

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 12th SEPTEMBER 2012

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[9:30]

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

PUBLIC BUSINESS – resumption

1. Incorporation of Ports of Jersey (P.70/2012)

The Deputy Bailiff:

We now resume matters of public business with P.70/2012 Incorporation of Ports of Jersey lodged by the Minister for Economic Development. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion (a) to approve the incorporation of Jersey Airport and Jersey Harbours as a single limited company, wholly owned by the States of Jersey, to be known as Ports of Jersey, as set out in the attached report; (b) to request the Minister for Economic Development to make the necessary action to prepare for incorporation, including the preparation of legislation for the Assembly's consideration, with a target date for achieving incorporation of 1st January 2015.

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

Good morning. [Laughter] Let us hope so. Some Members may recall that the States established 4 trading entities back in the early 1990s. Those were Jersey Telecom, Jersey Post, Jersey Airport and Jersey Harbours. Since that time, Jersey Post and Jersey Telecom have gone on to be incorporated with significant success and notable benefits for the Island, including strong returns for the shareholder, the States of Jersey of course, and enhanced services and more competitive pricing for local consumers. This proposition seeks to build on the valuable experience, lessons learned and success gained from those earlier incorporations. It seeks Member support to undertake the necessary work to fully prepare Jersey Harbours and Jersey Airport for potential incorporation. Perhaps it would be helpful at this point if I state what this proposition does not represent. It does not represent privatisation or, as some might put it, selling the family jewels. Indeed, there is little or no material asset disposal assumed in the programme. It does not represent any intention whatsoever to move away from the public service obligation of maintaining and operating outlying harbours across the Island, or from the existing commitment to fund and operate the vital coastguard service which is expertly delivered by our staff. Another emotive yet vital point is that it does not represent a mandate to increase charges to users of the airport or the harbour. Indeed, the assumption in the financial analysis set inflation at 2.5 per cent per annum and, by exception, the airport dues are forecast to increase by inflation minus 0.5 per cent. Incidentally, the commercial harbour dues have been frozen for the last 2 years, and it is anticipated that they will be in 2013 as well. An incorporated Jersey Airport and Jersey Harbours will continue to play their role in maintaining Jersey's competitive advantage. Finally, this proposition does not, in any way, represent the final word on incorporation. That is because this proposition is, by default, an in principle decision until the legislation to which it refers comes to this Assembly for consideration and approval in 2013 or 2014. That proposition will contain the detailed case and legislation for incorporation. Let me turn briefly to remind Members of the scale of these 2 entities. Today, Jersey Harbours and Jersey Airport are very substantial businesses, employing over 200 people, with a combined revenues of £43.7 million. In 2011 the ports handled the movement of 2.2 million passengers and 488,000 tonnes of freight and fuel. In addition to the commercial port activity, Jersey Harbours provides marinas and moorings for local boat owners and visitors. Jersey Airport provides a comprehensive network of commercial routes, facilities for business aviation and for the local and visiting aircraft. The strategic importance of our ports requires the highest possible standards of commercial and operational governance and management. For many years

there has been criticism that our ports were not as efficiently managed and operated as they should have been. Many of these criticisms may well have been unfounded or unjust. However, it is clear that there are always other ways, and perhaps better ways, to manage and operate any organisation to enhance its performance. That is why, following a thorough review of these businesses, I was able to announce in July 2010 in this Assembly my intention to appoint a shadow board. This was a critical step to improve the long-term performance. The intention was to appoint a quality board comprising of highly-qualified professionals with private sector, maritime, aeronautical and business expertise to oversee the operation of these 2 substantial businesses. Following their appointment in late 2010, I formally asked the shadow board to advise as to the most appropriate future structure for these businesses. Following a thorough commercial evaluation, that advice firstly led to the appointment of a Group Chief Executive. The aim was to bring the 2 organisations more closely together under a single leadership point to be more efficient and more cost-effective. That objective is now well advanced and has already delivered significant productivity improvements and cost savings of around £1 million a year. Remarkably, it has been achieved in less than 12 months and with little fuss, as staff have been taken along as an integral part of the process. As a result, today the ports have one finance team, not 2; one H.R. (Human Resources) team, not 2; one I.T. (Information Technology) team, not 2; one operations team, not 2; one commercial team, not 2; and one customer service operation. Through this consolidation of the management, we have increased the ability to identify best practices that can be applied to the Harbours and Airport businesses. Critically, the process started from the top down and was fully transparent. It is the way this change programme has been constructed and managed that sets it apart from previous attempts to change the structure of our ports. A great deal of hard work has taken place over the past few years to enhance the financial position, and incremental improvements have been made. But, be absolutely clear. More needs to be done to deliver sustainable commercial operations that will not represent a potential future drain on the public purse. As a result of the work that has been undertaken since 2010, there is a much greater understanding of the actual financial position of the ports. Importantly, there is a much better understanding of the future revenue forecast, the long-term capital programme and future funding requirements than at any time in the past. The lack of such robust management information was another critical reason why a change in structure of the ports was not progressed previously, despite being discussed for many years. While the work on the capital programme has been undertaken by the Harbours and Airport operational and financial teams, it has been independently validated by Capita Symonds. The information has been used to develop a combined long-term 20-year financial model. The financial model, which is summarised on page 8 of the report with detail being provided under appendix A, also indicates a cumulative return to the States of Jersey of £76 million by 2032. While that sounds impressive, perhaps even dramatic, it should be noted that both revenue and costs increase at an average of only 3 per cent per annum over the 20-year plan period, which is both prudent and conservative.

[9:45]

In addition, Parishes will benefit from the receipt of occupiers' rates payable by the incorporated body, a point I am sure that will bring a smile, at the very least, the Constable of St. Helier. Unfortunately he is not here, **[Laughter]** but one remains optimistic he might be listening. Members will note, though, we do have the Constable of St. Peter who is smiling, and of course the airport sits in St. Peter and he will also be the recipient of such rates, so good news for the Parishes. An incorporated Jersey Harbours and Jersey Airport would be a financial as well as a strategic asset to the Island. As an incorporated body the ports can grow, in part, through prudent management and development of the assets under their control. Not, I may add, by raising charges to users to an unacceptable degree, and not, I may further add, by selling assets. The 20-year plan only includes one potential disposal, which is La Folie, with the process for any such sale to be set and clearly

defined with shareholder agreement. The shadow board, appointed very early in the process, has provided a positive influence in defining the future direction and improvements in current operations. The appointment and quality of the shadow board is another factor why this time it is so different to previous attempts at restructuring. The integrated organisation has worked across the States to develop this proposition, in particular with the Department of Treasury and Resources, Property Holdings, Law Officers, law draftsmen and colleagues at S.o.J.D.C. (States of Jersey Development Company). Any organisation is only as good as its most important assets, its people. The workforce of Jersey Harbours and Jersey Airport have been actively and positively engaged in the change process. Again, a critical factor that did not happen in the past. You cannot change anything successfully unless you take people with you. Importantly, staff have helped in setting the direction of the integrated businesses and, importantly, the development of this report and proposition. The programme of integration of the 2 organisations means that the green shoots of positive culture change can already be seen across the organisation. In addition, there has and will continue to be a constructive dialogue with the trade unions. Some understandable fears have been raised by the unions in a recent letter. I have hopefully addressed and dispelled these. In particular, staff would transfer from the States of Jersey to the incorporated company on their existing terms and conditions, including pension rights. Based on all the work that has been done to date, I am confident that incorporation of these trading operations is the most effective mechanism for delivering significantly improved performance above what has already been achieved. It is the most effective way to make the next important step change. Incorporation will enable the potential of these strategic assets to be fully realised. The alternative would be to do nothing and to endorse the status quo. While in such a scenario further small incremental improvements in performance may be possible, the current governance arrangement is the antithesis of a commercially agile organisation. We are seeking to provide a culture to capture lost opportunities and maximise the financial and non-financial returns which could be provided by a more commercially agile Ports of Jersey. I mentioned earlier this proposition is not the final word on incorporation. Indeed, what today's proposition seeks is States approval to incorporate and the endorsement of States Members to undertake the work outlined in the report to prepare detailed plans, legislation and regulation for further approval by this Assembly. Only if such approval is forthcoming in 2013 or 2014 would it be possible for an incorporated Ports of Jersey to be created. Staff from Harbours and Airport have undertaken an extensive briefing and consultation exercise with all stakeholders. I would like to thank all Members who were able to take the opportunity of attending the detailed briefings on this proposition. Those who have will appreciate the extensive analysis that has been undertaken to arrive at the recommendations captured in this proposition, and the passion shared across both organisations to realise the benefits for the Island that incorporation could bring. I hope Members will share my enthusiasm that the future of an incorporated Harbours and Airport will offer the most effective structure to safeguard our vital transport assets long into the future. It will offer the greatest opportunity for business development and revenue growth in a way that would be difficult to achieve under the existing structure. A successful, sustainable, commercially-focused organisation is far less likely to be a future drain on the public purse. In fact, as the 20-year plan highlights, it can be a valuable contributor to States revenues and an important contributor to wider economic success for the Island. The shadow board, the senior management team and, I believe, the majority of staff support the next step on the road towards incorporation. Clearly a great deal more work is required to prepare the detailed case and legislation for the incorporation debate of 2013 or 2014. But everyone concerned needs the confidence that this Assembly is fully supportive of the intent to move in that direction. I urge Members to give the vote of confidence to management and staff at our ports by supporting the proposition so that work can begin in earnest to prepare the full business case and the legislation.

