raised directly. But I am well aware, particularly after certainly the immovable property aspects, that it did create very strange anomalies in situations as to whether it was helpful or not helpful to make a will and that situation still exists to this day. I spent this morning trying to analyse the various different Articles of the existing law, as well as the changes. In fact got them wrong in the process and had to correct myself. But I did come to the conclusion,

as many other lawyers have done, that there is a need for a more wholesale view to be taken of this, which will be looked at in more detail. I do not think it is purely the potential life enjoyment advocated by Deputy Young for a spouse or civil partner where a will has been left. I think there are other issues as well. Having said that, I am now going to disappoint Deputy Young because having, as it was, supported in principle the fact that there is more work that will eventually need to be done, I am tempted to quote, once again, my friend Carl von Clausewitz who comes up from time to time about: "The enemy of a good plan is the dream of a perfect plan." But I do not think that is quite applicable in this case. I think this is a case of let us get on and make what is clearly an improvement, which clearly is supported by all those lawyers who have looked at it. But let us also say very politely to the Legislation Advisory Panel: "Please, carry on doing work on this because there are wider issues and a wider review that will be needed." I will be supporting the proposition but with that hope in mind.

The Bailiff:

Does any other Member wish to speak? Then I invite the rapporteur to reply.

9.1.5 Senator P.M. Bailhache:

I am grateful for those who have spoken in this debate. Deputy Young made a number of points and with many of them I have, like Senator Le Marquand, considerable sympathy. He drew attention, however, to a letter from one advocate, which was reported in the newspaper, who warned against piecemeal reform. But, of course, to substitute life enjoyment for a dower would be equally a piecemeal reform. I have the greatest respect for the advocate who has motivated Deputy Young to take an interest in this matter. But if it is correct, and I hope that Deputy Young quoted her correctly, that it was argued that there was no real distinction to be drawn between a testate and an intestate succession that seems to me to be wrong. There is an important distinction because in an intestate succession the deceased person has not expressed his or her wishes as to what should happen in the event of his or her death. The law of intestate succession, in effect, makes a will for a person who has failed to make one. In those circumstances it is obviously right that the law should look at matters in the round and decide in the interests of the spouse, in the interests of any issue, how the property should devolve. That happened in 1993 and the law made provision for a life enjoyment for the surviving spouse and a division of the reversionary ownership in any immovable property between the issue and the surviving spouse. A testate succession is quite different. In a testate succession a testator or testatrix has made a will, has expressed a wish as to what should happen to his or her property on death. The overturning of those wishes by protecting the rights of a surviving spouse is an entirely different matter. There is a spectrum, if you like, of circumstances, as Deputy Young put it, where there was a risk of homelessness and one can envisage circumstances where a surviving spouse could be put in a difficult position because he or she has only a right of dower and not a right of life enjoyment. But at the other end of the spectrum there are circumstances where married people have lived apart for 20 years or 25 years. They have not bothered to get a divorce. They are not judicially separated. There has been no question of desertion. A testator in those circumstances may have made a very conscious decision: "I am not going to make provision for this wife with whom I have not lived for 25 years. I am going to make other provisions. I am going to leave it to my favourite charity. I am going to leave it to my children or to my nephew or my niece." The question of how to resolve these conflicts in a testate succession are quite different from the issues that arise where there is no will and where the law, in effect, makes a will for you. One option is the one put forward by Deputy Young but, as I said in my opening remarks, there are a number of other options as well. I think the issue for the Assembly is very clear and a number of speakers, Deputy Le Fondré and the Deputy of St. Martin, among others, I think expressed this, does the Assembly want to take this step, which is obviously a correct step in the sense that nobody is going to argue that men and women should be treated

differently in 2013 in this context or does one leave that to one side and wait until the process of consultation, consideration and argument and dispute and, ultimately, the bringing forward of a new proposition and dealing with much wider issues?

[15:00]

I am sure I speak for all members of the panel in saying that we would be very content to take back a message from the Assembly that some of these wider issues should be examined. In that respect I am very grateful to Deputy Young for having provoked this debate and made the points that he has made. But it seems to me that the sensible way forward is to adopt this Bill, to make the change that nobody opposes and to give mature consideration to any other changes that ought to take place. I maintain the principles of the Bill.