The Deputy Bailiff:

Is the proposition seconded? **(Seconded)** The Deputy of St. Martin.

Connétable J.M. Refault of St. Peter:

If I may, can I just ask for your ruling? As St. Peter and St. Helier have a direct pecuniary interest in this incorporation going through, would you rule that we should retire from the chamber?

The Deputy Bailiff:

You do not have a personal financial interest, Connétable, as far as I understand it. You are talking about the rates that will come into the Parish.

The Connétable of St. Peter:

Absolutely, and as a point of clarification also, we will not only get occupier we will also get the Foncier rate as well. Thank you for your ruling, Sir.

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

This proposition is about meeting the challenges in the future. It is about moving forward. It is about moving quickly and it is about taking opportunities. Before I speak about Jersey Harbours and Jersey Airport I will just refer Members back to a presentation that some of us attended when Jersey Telecom put up their financial forecasts some months ago. I would venture to suggest that the performance of Jersey Telecom would never have been achieved if it had stayed in States management. How does this incorporation of Harbours and Airport differ from Jersey Telecom and Jersey Post? I think the big difference for most Members will be the actual tangible assets you can see. Jersey Telecom have the old exchanges; they have staff and infrastructure; and Jersey Post similarly, with post office and vans, and people work for them. But Jersey Harbours and Airport have large areas of our Island and, quite rightly, many people question what they will do with these crown jewels, as they are so rightly described many times. Some Members will say that the proposition does not contain enough detail and my Scrutiny Panel certainly agreed with that. This was pointed out to the department and we had 3 or 4 meetings, including meetings on site, to discuss with the officers elements of the proposition that we have before us today. I might just list a few of those questions and bring them to Members' attention so that they can be satisfied about some of the items we have looked into. I would like to think they are the sort of things they too would have questioned or answered. We questioned the figures and the reports behind the proposition. We felt there should be more. But we were highlighted to reports by various companies in 2004, 2005, 2008, and, in particular, as the Minister said, the most recent report from Capita. We asked about the cash return to the States over the 20 year period and how easy that would be to calculate. We were satisfied that had been done properly. A lot of concern has been raised over the historic harbours, and again, when you come from a country Parish, most country Parishes have their own small harbour and we are all very keen to make sure they were going to be looked after properly in the future. The Harbours and Airport proposition also supplied my panel with maps of every historic harbour. We also asked for the boundaries where the responsibility would cease and where it would start, and we questioned the level of money that they have attributed in their report to historic harbours over the coming years. We were satisfied that major - and I mean major - millions of pounds have been spent and will be spent before incorporation maybe happens, especially in St. Aubin and in the coming months in Gorey. We feel that the historic harbours probably will be in as good a position as they can be before we incorporate. We asked specifically about the red line and I hope Members have looked at the red line on the maps around St. Helier harbour and the airport. We asked specifically about the red line around St. Helier harbour and I personally wondered why it had not been extended further. I had visions for a new harbour south of where we currently are, and I questioned why that line had not been extended into the reclamation site. I am satisfied with the answer. We asked for a list of all the Harbours' and Airport's property. Because, like me and my panel, I am sure Members will have seen a

harbour and an airport listed but know that there are a huge number of other bits of property which they own. We were provided with an extensive list of values and responsibilities that Harbours and Airport have for those buildings, and we were guaranteed that there was only one particular site at La Folie which may be the subject of disposal in the coming years. We were concerned some of these outlying buildings would be sold off. We have been assured that is not the case. We asked for an assurance about the transfer of liabilities. We want to make sure that any liabilities which Harbours and Airport currently have are transferred to the incorporated body and I have some detail here about how that will be done. We asked for more information, and quite possibly this is one of the most important questions, about the control of the States over the incorporated body. I think if there is one lesson that has been learnt about the incorporation of Jersey Telecom and Jersey Post, it is a necessity for the legislation to be written before the incorporation takes place, and not the other way round. We need to remember that this legislation is not finalised yet and will have to come back for ratification. Finally, I mention the concerns of local boat owners who feel that their mooring charges over the last few years have gone up, far exceeding the inflation rate. We have had an assurance that this incorporation is the best way for those local people who use the harbours and airports to see that their mooring rates and the facilities they are charged for stay at a low level. Because if we carry on as we are, the only way that the Harbours and Airport have of increasing their income is by charging. I am satisfied that the work done so far is sufficient to bring this, as the Minister says, in principle proposition to the House today. I think it may well have been foolhardy to spend many more months and thousands of pounds preparing an even more detailed proposition, only to have it rejected. I still have questions and I look forward to being able to put those to the Minister and his officers and in reading the reports, even most recently, I have come up with some items that I will question. One concerns the cost of replacing the LO/LO or the “load-on/load-off” facilities on the New North Quay in another part of the harbour. There is a figure in the report which I find astronomical and I will want to find out why it is going to be so expensive. I would like to assure Members before I close that at this stage in this proposition certainly the Scrutiny Panel are well satisfied and would like to see this move forward as quickly as possible.

Deputy M. Tadier of St. Brelade:

May I seek clarification from the last speaker if he accepts it? It is regarding the comment he gave there that the panel were satisfied with the answer they received as to why the red line around the harbour only extended as far as it did. But he did not inform the Assembly what those reasons were and I think we are all waiting with bated breath. Would he be able to follow on from that?

The Deputy of St. Martin:

We were satisfied at the time that the area inside the red line is what Harbours require at this moment in time. We are assured that there is a principle in place for the transfer of States property from one department to another, and that if the harbour needed to be extended further south in the future, this process could be enabled.

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

I would just like to make a few comments on this, and I am pleased to follow the Chairman of the Scrutiny Panel because I want to say that I am disappointed to have heard what he said today, rather than have it presented to us in some form of report.

[10:00]

Clearly, the panel has been busy. I know the Medium-Term Financial Plan has taken up a great deal of time. But I would have expected something as important as the incorporation of the Harbours and Airport to have necessitated something being presented to the House by the Scrutiny Panel. I have been chairman of a panel myself, and I am sure that had this been in front of us, we would have put something in writing. I say this because the Chairman has said: “I am satisfied, I

am satisfied”, but there are also questions that he still wants to ask. I think it is an opportunity missed from the panel. I have a couple of other comments on a more positive note. First of all, I do not have any problems with the intention behind the incorporation. I have attended a couple of presentations and have been satisfied myself with what I have heard. I am not sure whether I missed it but I do not think I heard the Scrutiny Panel Chairman mention the employees when he spoke. This is a concern of mine and, I am sure, of many other Members, because we do not have any T.U.P.E. (Transfer of Undertakings (Protection of Employment)) legislation in place, and I think it is remiss of us all to expect this to be carried through when there is no guarantee of protection to the employees in legislation. I think we have been given guarantees by the Minister today, but there is nothing in law to protect the employees. I am disappointed to read on page 4 of the proposition that the Policy and Resources Committee report *2000 and Beyond: Strategic Policy Review*, which was endorsed by the States in 1995, sought an in principle approval for the incorporation of Jersey Harbours and Jersey Airport. So, it was approved by the House in 1995. Everyone was aware that this was on the books. The intention is that it will happen and yet no one has married up the fact that there is no legislation to protect our States employees. They are employees of the States of Jersey at the moment. That was touched upon in the letter from the Civil Service union and Unite. So, I want concrete guarantees today from the Minister that, although he has told us this is an in principle proposition, I do not see the words “in principle” in the proposition itself. Clearly it is not in principle because we are being asked to approve the incorporation of Jersey Airport and Jersey Harbours; to approve. This is not in principle. This will be a done deal if we support it today. So, that is my problem, Sir and Minister, and I hope you will be able to answer this. I do not have a problem with the in principle thought behind this. I accept that improvements will be made. I accept that improvements have been made and we have heard already that savings of £1 million have been made since the shadow board has been in place. The Minister needs to assure me and, I am sure, other members that the staff will not have detrimental terms and conditions imposed upon them if this goes ahead. I would also like him to explain how long he thinks it will be before the culture change that he has referred to is going to be met. We keep hearing about the hospital improvements needing to be made. There will be or should be a culture change and we keep hearing this is going to take many, many years. The Minister referred to a positive culture change. If there is a positive culture change there already after a year of the shadow board, how has this been reflected in the service delivery for the general public? The Minister said that the Assembly should be fully supportive of the intention to incorporate and I reiterate that I believe I am almost fully supportive. I have reservations about the transfer of our States employees to the incorporated company and I hope that Members will give that some thought when they decide whether or not to support what we have been told is an in principle proposition that, if we read the wording of it, is clearly not in principle at all.

1.1.3 Deputy S. Pinel of St. Clement:

While I understand the reasons behind incorporation and the need for a greater commercial focus, and will therefore be supporting the proposition, there are 3 points that I would like to be clarified. Detailed business plans have not been included in the proposition. Can we be reassured that the business plans for growth are robust and achievable? For example, bulk buying of fuel to potentially encourage customers to refuel in port may not compensate for high landing fees. The considerable assets that will be transferred on incorporation to the new company play a big part in the forecasted income stream. How has the value of these assets been assessed? Is it on current value or projected development of these assets? An example is La Folie at the old harbour, which the Minister mentioned earlier. As another example, upon incorporation all the rentals for units at the Harbours and Airport increase significantly, forcing, for instance, fishermen out of business. I understand that many of the leases are due for renewal next year. With acknowledgements to the concerns of the Jersey Civil Service Association, Prospect and Unite, the States will have the

opportunity to debate and vote on the Harbours and Airport law after incorporation. I hope there will be continued efforts to address their concerns. Every economy in the western world has growth based on projections; it has not worked. My concern is that Jersey Airport is a destination, not a hub airport, and that makes a difference to the growth forecasts.

1.1.4 Deputy S. Power of St. Brelade:

Broadly speaking, I would say to the Minister for Economic Development that the time has come to move towards incorporation. But I have a number of questions which perhaps he can answer in his summing up. It relates to what the Deputy of St. Martin said, but it relates also, more specifically, to what the Constable of St. Lawrence said. When I read the title of P.70 it says: "The Incorporation of Ports of Jersey", but in terms of the ports, the incorporation of what? I ask Members to bear with me while I go through the text of this. There are a number of references to assets in the text of P.70, beginning on page 5. "The process of incorporation will transfer the defined assets from the States of Jersey into the ownership of the 100 per cent States-owned company." 100 per cent States owned: that is our first assurance. On page 6, paragraph 3.5: "The Ports Estate. There is a clear need to preserve the integrity of the ports and the operational integrity of the States to ensure the ports can adequately address future demands." So, there we have a second reference to the Port estate. The next reference is on page 7 "Customers"; the second paragraph: "Incorporation will allow the ports to leverage their asset base for development and growth." Then, on page 8, we have "Heritage Services", the Island's historic harbours which I know will include all the harbours of the north of the Island; Bouley Bay, Bonne Nuit, Rozel, Grève du Lecq and then St. Aubin, Gorey and St. Catherine's and all the rest. But it seems to me that, as I read through this, there is very little reference apart from the Parishes. It refers on page 10, paragraph 4.5, to the Parishes of St. Helier and St. Peter, but there are a great deal of Parishes that are involved in the Ports of Jersey and I wonder why they are specifically focusing on St. Helier and St. Peter. On page 12 "Property", it says: "All relevant land and buildings owned by the public and under the operational control of Jersey Harbours and Jersey Airport at the point of incorporation will be transferred to the Ports on a basis to be negotiated and agreed with the Minister for Treasury and Resources." Good luck on that one. What I would like to know is: "It is proposed that the assets to be transferred as described in appendix C", and if Members go to appendix C on page 24 and 25, all we have is a map of the airport operational area, and on page 25 we have a map of the port operational area. I would say to the Minister, to say in the last sentence: "It is proposed that the assets to be transferred as described in appendix C" is not very accurate. I do really want to support the incorporation of the Ports of Jersey, but what are we incorporating? My point to the Minister for Economic Development and his Assistant, Deputy Baker, is that we really could have used a fixed asset schedule as to what we have, as distinct from the existing operating income profit base or projected operating figures for the Ports of Jersey to be incorporated. I feel that the Deputy of St. Martin has given us some comfort that his Scrutiny Panel, and I respect his Scrutiny Panel and his work on that Scrutiny Panel, that we really are missing a key component of this report and proposition. I really want to support this incorporation; I really do. So, I would suggest to the Minister for Economic Development that in his summing up he may want to refer to some of my queries on this and to give States Members who want to support this some comfort as to what we are incorporating. I think it is very important that the schedule of fixed assets, and particularly the schedule of historic and heritage ports, is dealt with, and how his team at the Port of Jersey as it is will schedule these historic assets, how they will schedule and list these heritage assets and how they define what is included in St. Aubin, Grève de Lecq, Bonne Nuit, Bouley Bay, Rozel, St. Catherine's, because some of these areas have potential, in my humble opinion, for development, particularly if one looks at the land area of, say, St. Catherine's; I mean commercial port development. Also the Deputy of St. Martin made relevant reference to the red lines, and if we are to have an expanded commercial port of St. Helier which

may go south towards the Dog's Nest, There is absolutely no reference as to what fixed assets may be needed to do that in the future. In summary, I have reservations about appendix C. There is a great deal of information that should be in this but is not in it, and I really want to support it so I am hoping, hoping, hoping that the Minister for Economic Development and his Assistant will give me some comfort.

1.1.5 Deputy G.C.L. Baudains of St. Clement:

I recall several years ago under the committee system of government that it was proposed before we went into ministerial government to incorporate Harbours and Airport for the simple reason it did not fit within ministerial government. I do not know whether much has changed since then, but in the end it got bolted on to Economic Development as the only place it could comfortably sit. Regarding the incorporation, I do not have a great deal of problem with it, but not with the possibility of loss of accountability. For instance, I have attended the various presentations and I am very pleased to see that the management structure has been improved, because it was at one stage quite unsatisfactory.

[10:15]

I am glad to see that the financial accounting system is now one that people from outside Harbours can understand as well. It was dire before. But, as I said, my concerns are basically around accountability. At present, if a Baudains has problems, his focal point is the Harbourmaster, or it used to be until recently. Whenever the public has problems with a ferry or whatever, they can get questions asked of the Minister. The feeling I get, if other examples are anything to go by, is that in future those questions will not be able to be asked because presumably the only question you will be able to ask relates to the company via the Minister for Treasury and Resources. I am not sure the public will be satisfied not being able to get answers to the various issues that trouble them. The Minister in his opening speech assures us that harbour dues and mooring fees will not rise to finance the enterprise. I wonder where the funds will come from because I do not believe there is a great deal of opportunity for growth. What about salaries? Will they rise substantially, as we have seen in other areas that we have incorporated? As Deputy Power said, what about the issue of the outlying harbours? That is a liability which Harbours tell us they will take on. I do not know where the funding for that will come from. Of course, we also have to be aware that the outlying harbours are more than just harbours that are facilities for boats. They are also recreational areas for non-boating people, the general public. So, there is a cross issue there; it is not quite as straightforward as it may seem. I am at the position where I am not sure whether I will support this or not. At the moment I am minded not to, but I would raise the point that the Constable of St. Lawrence raised, and I really wonder if we should refer this back to the Scrutiny Panel to have a proper report on it, because it does seem that there is a lot of information missing and frankly, without any disrespect to the Deputy of St. Martin, I do not believe that an oral report which is partially incomplete is acceptable.

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

It seems there is a growing feeling that this particular proposition does not have the legs that it requires to go through this House, and it is a very major decision that we are about to make. If we are to incorporate, this is not an in principle decision at all. This is not in principle. The wording of the proposition says: "... ask the States to approve the incorporation of Jersey Airport and Jersey Harbours as a single limited company wholly owned by the States of Jersey, to be known as the Ports of Jersey, as set out in the attached report." This is incorporation. Whenever we refer to incorporation of Harbours and Airport in the future it will be a decision this House has already made. It is not in principle. This is a decision to go ahead, to approve the incorporation along the lines of this report. This report is insufficient in its depth and analysis to support, I believe, that

proposition. For example, let us turn to page 8 where we are given a projected balance sheet over a 20-year period. The key element there perhaps is that we only have the balance sheet projected. Where is the extended business case that justifies this particular set of figures? Not existent; not before us; we cannot look at it. Let us have a look at the line that says: "Retain for investment"; £64 million over a 20-year period. What does that represent? That is the entire infrastructure of the airport, which costs a fortune to maintain, the entire infrastructure of the harbour and all the heritage, historic ports. The problems at St. Aubin, I believe, cost something in the order of £4.5 million. Problems at St. Catherine's could cost vastly more than that. That is £64 million; £3 million per year, put aside for infrastructure. That makes no sense at all. Where is the detailed risk analysis? Where is the report that says that we are going to get St. Catherine's and all the other harbours up to scratch in time for incorporation; do not have to worry about it? Where is that data? It is not in this proposition. It should be. This is a woefully inadequate piece of work which requires far more detail on many issues. Not the least, one that has already been mentioned, okay, we are transferring on the current conditions all the staff. What control do we have over what that then incorporated company, pushing for commercial success and to increase its bottom line, does with those staff? We are assured that the only piece of asset that is likely to be sold off is La Folie. But if we incorporate we give up control of that company. If, for example, Jersey Post tomorrow decided it was going to close half a dozen of its Parish post offices for commercial reasons, we would be able to do absolutely nothing about it. Time and time again we try to control the activities of bodies that are already incorporated, and we are told we have no control over the day-to-day running and we must not interfere with the commercial operation of incorporated businesses. That is the reality. We are about to give up ... I will give way.

Senator P.F.C. Ozouf:

Point of order.

The Deputy Bailiff:

A point of order has been raised.

Senator P.F.C. Ozouf:

I do not want to interrupt the Deputy but I do believe he is misleading the Assembly in relation to the ability of this Assembly to ultimately control what happens to States-owned entities. I seek your ruling as to how I can deal with this, because I know the Deputy does not wish to, but I believe he is inadvertently misleading the Assembly on the issue of control of States-owned entities.

The Deputy Bailiff:

I take the view that that is probably not a point of order in the sense that you are not asking the Deputy to withdraw something as being deliberately misleading. It is a question of political argument and you will be able to respond to Members to give your view as to why the Deputy is wrong in due course.