The Bailiff:

All those in favour of adopting the principles, kindly show. The appel is called for in relation to the principles. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 38		CONTRE: 5		ABSTAIN: 0
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator A. Breckon		Deputy of Grouville		
Senator B.I. Le Marquand		Deputy T.M. Pitman (H)		
Senator F.du H. Le Gresley		Deputy J.M. Maçon (S)		
Senator I.J. Gorst		Deputy J.H. Young (B)		
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisser (S)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				

Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

This is a matter which falls within the Corporate Services Scrutiny Panel. Senator Ferguson is not here as Chairman. The Deputy of St. Ouen, I believe you are the Vice-Chairman, is that right? [Aside] Thank you. Then in terms of the Articles, Senator Bailhache, do you wish to propose them *en bloc*?

9.2 Senator P.M. Bailhache:

If Members are content that I should propose them *en bloc* I will do that and answer questions on any one of them in due course. Article 1 of the Bill is the interpretation clause. Article 2 of the Bill substitutes the Articles in relation to the abolition of *viduité* and the substitution of a right of *usufruit*. The opportunity has been taken to include in the same Article the rights that are conferred upon civil partners, so there is no difference between the rights of a civil partner and the rights of a spouse. Article 3 of the Bill amends Article 8 of the principal law to give effect again to the proposal for the abolition of *viduité*. Article 4 of the Bill is a rather technical matter involving the combination of the customary law test and the statutory test under the 1993 law in both testate and intestate successions where the court is considering whether a person should not be entitled to a *usufruit* or to dower because he or she has deserted the deceased spouse or is otherwise undeserving of the privilege. Articles 5, 6, 7, 8, 9, 10 and 11 give effect. Insofar as Article 7 is concerned is the Article that abolishes the widower's entitlement to *viduité* and also abolishes the rule that requires that consummation of a marriage should take place before a dower can be earned. I propose the Articles of the Bill and would be content to ask me any questions.

The Bailiff:

Numbers 1 to 11 in the Schedule.

Senator P.M. Bailhache:

I propose the Schedule as well, the Schedule which, I am sorry, makes consequential amendments to other laws, in particular to the 1880 law on real property. Translation of the amendments is available for the benefit of Members and I move the Schedule as well.

The Bailiff:

Seconded? [Seconded] Does any Member wish to speak on any Articles 1 to 11 or the Schedule? All those in favour of adopting the Articles, kindly show. Those against. The Articles and the Schedule are adopted.

9.3 Senator P.M. Bailhache:

I move the Bill in Third Reading, Sir.

The Bailiff:

Seconded in Third Reading? [Seconded] Does any Member wish to speak in Third Reading? Deputy Young.

9.3.1 Deputy J.H. Young:

Just to say that it was with reluctance I cast my vote against but I feel I have got to maintain my position that we should be doing this further review. I am grateful for the remarks made there, that I can only hope that we will see new proposals come back but I maintain my opposition for consistency.

9.3.2 Deputy R.G. Le Hérissier:

In a possible example of hope over experience, I wonder if the rapporteur can tell us when he will be proposing the broader-based reforms.

The Bailiff:

Does any other Member wish to speak in Third Reading? I now invite the rapporteur to reply.

9.3.3 Senator P.M. Bailhache:

I understand Deputy Young's position completely. So far as Deputy Le Hérissier's optimistic request is concerned, I can say no better than that the panel will apply itself to the task and we shall see to what extent there is agreement as to the way forward. If there is agreement then clearly matters can be advanced more quickly. If there is not agreement then these things do take time. I maintain the Bill.