Deputy G.P. Southern:

Time and time again I personally have asked this Minister for Treasury and Resources to intervene in activities of incorporated bodies, and he has time and time again refused to do so. He says he cannot interfere, despite being the representative of the shareholder, us, because of the commercial activities, the commercial ongoing activity of that body, and we have given up that control. That is the reality, and that is the reality of what we are about to do on the back of a mere 30 pages completely lacking in detail, down to even a list of the assets that we are about to give away. If we pass this today, we are passing it completely blind. I am absolutely appalled that we do not have a written report, an extensive written report, with the responses that the Chairman of Scrutiny says he

has received but has not passed on to us in any way, shape or form. We should have a detailed report of the investigations that have taken place, the answers that were achieved and an analysis of the balance of the risks, costs and benefits of this particular proposal from the Scrutiny Panel themselves and, failing that, from the department itself. We should not need to go through Scrutiny to give us the detail. That detail should be before us today and it is not. So, a detailed business plan, at the very least, is essential. A risk analysis on the £64 million for infrastructure over 20 years is, I believe, potentially woefully inadequate for the costs that are required. A detailed inventory of what we are giving away is absolutely essential. I believe this House, if we get no further information, should reject this proposition out of hand, although it may be that a Member may wish to ask for reference back with some of the detail I have mentioned that is woefully, inadequately absent from this particular document.

Deputy S. Power:

May I make a point of clarification?

The Deputy Bailiff:

Do you mean to ask the Deputy to clarify something he has said?

Deputy S. Power:

Through you, Sir, through the Chair; the Deputy said that we are giving away the company. It says quite clearly on page 5: "The process of incorporation will include the transfer of defined assets or shares into the ownership of a 100 per cent owned States-owned company."

The Deputy Bailiff:

Are you asking the Deputy to clarify what he meant by saying that? What did you mean by saying that?

Deputy G.P. Southern:

What we are giving away is control of those assets. That is what we are doing. We are not giving them away but we are giving away control of those assets. We have no control over them in the future.

The Deputy of St. Martin:

On a point of clarification, Deputy Southern referred 2 or 3 times to problems at St. Catherine's. Could he clarify exactly what those problems are, please?

Deputy G.P. Southern:

I thought I referred to potential problems at St. Catherine's.

The Deputy Bailiff:

I think that is you, Senator Bailhache.

1.1.7 Senator P.M. Bailhache:

I am sorry, Sir. My hearing is not what it was. I just want to say a few words about this question of whether or not the Assembly is being asked to make a decision in principle. Deputy Southern suggests that is not the case, but it seems to me that the reality is the Assembly is being asked to make a decision in principle. There comes a time when decisions have to be made and, as a matter of our constitutional position, it would have been open to the Minister not to bring this forward for approval of the Assembly at all. It would have been open to him to carry on and to prepare the legislation, perhaps in consultation with the Scrutiny Panel, and to come to the Assembly with a law or more than one law, and to ask the Assembly to give effect to the transfer of the Harbours and

the Airport to the newly incorporated entity. The Minister has not done that and the Assembly is today acting, in effect, as part of the Executive. This is not a position in which many parliaments find themselves. Most parliaments are legislative assemblies; they deal with legislation. This morning the Assembly is being asked to act as part of the Executive and for my part I feel in 2 minds about this. On the one hand I think the Minister is entirely sensible. The Minister has come forward with this proposition because, if it is approved, there is a considerable amount of work that has yet to be done. I have a number of questions and I agree with Deputy Power very much in what he says. I have a number of questions as to how the legal regime will operate and what is the extent of the land to be transferred to the new company. What is the extent of the obligations? Will, for example, the company have the obligation to maintain St. Catherine's breakwater? It is responsible for the harbour at St. Catherine's. What is the extent of the legal rights and obligations that will be transferred? But this, I think, is a matter of detail for the Assembly to deal with when the legislation comes before the Assembly. It is very tempting for this Assembly to want to micro-manage the way in which States businesses operate. I was interested to hear Deputy Southern refer to the closure of post offices. This is not the business of a legislative assembly. This is the business of whoever is responsible for the operation of that particular business. It is not for this Assembly to decide whether post boxes should be painted yellow or red, white and blue in honour of a particular Olympic athlete.

[10:30]

We ought to be looking at things at a higher level. I said I had some reservations about the fact that the Minister had chosen to bring this matter to the Assembly, but I think he was sensible to do so. It does give Members the opportunity to decide in principle whether it is sensible to incorporate the Harbours and the Airport. I have no doubt it is sensible for all the reasons that the Minister has given and, unlike perhaps some Members, I am very comforted by the fact that the Scrutiny Panel has got its teeth into this and has examined the matter carefully, asked a number of questions, no doubt will be asking a number more questions as well. It may be that a written report would have been helpful but, for my part, I am perfectly confident in the ability of the Scrutiny Panel to have looked at the matter in sufficient depth to be able to advise the Assembly that at this stage it is sensible to move on to prepare the legislation so that the Assembly will be able to look at the detail in due course.

1.1.8 Deputy M. Tadier:

I think listening here as somebody who has not been perhaps in the centre, if you like, of the incorporation as the Scrutiny Panel and the Ministers may have been; certainly the Ministers anyway. It seems to me that we can argue, as Senator Bailhache has said, that the Minister for Economic Development did not have to bring this today and it is good that he brought it. He could have brought it at a later stage when perhaps there was more detail and it was to do with legislation. If we take that in good faith and accept the fact that, although it is still a moot point, it is good that he brings it to the Assembly so that at least we can get the "in principles" out there. The question remains, and I think can be answered, that what we have seen today, both inside the Assembly, is that we have a report and proposition that has not fully been fleshed out and has not been scrutinised to the extent that we would normally expect it to be. That is obviously because I am sure the Scrutiny Panel has done the best job it could in the time limit. It could be the fact that it has been over the summer holidays. It could be the fact that they have competing pressures to do with the M.T.F.P. and it could be to do with the fact that they do not have enough members on their panel. All of which, I say, I think they have acted in good faith but, certainly in terms of an Assembly, the job of scrutiny and information has not been done. That is the first part in terms of internally in the Assembly, but I also think that the external consultation for something of this mammoth size, whether it is in principle or not, there is no doubt that if this is passed today, it will

signal the beginning of incorporation. We are not going to pass this today and then say: "Let us not have incorporation." It was almost strange that the Minister in proposing was almost apologetic for the fact that we are incorporating. He said: "This is just an in principle thing. It does not necessarily mean we are going to incorporate." It seems perhaps, in my mind, it is a case of sophistry because clearly we are going to have to incorporate sooner or later; we do not bring a proposition like this. We have also heard lots of what I would call "media speak" that would have made Alistair Campbell proud; things like "green shoots of positive change"; that the staff have been "actively and positively engaged" and that the staff support it by and large. But we have not been given any evidence as to what the consultation process engaged in with the staff has been. We do hear from the media yesterday that certainly the staff at Harbours and Airport are concerned. We hear that the unions that represent them have been on the radio and have been making noises quite rightly, because they do not know what this entails. They are worried about their jobs. As the Constable of St. Lawrence says, we do not have the T.U.P.E legislation in. These are our own staff and we have not engaged in the correct processes we should have with our own staff. So, the consequence of that is fear because people fear the unknown. It could be quite right that incorporation is the correct thing to do, and we have heard many speeches saying: "I am not opposed to incorporation; in principle I support incorporation." Others are perhaps more tentative, but without having the meat on the bones, the devil remains in the detail. We can all, of course, subscribe to something when we do not know what it means, if it is a vast and blurry objective. But once you get closer and once we look at the detail, which we do not have today, you say: "Well, I do not like that. I do not like the fact that certain controls are being taken away from the States." I think it was a very pertinent point that Deputy Baudains mentioned that these are not simply commercial assets. When we talk about St. Catherine's Harbour where I like to go fishing sometimes, and I can tell Deputy Southern that there are and have been problems down there to do with the structure. I think most of the work has been done now, but there have been ongoing difficulties with shoring up the end of the pier there, which is not an easy thing to do when it is three-quarters of a mile out to sea and you have rough water there. There are more simple things, like there is no soap in the toilets, so if you want to wash your hands after you have been fishing for mackerel for a day, you cannot do it satisfactorily; you have to wait until you get home. There are small things like that even, which I have noticed. But tourists go down there. People like to go down there for cultural purposes as well. So, these are not simply hard assets to do with landing fees and yacht fees. It is also about how we manage access to our ports and to our airport as well. What I would suggest, and I think there have been several calls and people are skirting round the issue, is there are definite grounds for a reference back here. First of all, we have not been given the information from Scrutiny. I would have expected at the very least, given what seems like their absolute support and the fact that they have been engaged very well with the Minister and been given all the information that they required. At least issue some comments, that that is the least that we would like to see. It would give us something tangible to read through and so clearly the work has been done here and we are quite satisfied that Scrutiny has done its job or issue a report at least and if they have not had time, delay it for a month or 2 so that we can have an actual report with the officer engagement there to give us the hard facts and say, by and large, this is what should have been done. So, I would like to move for a reference back under Standing Order 83 and I think on this occasion I will not refer it to Scrutiny but back to the Minister and I would ask for the following pieces of information.

The Deputy Bailiff:

Deputy, would you say that again?

Deputy M. Tadier:

Under Standing Order 83, I would like to invoke that to seek specific information from the Minister, which I do not think we have already. One is the Symonds Report which has been referred to. We do not have copies of that. As far as I know, it has not been put in the public domain and those should be circulated to States Members at the earliest possible opportunity so that we can look at those. If it needs to be done in a confidential format or via a presentation by the Minister, I know he has done presentations already, I was not able to attend as I have already stated to him personally due to constituency commitments, but we should have the full copy of that report. We also need ...

The Deputy Bailiff:

Deputy, could you just remind me where the reference to the Symonds Report comes in the report?

Deputy M. Tadier:

It was in the opening speech, Sir, and I think it is the Capita Symonds Report was the name of it, but there are other pieces of information I seek as well.

The Deputy Bailiff:

Yes I just want to be clear what you are asking. At all events, the Symonds Report, yes.