The Bailiff:

Very well, all those in favour of adopting them in Third Reading, kindly show. The appel is called for in Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 39		CONTRE: 4		ABSTAIN: 1
Senator P.F.C. Ozouf		Connétable of St. John		Senator S.C. Ferguson
Senator B.I. Le Marquand		Deputy of Grouville		
Senator F.du H. Le Gresley		Deputy J.M. Maçon (S)		
Senator I.J. Gorst		Deputy J.H. Young (B)		
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				

Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

10. Approval of the Memorandum of Understanding between the Government of Jersey and Her Majesty's Revenue and Customs of the United Kingdom of Great Britain and Northern Ireland relating to Co-Operation and Tax matters (P.55/2013)

The Bailiff:

Very well, then we move next to Projet 55, Approval of the Memorandum of Understanding between the Government of Jersey and Her Majesty's Revenue and Customs of the United Kingdom of Great Britain and Northern Ireland relating to co-operation and tax matters, lodged by the Chief Minister. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether of opinion to approve the Memorandum of Understanding between the Government of Jersey and Her Majesty's Revenue and Customs of the United Kingdom of Great Britain and Northern Ireland relating to co-operation and tax matters, as set out in the Appendix to the report of the Chief Minister dated 18th April 2013.

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

As Members will know from reading the propositions P.55 and P.56 are dealing with the same issue. The Memorandum of Understanding is part of a package of proposals that we have agreed with the U.K. to help combat tax evasion. We have made it clear that we have no wish or need to accommodate those engaged in tax evasion. We have agreed to enter into an agreement with the U.K. which will provide for the automatic exchange of information. This will mirror the F.A.T.C.A. agreement we are negotiating with the United States. The disclosure facility that the M.O.U. (Memorandum of Understanding) and the associated regulation - that is P.56 - refer to is an opportunity presented by the U.K. for those U.K. resident taxpayers concerned to regularise their tax affairs ahead of the automatic exchange of information. Jersey's sole involvement in this matter is to respond to the U.K.'s request that our financial institution should be required to inform their relevant customers of the existence of the disclosure facility and to remind them again 6 months before the facility is withdrawn in September 2016 and this is what the draft Regulations are designed to do. Therefore, I commend the M.O.U. to the Assembly for approval.

The Bailiff:

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

10.1.1 Deputy M. Tadier:

My question is for the Chief Minister and I think every Member in the Assembly wants to sign-up to this but there will obviously be consequences for that. Who defines what is illegal? Who defines what is evasion at any one given point in time, given that we know that we live in an ever changing and increasingly sick world where people catch colds and then come to work? But we also live in a world where the definition of avoidance, aggressive and evasion changes all the time. My question to the Chief Minister is, when Jersey signs-up to these agreements in good faith with the U.K., meaning that they can find out what structures are going on here on the basis that we want

to also fight evasion, how do we know that in 5 years' time the U.K. will not turn around and say: "What used to be perfectly legal we are changing the definition now, so it is now evasion and it is now illegal" and they will be perfectly able to come in here and close these, what were previously perfectly legitimate and legal avoidance mechanisms down because they will have the information to do that?

10.1.2 Senator P.F.C. Ozouf:

I am conscious that the Chief Minister was on his feet in Question Time quite a lot and this morning, trying his best to explain to Deputy Tadier the difference between evasion, aggressive tax avoidance, tax planning and tax competition. I do not know whether or not I can assist the Chief Minister. How many times do we have to explain to Deputy Tadier, who has been, of course, explaining his views of what is right and what is wrong in other places? Tax evasion is illegal. There is not a thin difference between it. Tax evasion is illegal, that is people dishonestly stating on a tax return incorrect information or not declaring information. The Deputy is correct in saying that sometimes some schemes that are put forward as being legal are found by courts to be illegal and H.M.R.C. (Her Majesty's Revenue and Customs) is regularly challenging schemes in the U.K. and they then fall within the definition, which is illegal or the Revenue shut them down. Deputy Tadier is constantly testing this issue and perhaps it is understandable. Perhaps we need to do more to explain what aggressive tax avoidance is. The fact that we in Jersey do not welcome aggressive tax avoidance, that is absolutely clear and we are going to be doing more with the Business Conduct Committee, as the Chief Minister explained, on that issue. This agreement is about those people who might and I believe that it is limited but time will tell. They are identical to the agreements that have been signed by also the Chief Ministers of the Isle of Man and Guernsey. They cover what is clearly evasion, that is people coming forward having not declared income that they should have done. This is not about tax competition. Tax competition is a good thing. Deputy Tadier might not agree with that and he is nodding, so I am pleased we now agree that he does not believe in tax competition. This is about evasion, evasion being clear and being upheld by court judgments, the Chief Minister has said. I agree with the approval of this agreement. This agreement puts beyond doubt Jersey's position on tax evasion, which, in this jurisdiction, is, of course, illegal and it is a good opportunity for us to state quite clearly that Jersey is not a tax haven that accepts tax evasion and this agreement strengthens that position. I hope that helps Deputy Tadier and I hope that perhaps another person trying to explain that actually that will help.

Deputy M. Tadier:

Can I seek clarification of the last speaker? Did he say that Jersey is not a tax haven that accepts tax evasion? Is that the words he says?

Senator P.F.C. Ozouf:

Absolutely, would the Deputy like me to say it again because we have said it a lot over the weekend? Jersey is not a tax haven and we do not have tax evasion in Jersey. It is an illegal offence and has been since 1999, as the Money Laundering Offence Order clearly makes out.

[15:15]

Deputy M. Tadier:

It is just because I am sure Hansard will record that he said Jersey is not a tax haven that accepts evasion, it is the other type of tax haven.

The Bailiff:

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

10.1.3 Senator I.J. Gorst:

Perhaps I could start by thanking the Minister for Treasury and Resources. I did thank him in an earlier comment that I made but I think he was out of the Assembly making an important speech, so I thank him again for his support, together with my international adviser over the weekend. Deputy Tadier, his intervention was, I am afraid to my way of thinking, somewhat surprising. I thought he had, after recent comments, got a good grip on the difference between evasion, aggressive avoidance and straightforward tax planning but this afternoon he seems to have muddied the waters once again. The law of the United Kingdom will determine what is illegal and what is not with regard to this disclosure facility and this M.O.U. As we know, every jurisdiction is entitled to change its law as its legislative assembly or parliament sees fit. But let us be absolutely clear, tax evasion has been a criminal offence in Jersey for many years and, therefore, as a government, we do not expect that this disclosure facility will give rise to many disclosures but we have agreed to it nonetheless. To put beyond doubt, as the Minister for Treasury and Resources says, our commitment to fighting tax evasion around the globe and not wanting Jersey to be used for the purposes of anything illicit or for tax evasion. Deputy Tadier also seems to forget that interpreting legislation and the more complex a tax code is the more difficult it is to interpret. That only, some might say, fortunately, certainly on this rear bench of the Senators, we would think fortunately gives good work to accountants and lawyers interpreting those tax codes. Others may not think so. I hope that Members will approve the signing of this M.O.U.

Deputy M. Tadier:

May I seek further clarification because the Minister has given me the answer I wanted, which says that the U.K. will determine whether something is illegal? Where does that leave Jersey companies who may, in good faith, set up schemes that they believe to be perfectly legal and legitimate one day, only for the U.K. to turn around and say: “We have decided this scheme constitutes tax evasion now, therefore, we want all of the details of your clients from this particular company, the beneficiaries from this particular trust” and that will give a bad reputation to Jersey when they have been acting within the law as it was at the time? How does the Chief Minister respond to that?

Senator I.J. Gorst:

This covers U.K. residents, U.K. taxpayers and their liability to such. Of course, schemes are developed and advised upon in the United Kingdom. They receive counsel advice. They are approved by H.M.R.C. and, from time to time, as the U.K. changes its legislation, they are then challenged through the U.K. courts. That is a normal process of legislators making laws, judiciaries being used to judge upon them. I am not quite sure what the Deputy is suggesting might happen otherwise.

The Bailiff:

Very well, all those in favour of adopting the proposition, kindly show. Those against. The proposition is adopted.