Deputy M. Tadier:

The other piece of information I would like to ask for is what formal consultation has taken place with employees and unions because we have been given information suggesting that they are supportive and, I am sure, clearly to compile a report you need to engage with certainly a minority of staff members who are helping you compile the report at certainly senior Civil Service level. But I suspect that engagement and real engagement with the staff has not been entered into. So if there has been any consultation, I would like that to be put into the public domain but I suspect that there has not been a formal consultation process and I would like that to be invoked before we proceed with any incorporation propositions coming back to the Assembly. So those are really the 2 main parts. I think there is lots of other information that Members may want and I am sure they can speak to the Minister in advance, but certainly those 2 pieces of information I think should be engaged in first and brought back to the Assembly before we have the rest of this debate.

The Deputy Bailiff:

Is the proposal for a reference back seconded? **[Seconded]** I rule that the proposal for a reference back is in order on the 2 counts which Deputy Tadier has set out, the question of the Symonds Report and the question of what formal consultation has taken place with employees and unions. I am not clear whether the Deputy was saying that there should be a reference back for the purposes of information from Scrutiny but I have to say that in my judgment, my order would be that that is not a suitable ground for reference back because it is not a reference back to the Minister for the Scrutiny Panel to do something. It is not within the control of the Minister.

Deputy M. Tadier:

Can I clarify on that? I think that is correct. I would like Scrutiny to independently consider producing at least comments in a report if they have time but that is obviously for them. Could I ask for a third part to the reference while I am on my feet? There does not seem to be a list of properties throughout the Island and in the various Parishes which will be affected by this proposition. I think that is another key piece of information which is right both for States Members and for the Parishes to know so we know exactly what we are dealing with.

The Deputy Bailiff:

No list of properties which will be affected. That also, in my view, is in order. So the proposal for a reference back has been made and seconded and we will now open a debate. There is nothing further, Deputy Tadier, you wish to say on the proposal for reference back? Then the debate is now open on the proposal for reference back.

1.2 Incorporation of Ports of Jersey - proposal of Deputy Tadier that the matter should be referred back to the Minister under Standing Order 83

1.2.1 Senator P.F.C. Ozouf:

I will, perhaps unsurprisingly to Deputy Tadier, be strongly speaking against this reference back. I very much hope that by the end of the day, we will look back in a few years' time and take this day as a positive milestone on the journey of Harbours and Airports. I think that this proposition, and Deputy Tadier in his specific answers or requests to the proposition, did say there is probably going to be lots of other things that Members may want to have. I think that probably we may be in the position that Deputy Tadier and some other Members, which I totally understand, will never be satisfied in relation to some of the answers that they may get. I think that we must be very careful that we do not attempt to try and have a reference back. If those Members are against incorporation, then they need to vote against the proposition and they are perfectly entitled to do that. I understand that there are some Members who will have an ideological view that incorporation is a bad thing. I am going to answer the specific issues and no doubt the Minister will also answer and respond to why I do not believe that it is appropriate that there is a need to reference this proposition back to the Minister because I think that Members can take ... notwithstanding the fact that there may well be questions. I have questions. There may well be enormous amounts of questions that Members may absolutely legitimately have to answer in relation to the incorporation. Those answers are not required today in order to make what is an important principle. Senator Bailhache mentioned what "in principle" means. Every journey starts with a first step. This is the first step and just because you get out of bed in the morning and take a first step on whatever journey, it does not mean to say that you are going to reach your destination. It does not mean to say that there is certainty that you are going to get out from where you want to get to and this is a journey of incorporation. There are many, many steps that need to be taken. This is, without doubt, the first step and there is going to have to be in that journey a lot of constructive tension between various different parties of which the Symonds Report, of which the list of properties, is going to be important steps on the journey. I stand here as Minister for Treasury and Resources and with my Assistant Minister, we have Property Holdings. We have some, and I must say have had, continue to have, and will be important stakeholders in that discussion of which properties are included. The Minister has been helpful in setting out effectively some red lines and some areas that are potentially going to be part of the law that will eventually come forward but certainly as ultimately the shareholder in Property Holdings, we want to know what the justification is for every single property that is going to be transferred. We want to know what the obligations are of that property. I am afraid just simply a list of properties, I say to Deputy Tadier, is not going to help us. There is the indicative principle of decisions that has been taken that, of course, we are going to be putting generally the port. Of course we are going to be putting generally the subject of the historic harbours but we cannot possibly be, in this first step of this journey, having every single servitude, obligation, conveyance, detail in relation to the properties because it would not be, I think, satisfactory for Deputy Tadier to take that first journey on that step just to have the list of properties.

[10:45]

He would want to know what the valuations were, what the particular obligations were, what the particulars were, and all the rest of it probably. I have no doubt that there are massive questions that need to be answered before we take that final decision. In relation to the Capita Symonds

Report, the Minister himself can answer that and he can, I think, I hope, explain as to the reasons why we do not need to have a copy of that report before us and I will leave that to him. In relation to Scrutiny, I know that this was rejected as a reason for a reference back. I thought the Deputy of St. Martin helped us enormously. He has clearly done a lot of work with his panel. I think that this is an example of Scrutiny asking tough questions. I had a meeting last night with one of the Chief Executives as one of the other utilities and we were talking about non-Executives. I think the non-Executive function which is being carried out by Scrutiny is very healthy and they have got a lot of work to be done. There is an enormous amount of work to be done on answering all of these detailed questions in relation to this. What I think would be a shame is that clearly this matter of incorporation of Harbours and Airports has been going on for an awful long time. It was in 1998 that this Assembly first was presented with this but did not take a decision of incorporating Harbours and Airports; 1998. There was a further debate in 1999 on incorporation and there was a further debate in relation to Trust Port and by the way, Trust Port was giving away control, this is not, but I am not going to talk about this in this reference back. So we have been discussing the in principle decision of whether to incorporate Harbours and Airports for something like 14 or 15 years. In that time, we have seen how other incorporated entities do organise themselves in such a way that benefits both staff, customers and the shareholder which this Assembly is ultimately the shareholder. I do not think that there are many Members of this Assembly who doubt ultimately that probably incorporation is the right model for Harbours and Airports, 100 per cent owned by the States of Jersey but operating. In referring this reference back, I think that we would be doing a disservice to the staff and to the management of Harbours and Airports and the Minister himself explained earlier the huge progress that has been made by the new Chief Executive and the Board. It is a massively positive change in terms of efficiency, taking £1 million out. This is excellent and this is the early indication of what we can do in terms of not only simply saving money and this is not about cutting staff remuneration levels. This is about what I find a really wonderful word that the Chief Executive uses. He wants to “delight” his customers. Delighting customers means bringing more people through the port, more airlines to Jersey. We want an incorporated body which is going to be responsive to market demands, going to deliver efficient services, going to delight more customers and provide a good working environment. The Deputy in relation to the not accepted part of the reference back spoke about staff consultation. I have informal consultation with many staff at Harbours and Airports as I walk through the harbour and the airport regularly and I think there is a spring in the step of employees of Harbours and Airports who are looking forward to a new world of incorporation. I think we will be doing a disservice once again. After 14 or 15 years of abortive attempts to incorporate Harbours and Airports, we should be using this opportunity as a positive way forward, as a first step. We are not sure we are going to get to the destination but certainly we need to take the first step and give a vote of confidence to the Shadow Board to give confidence to the Minister to get on with this important work and this important endeavour. I respect the fact that some people do not agree with incorporation. I do. I think this reference back is not necessary in terms of that first step. We are not at the destination. It is a first step and we do not need a reference back to stop that first step.

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

I rise as one of those Members that are not in the group that the Minister for Treasury and Resources described, those who will never be satisfied. I am a Member that feels that the direction of travel is the right one. We have a proposal that has got, when one reads through it, sound business sense. There are some big differences between Jersey Post and Jersey Telecom that when we discuss a substantive proposition if we do, I would like to bring out. But my main concern is that we are required today to make decisions with, I think, an inadequate level of detail and I thought as a Member this is such a big decision and there are so many issues raised outside by constituents, members of the business community, employees and others, that think we need a

greater level of information in order to make that decision. I do not want to have to vote against this proposition, the substantive one, today. I would much prefer to have those questions answered. I strongly support Deputy Luce and the Scrutiny Panel. I think they have had a difficult job here. This is a very substantial proposition because just look at what we are told is that to answer all the questions is going to cost us £1.8 million just to do the work to answer all the points in detail, £1.8 million. We are in at the moment a kind of starting gate where, if you like, I think we have spent probably a modest amount of money and a modest amount of time and I do not think the Scrutiny Panel have had anything like adequate time to be able to produce a written report. So I am absolutely not critical on that. I would like to have seen a timetable that gave them time and the Minister time to produce that additional information. For me my reservations are mainly in the areas, as other Members have highlighted, particularly Deputy Power, about assets and in other incorporations, this has been controversial. I certainly would like more information of what is proposed because I think frankly when one looks at the maps ... and the report does say: "Well, here is the operational area but, by the way, that is not what is proposed to be transferred over." We do not know what is proposed to be transferred over. That is still to be decided and, of course, when one looks at these maps, there are a lot of questions. Where is the long-term Harbour Masterplan? Over many years and there still is an unresolved issue about our waterfront and our harbour and its future development, where is the Port Masterplan in all this? Why have we drawn boundaries around buildings that at the moment are in private industrial use or even in the case of the Airports, buildings that do not even sit within the Airport boundaries and say they are part of the Airport plans. I do not want to be negative about that. They are questions and I am afraid I cannot answer those from this paperwork. We have issues about service level agreements which are mentioned but I cannot, for example, see any mention of the future of the Met. Office. I know there have been big debates about that in the past that should this be transferred to the Met. Office of the U.K. (United Kingdom) and there are important issues there and I would like to have seen that sort of issue to make sure that the Island can keep its locally based Met. service covered. So I really do not want to vote against this. By supporting reference back, I am not in this negative group. I want the information please and I think we do not have to have the whole Rolls Royce of £1.8 million but I just would like to see a little bit more so I think I will support the reference back.