11. Draft Taxation (Implementation) (Disclosure Facility) (Jersey) Regulations 201- (P.56/2013)

The Bailiff:

Then we come to Projet 56, Draft Taxation (Implementation) (Disclosure Facility) (Jersey) Regulations 201- lodged by the Chief Minister and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Taxation (Implementation) (Disclosure Facility) (Jersey) Regulations 201-. The States, in pursuance of Article 2 of the Taxation (Implementation) (Jersey) Law 2004 and following the

decision of the States, taken on the day these Regulations are made, to adopt P.55/2013, made the following Regulations.

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

As I said, when introducing the disclosure facility, this simply gives effect to our requirements under that disclosure facility with regard to financial intermediaries making their clients aware of this facility, both now and 6 months before it is terminated, which is 30th September 2016.

The Bailiff:

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles? All those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel?

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

No, Sir.

The Bailiff:

Do you wish to propose the Regulations 1 to 3, Chief Minister?

11.2 Senator I.J. Gorst:

If I may, Sir, yes and if any Member has a question I will endeavour to answer it.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Regulations 1 to 3 or the Schedule? Very well, all those in favour of adopting Regulations 1 to 3 and the Schedule, kindly show. Those against. They are adopted. Do you propose the Regulations in Third Reading?

Senator I.J. Gorst:

If I may, Sir, thank you.

The Bailiff:

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

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

That completes Public Business. We then move on to Arrangement of Public Business for Future Meetings and I invite the Chairman of the P.P.C. to speak to it.

12. The Connétable of St. Helier (Chairman, Privileges and Procedures Committee):

I have not been advised of any changes to the Arrangement of Public Business, as set out under M on the Consolidated Order Paper. I would perhaps draw Members' attention to the fact that on 16th July, our last scheduled sitting before the summer recess, they have been asked to reserve the whole of that week from Tuesday for States business because there is a lot to get through and to give advance notice that I will be seeking to place P.64 at the head of the agenda, which is the implementation of the Electoral Commission and the referendum. That can be dealt with as the first item of Public Business at that session.

The Bailiff:

Very well, does any Member wish to speak on the forthcoming business? Chief Minister.

12.1 Senator I.J. Gorst:

Just as a courtesy I would like to inform Members that unfortunately I will not be in the States at the next sitting when I am due to be taking Questions without notice because I shall be in China. The Deputy Chief Minister will, of course, be answering Questions without notice but I thought I should just notify Members because they seem to have gloried in asking me a great deal of questions in this session and I will not be able to answer them in person at the next, should they wish to do the same.

The Bailiff:

Senator Le Gresley, did you wish to intervene?

12.2 Senator F. du H. Le Gresley:

I think the Chief Minister may have answered my question but it concerns me that P.76 has to be lodged in 6 weeks, which is the appointment of the Chairman for the Committee of Inquiry into historical abuse... 4 weeks. Does that take us to 4 weeks? It cannot be debated before. No, and that answers my question.

The Bailiff:

Does any other Member wish to say anything? Deputy Baudains.

12.3 Deputy G.C.L. Baudains:

Yes, I was just wondering if the Chairman of the P.P.C. could meet with the various people concerned and perhaps seek to bring forward any item, if possible, from the 16th to the 2nd and obviously notify us within the next few days if that is possible because I am getting concerned about the agenda for the 16th.

12.4 The Connétable of St. John:

Prior to the next sitting, could the engineer sort out the air conditioning in this Chamber? Currently it is 27 Celsius. We are more or less finished, I was going to ask if we can remove our jackets because I understand the system is not working within the building. As the summer progresses we will need to either remove our jackets or get the system working.

The Bailiff:

But you will end up with a very lean Connétable of St. John. **[Laughter]**

The Connétable of St. John:

Very true, Sir.

The Bailiff:

Does any other Member wish to say anything? No. Very well, Connétable, do you wish to respond to anything said?

The Connétable of St. Helier:

I will certainly see if we can take forward the suggestion by Deputy Baudains.

The Bailiff:

Very well, are Members content to adopt the schedule for the forthcoming business as in the Order Paper? Very well, that concludes the business of the Assembly. We will reconvene on 2nd July.

ADJOURNMENT

[15:25]