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

It is a shame. I have heard most of the speeches this morning and I think everyone wants to support this incorporation of the ports but I do agree. I did go to the last, and it was only a few weeks ago now maybe even last week, I went to the briefing and I had a lot of these questions answered for my own satisfaction and for the Minister for Treasury and Resources to say to everybody you have got the pack that will want to never incorporate or privatise, whatever you want to use, and it is not privatisation, I totally accept that. I think he is wrong. I think he and the Minister for Economic Development really want this passed in the next month or 2 and has to do a little bit more work. I just went outside to speak to the officers. Normally on a great big report like this, you would have at least 4 or 5. There is no one here to ask a question of: Oh, just to confirm what I was told at the meeting, was it a *fait accompli*?" I do not know or is it because, as Senator Bailhache says, this is exceptional for us to be able to discuss policy in this House which I do not agree with. This is a big step today. I have been asked by one of the members of the shadow board was I intending to support and I was intending. I have read very carefully the union letter and it does not say that they are against it. They know the people who are working at the ports now will be protected when they cross over when it becomes an entity. T.U.P.E. does not I do not think even under T.U.P.E. it is future employees are covered but that is a different issue. I was assured for myself but you have got I think the Minister for Treasury and Resources, you have got Constables, and we were told at the briefing every Parish will be included and it will touch every Parish and every Parish could potentially have rates except St. Lawrence. They have none unfortunately. We had the Assistant

Minister for Treasury and Resources there who is also the Deputy of St. Lawrence and he was quite miffed at that. But there you go, you cannot move the ports. So what they do know they know what they have not done is give a little bit more information in here. Scrutiny have not and this really is not the reference back but the comments there. They had their questions answered and it sounds okay. So I really do not want the Minister for Treasury and Resources and the Minister for Economic Development to lose the war over this small battle. The reference back is not rocket science. The officers know the answers because I was told them at the briefing. So why can we not accept this reference back or why does the Minister not take it away, come back in a month's time and I am sure you will get full support. Yes sorry some of the die-hards you will not get but even I can see this is the way forward but please do not let the Minister for Treasury and Resources ruin it for you again. Please listen to the people of the House. There was every speech so far has been in support but with a little bit more information. Do not dig your heels in please.

1.2.4 Connétable D.J. Murphy of Grouville:

We in Grouville do not have an airport but we do have a little harbour at La Rocque and I am a little bit perturbed about the fact that this incorporation ... I am thoroughly in favour of it. I think it is an excellent idea leading on perhaps to better things in the future but could they please just have said to us: "This is an in principle debate. This is not committing you completely." I know that the Minister going forward will need the comfort of having the backing of this House. He will get the backing of the House in principle and let us sort out the rest on the way. We have obviously a lot more work to be done by Scrutiny and I appreciate the fact that they have probably done a lot already but there is an awful lot more to come. At La Rocque Harbour, we have interests there. We may be wanting to know the extent of the ownership of the land around the harbour, for instance. There are lots of things where I am sure every single Parish will have items like this to sort out. So whereas I am in favour of this, but I would just like somebody to say to me: "This is an in principle debate. We are sticking your toe in. We are not asking you to dive in."

1.2.5 Deputy R.C. Duhamel of St. Saviour:

One of the things that the Council of Ministers with the support of this Assembly has done this time round is to introduce, as part of their long-term Strategic Plan, a new concept which is long-term strategic planning not least of which to look at the monies that will have to be found by way of capital to fund very large infrastructure projects. Now there is no doubt in my mind that the harbour and the airport are 2 such projects which will require, and have required in the past, large capital sums in order to deliver the services that all Islanders expect this Government to supply through their taxation contributions.

[11:00]

Really this is why I must support the reference back because we have not had the proper treatment or the financial details to put out a case for incorporation to address the principle of a new company formation or organisation which will go forward and generate profits, not just for passing back to the Minister for Treasury and Resources to spend on other projects but to provide monies for the capital reinvestment that will be required. Now Members must realise that the airport work is still underway. There is still talk about the removal of the old airport building in order to go for the further realignment of the runway for safety purposes. There was talk not so very long ago by W.E.B. (Waterfront Enterprise Board), the body that we set up to look into alternative deepwater harbour provision services that we have not had and these things will require huge sums of capital. Now there is no doubt in my mind that what is set out on page 8 over the next 20 years we have got £64 million, that is £3.2 million per year, to pay for all of those things and we do not even know what some of those things might be. Transportation is changing into the future and there may well be better ways of arriving at the Island which may be cheaper but, at this point in time, we do not

know. But we are suggesting on page 8 that the long-term vision is covered by having £64 million to pay for all of these investments. Members will realise, and you do not have to go back in time very far, that we have bailed out the airport and the harbour, mainly the airport but the harbour as well, on several occasions with capital monies. There were £10 million contributions found from taxpayers' funds to pay for things that we had not properly considered and this really is the point that worries me most. Things can change and should change. In 1977, we had the then Harbours and Airports Committee at the time organisation suggesting that we needed deepwater harbour facilities because that was the right thing to do looking ahead. There were comments that the nature of shipping was changing, that we needed to encourage larger boats to bring goods and services to the Island in larger quantities because the economies of scale would then kick in. Plans for an offshore deepwater harbour were shelved and we went for a single revision to the harbour infrastructure which started to move us in the direction of roll-on roll-off ferry type services. Several further revisions to that programme took place in successive years none of which though took on board the long-term vision of providing proper deepwater facilities which would have perhaps offered this Island greater opportunities for running cost-effective services, which we clearly do not have by being able to run bigger craft. The future is still out there but I feel that what is being proposed at the moment, we do not know, it is not set out, but what I do know from being on other committees is that there will be revisions to what happens at the airport and the harbour. A Masterplan is already being produced by the Harbours and Airports Department and we all know that airports do not just make their money by landing fees. They make their monies at the moment principally through all of the ancillary services that require extensive landholdings to run in proximity to the airport buildings. Likewise, we have had comment from the Scrutiny Panel this morning suggesting that there was some discussion as to the long-term proposals which are not stated for extending the defined port operational area on page 25 further southwards or in some other shape or form. We do not know what the capital fallout of that process will be but in order to set up this new operational structure, what is being suggested is that the organisation will be sufficient in order to generate funds in order to pay for these things and this is before we get into the monies that will be required to continue with the maintenance scheme for the historic ports and other structures that we have in other places round the Island. I think it is possibly taking this House very lightly to present a report in such a short fashion and I think it must be incumbent upon the Minister to accept that there is a sensible request for a reference back for this information to be provided, and I would urge the Minister on that basis to accept the reference back and to progress to the next stage in as short a time as possible.

Senator L.J. Farnham:

I was just going to ask for the ruling from the Chair. I understood that Standing Order 83 clearly states that the debate has to be relevant to the reason for the reference back which was the provision of the property list and one or 2 other pieces of information.

Deputy R.C. Duhamel:

I am happy to answer that. I think my comments were entirely relevant. Page 70 sets out a case for incorporation to suggest that one of the reasons is to retain monies for investment. The investment programme is what I spoke about. It is not itemised into the future. You have merely got the statement that over 20 years, £64 million will be enough. Well, what for?

The Deputy Bailiff:

The Chair has been asked for a ruling. On this particular occasion, I am not minded to give any ruling. Members will be able to make up their own minds as to whether they agree with the relevance of the Deputy's comments or not.

1.2.6 Senator F. du H. Le Gresley:

This debate today is progressing exactly as I predicted. It was almost inevitable we would get a reference back proposition because of the lack of detail in the report. In fact, we have had the amazing situation where 2 Members have spoken about a map with a red line. Now my map has got a blue line so even on the minor, minor detail, we are talking about blue lines. My report has got blue lines. Maybe I have got a different report from everybody else but I certainly have not got a red line so I do not know where these boundaries end but that is just a minor matter. What I want to do is try to put to Members a way out of the dilemma we are in at the moment. A reference back is not an ideal step to take and I understand why Members are proposing a reference back and my gut feeling is that we have to do something in that area. But what I would suggest to Members and, Sir, I would appreciate your wise view on this, is that we could take the proposition because it is in 2 parts. Now I agree with the first speech that we had from the Constable of St. Lawrence and backed up by that of Deputy Southern that if we take part (a), we really have approved the incorporation of Jersey Airport and Jersey Harbours because it does not say “in principle” and that is a flaw in the proposition. Despite what Senator Bailhache says, I do believe that we would be approving today the incorporation. However, part (b), Sir, and I hope you are still with me, part (b) says: “To request the Minister for Economic Development to take the necessary action to prepare.” Now to me the word “prepare” is key. If I am preparing for something, I am just asking the Members of the House or the Assembly to be with me, come along this path with me, because I am preparing for incorporation. So I believe that we could ... those of us who are thinking in terms of voting for the reference back, if we should lose that or if we should not wish to vote for a reference back if the Minister and if, Sir, you agree that part (b) is, in fact, an in principle vote for preparation for incorporation which will then give us the opportunity to get all this information, which of course we need, I think there is a way forward today because personally I think it would be detrimental to all the work that has been done by the shadow board, by the Group Chief Executive and by his staff and we do not want to put a major spanner in the works at this stage. Work is progressing very well and I think if we were to vote eventually for part (b), those of us who are not comfortable with part (a), we will achieve what the Minister is wishing us to do today. Sir, could I ask you to look at part (b) and give me perhaps your view as to whether that is more of an in principle proposition than part (a)?

The Deputy Bailiff:

The request asks me to look at part (a) as well as part (b) then Senator does it because I am comparing the 2? My view of the proposition in part (a) was that it was for all practical purposes an in principle proposition. The reason I say that is because the terms of the proposition are to approve the incorporation as set out in the attached report and the attached report, if you look at paragraph 5 on page 10 and paragraph 6 on page 11, makes it absolutely plain that there is going to be a regulatory framework which is going to be introduced by legislation and therefore that will have to come back to this Assembly for approval and at that time, this Assembly will no doubt want to be addressed on all matters, which might be relevant to whether or not to adopt the regulatory oversight in the form of the legislation which is put forward and the detail of the legislation in paragraph 6. I have also noted that in paragraph 9 on page 12, there is an undertaking from the Minister that firm proposals on the question of transfer of staff will be included in the detailed papers on incorporation that will be put to the Assembly in due course. So I must admit that when I read the proposition, I did not have any doubt at all that this was just the first step, an in principle step, and the Minister would be coming back in due course and otherwise would be subject to enormous criticism if he did not, but worse for him than that is he could not take the matter any further because it required a legislative framework. That is my understanding of the proposition and if I have got that wrong, no doubt the Minister could tell me but that was my understanding of the proposition. Therefore Senator, in my view, comparing (b) with (a), the whole of the proposition is an in principle proposition. Are you still speaking to the reference back?

Senator F. du H. Le Gresley:

No I am very grateful for your opinion but, of course, it is an opinion and other Members [Laughter] may have a different view.

The Deputy Bailiff:

You asked me.

Senator F. du H. Le Gresley:

And I value your opinion, Sir, thank you.

The Connétable of St. Mary:

Point of order, Sir. It is not an opinion, is it, it is a ruling?

The Deputy Bailiff:

I think it is a ruling.

Senator F. du H. Le Gresley:

In that case, I apologise, Sir.

1.2.7 The Connétable of St. Lawrence:

Senator Le Gresley has beaten me to it because I too was going to ask for a ruling as to whether this proposition was in principle or not so clearly we now know that it is indeed in principle. But I would just like to address a comment to the reference back because it seems to me that it is entirely appropriate that Members have raised questions during this debate. This is the forum for us as elected Members to question anything that we do not have answers to. If we are dissatisfied with what is presented to us, it is our duty to question. It is our duty to ensure that the decisions we make are made with as much information as we can possibly have to decide upon. When I spoke earlier, I said that I had no problem with the incorporation of Jersey Harbours and Airport because I have read information about it; I have heard presentations given about it and I am disappointed that Senator Ozouf appears to think that the House is split because, as Deputy Martin said, I do not recall hearing anyone speak against this today.

[11:15]

I think everyone appears to be in support of it but we are raising questions. There are some doubts. We should not be expected to make a decision of such importance without the information that we need and if we feel we need more information, it is our duty to ask for it and, in fact, I believe it is the Minister's duty to provide it to us. It is disappointing that a reference back has been proposed because Members feel that the information has not been supplied to them. I am going to support the reference back because I think it is, as I have said, our duty to make decisions, be they of such importance or be they perhaps of less importance, on full factual evidence and information. I would hope that as most of us are asking the Minister to accept the reference back that he would just go ahead and do it, provide us with the information so that we can just get on with this, have it brought back to the House as soon as possible and make an informed decision which based on what has been said today I believe will support what the Minister wants.

1.2.8 Deputy G.P. Southern:

I too am calling on the Minister to accept the reference back and return with a more detailed proposition which can give comfort to the various issues that have been raised in today's debate by various Members. The questions need to be answered. The fact ...

Senator P.M. Bailhache:

May I raise a point of order? That is not, as I understand it, what the Assembly is debating at the moment. It is not a matter for the Minister to come back dealing with all the questions that Members have been raising during the course of this debate. It is a question that the Minister is being asked at the moment to come back on the 3 specific issues raised by Deputy Tadier. Is that the position?

The Deputy Bailiff:

It is the position that the basis for the reference back were the 3 points which Deputy Tadier raised in his address. It is a matter of political judgment then for the Minister as to whether he wishes to deal with any other points which may be raised in the course of this debate on the reference back but the terms of the motion for reference back, certainly it is true, refer to those 3 specific points.

Deputy G.P. Southern:

What I was doing is urging the Minister to exercise his political judgment and make sure that he leaves no stone unturned in case he has a potential reference back again because he misses something else out. What I am going to talk about is again I return to page 8 to whatever that is, the financial model, which is merely a set of figures which produce investment of £64 million over 20 years. Now there is no detailed analysis in this document, and this is the document we have to vote on today, to justify that that is a viable figure, given the load that may be placed on investment and, in particular, the heritage harbours that we have to maintain. One serious storm around the Island in the next 20 years could produce damage which would massively eat into that £64 million but I see no analysis here of the risk of that sort of structure. I am told that the harbours have all been assessed quite recently and they are in sound state. That does not guarantee that in 20 years' time they are in equally sound state but I have not seen that document that says: "And this is the sort of maintenance figure that we need and this is what we can expect and the risk of storm damage over the next 20 years is X." I see no analysis, no risk analysis on that figure and that should surely be contained in the Capita Symonds Review undertaken in 2011 because that is what it is dealing with, capital expenditure, and I think I just got that in in time - I love doing that - before the Chair pounced and that is indeed one of the things that we are asking for. So a detailed breakdown of that set of figures which, quite frankly, could have been plucked out of the air. The fact is that it is this House that decides policy. It is this House that decides what direction we are taking. The basis on which we are asked to decide, whether it is in principle or otherwise, to go ahead with this strategic direction, whether we support incorporation or not, we have to do that on the basis of an informed decision and I put it to the Minister that all of the questions that have been asked today, whether they are included in the reference back or not, must be considered and he must cover them if he is going to be able to put this before the House again and get it accepted. The danger today is that without that information, without some assurance, some solidity behind the decision that we make today, I would imagine that Members, whether they are for incorporation or not, in principle or otherwise, would say: "I do not believe I have enough detail here, enough data here, to confidently say that I can pass this today" and the risk is that this will go down otherwise. So I urge the Minister to accept this reference back and to come back with a far more detailed document which makes the case, absolutely dots the i's and crosses the t's, so that no one can say we made this decision blind.

1.2.9 Senator P.F. Routier:

I am disappointed that we are having this debate on the reference back because what the main proposition is doing is, as you have ruled and the way I have always understood it, this main proposition is an in principle decision. I think the Minister would have been criticised if he had not come to us at an early stage before going ahead and spending quite a considerable amount of money. If you look on the resource implications on page 14, he is wanting the backing of the

House to spend £1.7 million before he goes any further and that £1.7 million will answer a lot of the questions which are being raised today because when the law comes back, it will have the details of every property, every property that is going to be transferred, into the wholly-owned States company. So I think the Minister has been caught out unfortunately by being ... he is wanting to help the House with coming forward early but he has not had all the information that people are looking for but eventually that will come to the House. There is no doubt about it. It has to come to the House and no doubt and I would expect that Scrutiny have come in for a bit of criticism as well for not having a report. Well, I expect them to give an extensive report on the legislation which comes forward in the future. That is what I would expect them to do. So I am, I have to say, disappointed at the way this debate is panning out because, as many have said, I think the majority of people are supportive of incorporation of the ports. It is just the information which is available at this present time. Members will recall that I was Assistant Minister previously at Harbours and Airports and I am aware that the consultation with the staff has been ongoing for years. It has been happening but for people to give the impression that they feel that the staff have been kept out of the loop of this is completely wrong. The staff have been kept in the loop. They do know what is going on. We have seen the letter from the union representatives and if you read it, they are just asking questions themselves. They are not saying no to incorporation, they are not saying that, so I think the basis of this reference back I do not think stands up, from my point of view. I think the Minister should be allowed to progress with the main proposition because he has come forward at an early stage to ask for an indication from this House, should he go ahead and spend another £1.8 million on progressing this proposition. I urge Members to reject the reference back.

Deputy M. Tadier:

Can I just seek clarification? The inference seems to be that if we pass the reference back, the reference back will cost £1.8 million and that is not what is being suggested. We are simply asking for specific information. Can the Assistant Minister clarify that that is not what he means?

Senator P.F. Routier:

I was not trying to infer that the reference back was going to affect the £1.8 million. It is the main proposition is the £1.8 million that will be spent if we were to approve this proposition.

The Deputy Bailiff:

I think he has agreed with you, Deputy.

1.2.10 The Deputy of St. Martin:

Like the previous speaker, I am disappointed by the proposition for the reference back but maybe, in hindsight, I am not surprised and hindsight is a wonderful thing as we all know. My Scrutiny Panel put to the Minister and his department a series of questions about this proposition and they were not all oral questions; many of them were written questions and I would say that the questions that have been raised in the Assembly this morning, the vast majority of those are questions that we have had answers to. So somebody is at fault here because the process we have gone through this morning is not satisfactory. Maybe it is the Minister and his department that are at fault. The questions that the Scrutiny Panel asked him were questions which, as I just said, had come from Scrutiny members but also questions that had been put to us by Members of this Assembly. Those questions were all put to the Minister and his department and maybe, in hindsight, he should have thought that those answers should have been circulated to the Assembly. Maybe, in hindsight, my Scrutiny Panel should have made that decision. We are a young Scrutiny Panel. There are only 3 of us and we are all new to the Assembly in this term. That is no excuse, however, but it would have been nice if more Members of the Assembly had volunteered to come on Scrutiny. We might have had a bit more experience [**Approbation**] and with that experience, we might well have

known that we should have circulated a comments paper. In hindsight, I suspect now that we should have done, and I apologise to the Assembly for that. Having said that, the questions, the vast majority that we have been asked about this morning and in particular the 3 that we have been referred back to, 2 in particular my Scrutiny Panel has that evidence to hand. We have the Capita Symonds Report. We also have a large schedule of the buildings. We have maps of every one of the historic harbours with a red line or a blue line or a green line or whatever colour the line is but we have a line around those historic harbours showing the lines of demarcation between what would be handed over to the incorporated body and what will not be. There has also been some level of criticism of my Scrutiny Panel this morning about not doing a report and review into this. In the time that we have been constituted, we have just completed an Aircraft Registry Review. We are looking at the legislation, or lack of legislation as it may be, for the Ombudsman Scheme. We are looking at reviewing at this moment the legislation for intellectual property. We are reviewing the legislation for the Depositors' Compensation Scheme. In that time, I have also worked on the Tourism Development Fund. My Scrutiny Panel are between a rock and a hard place. We are criticised for not reviewing legislation and we are criticised when we wait for the legislation to turn up. I hope we will do better in the future. We will learn from this. I apologise to the Assembly for not having more comments but I will not be supporting the reference back.

[11:30]

The Deputy Bailiff:

If I may just say from the Chair that despite the Deputy's asserted inexperience, it is a delight that he knows he is a Member of and speaking to an Assembly and not a House. **[Approbation]**

1.2.11 Deputy G.C.L. Baudains:

Like other Members, I am sad that we are where we are in this debate at the present time. I have to say I was impressed by Senator Le Gresley's analysis even though it might disagree with your opinion, Sir, and I will push my luck and disagree with it also because I did come to a similar conclusion. Is this an in principle proposition or a request to move fully to incorporation albeit with a lot of work to be done and missing information? My observation is that the problem is that this proposition is neither fish nor fowl. It states: "To approve the incorporation of Jersey Airport and Jersey Harbours as a single limited company wholly owned by the States of Jersey to be known as Ports of Jersey as set out in the attached report" which does contain some detail. Had it said: "To approve in principle the incorporation of Jersey Airport and Jersey Harbours as a single limited company wholly owned by the States of Jersey to be known as the Ports of Jersey" and stop there, I think we would have finished by now and be on to another subject but we are not. That is not what it says and I think that is the problem that we are facing today. So what I would do is if the Minister would accept this reference back, we can move on. We have been told this can come back in a very short period of time and we will not be talking about it all day.

1.2.12 Senator L.J. Farnham:

Initially, I did have a certain amount of sympathy with the reference back but upon further thought, I am not sure what it will achieve if anything other than create a further delay and that is especially true following your ruling that this is an in principle debate. So all of the information asked for and more will be provided in the process as outlined in the workflow on page 23 of the report. I just remind Members of the workflow stream that is proposed, and the Minister can correct me if I am wrong. Some of it has started but if we pick up on item 3: "A regulatory body will be established to agree a regulatory framework under which the new organisation will function. This will cover economic regulation as well as aviation and marine." All that information will come out in that process. "The policy function must be established and a memorandum of understanding must be agreed by which the States of Jersey policy decisions will be issued to the new company." A huge

amount of information will come out at that stage. “A new company has to be established and a legal entity for the Ports of Jersey Limited.” Another opportunity for further information to come out. Importantly, the asset transfer to the new company, the process to transfer the property and other movable assets and staff to the new organisation, that process has to take place. Again, that relevant information will come out at that stage. Then we have the business process: “And all business processes will be reviewed to ensure that the new organisation is fit for purpose prior to incorporation.” More information at that stage. “Financial system and structures. The new financial systems and accounting policies will need to be established.” Another opportunity for more information and last, but by no means least, the staff arrangements. “Upon incorporation, all employees will transfer to the company carrying over their existing terms and conditions and there will be further extensive consultation with the staff and unions during this process.” So that is all to come and, after that process, that all then comes back to the Assembly at the relevant time with the final proposition which will see through the relevant legislation on the process. So ironically the Minister here, in providing this brief in principle report, has been condemned for too little information but, had he and his department decided to put all of the relevant information in at this stage, he could have also produced a report of 100 pages or more long and been criticised for smothering the Assembly with too much detail. I do agree with a number of the more neutral Members in the Assembly, and I think the proposition for reference back would have carried more weight had it not been brought by Deputy Tadier because Deputy Tadier and Deputy Southern make it sound that upon receipt of the information they have asked for, they might support the proposition to incorporate the Ports of Jersey which they will not, no matter how much information is returned to them and what that information ...

Deputy M. Tadier:

Sir, I think the Senator is imposing an improper motive. How can the Senator possibly know what he asserts?

Senator L.J. Farnham:

I am pretty sure it is a reasonably good guess that I am making but I do stand to be corrected upon the appropriate time and I will apologise if and when Deputy Southern and Deputy Tadier do eventually vote for the incorporation of the Ports of Jersey. So in summarising, I think really while I do understand and sympathise with what Members have said I do think that a reference back at this stage will bring nothing to the Assembly other than further delay.

1.2.13 Senator A.J.H. Maclean:

In many respects, it is difficult to know what to say. First of all and focusing on the reference back, there is more than enough detail in my view contained within the proposition that has been presented here today to answer the questions that have been raised by many Members. I have no doubt about that. I am disappointed when I look at the process that both the management team and everybody concerned and connected with this proposition have gone through in terms of trying to provide as much detail and background as possible for Members. If I concentrate on the 3 points that have been raised as the reference back on behalf of Deputy Tadier, Capita Symonds, for example, it is the validation that was undertaken for the capital programme and forms part of the 20-year financial model. It is going to be reviewed again before we get to the stage of bringing back the full business plan and legislation before this Assembly in 2013 or 2014 when it is prepared. So it is indicative, all the details and information that have been prepared is indicative of the position that we believe that the ports are in at the moment to continue to move forward towards incorporation. We believe we have got enough information in order to take that next step. It is a journey and there is still a long way to go and I was very thankful to the Chair for confirming the fact that this is in principle. I used the word numerous times in my opening remarks. It cannot be

anything other than in principle for the simple fact that we have to come back to the Assembly with the legislation at which point Members will have the opportunity to closely examine and if they are not satisfied, reject what is presented before them. There have been many other questions that have been raised and again, sticking to the 3 points that Deputy Tadier raised, the staff, and he is absolutely right to be concerned about the staff. It is of vital importance as far as I am concerned and the ministerial team, and it is as far as the management team at the airport are concerned. That is why, in my view, and I alluded to this in my opening remarks, there has been an extensive programme of engagement with staff throughout this process over the last few years. There has been no hiding away from the intent to first of all move to integrate the 2 businesses, which has been, as I have mentioned already, completed in a very short period of time, of 12 months. It is unheard of within the public sector that you could take 2 organisations with that level of staff and bring them together in the way they have. Do you think that was done by magic? I do not. It was done because the process was right, the engagement was right. There were working groups set up where staff were fully engaged. In fact 40 per cent of staff directly participated in the workshops that were arranged. I have attended staff meetings, both at the airport and at the harbour, personally, and spoken to staff. There is ongoing, there is an internal intranet site, the Group Chief Executive engages with staff. Staff know and understand and have been fully involved in the preparation of this proposition and are fully understanding and I believe, as I have said earlier, largely supportive of the majority of them of moving towards an incorporated model. There is also a joint working party that has been set up with the union. There have been monthly meetings with the unions. They have been fully engaged through the process, as Members I am sure would have expected. The other item that Deputy Tadier raised, the 3 points of the reference back, was the list of properties. Well, again, and I understand why Members have asked for degrees of detail, but it is not a matter of detail at this stage. We are talking about the principle of the direction of travel towards incorporation. Not the absolute detail of every last property, every last item, how everything is going to work. What we have done is we have done a considerable amount of work. We have had Fisher's reports, Vector's reports, a couple of Symonds' validations, a lot of background information to get us to this particular point in the knowledge and comfort validated by the shadow board and the expertise that exists there, that this is the right direction, but we have to come back, quite rightly to this Assembly with all the business case in detail finely worked out which will be in a year or 18 months' time and that work is yet to be done. Do Members really want, or would Members really have wanted me to have spent £1.8 million in doing all that work? I wanted to come here, this is an open and transparent process. I want this Assembly 100 per cent behind what we are trying to achieve here and what we are trying to achieve here I strongly believe is the right thing for the Island. I have absolutely no doubt. I have seen all the detail and this is where I have a slight problem that Members are standing up from around the Assembly and saying that they do not have the detail, they are not satisfied with the level of information that they have got. Now, I am going to take a step here, I have listened carefully to what Members have said and I am going to take a step and I am going to accept this reference back and you might be surprised, some Members might be surprised that I am going to do that. I am going to do it and I am going to come back quickly. The reason I am going to do it is because I want to give one more chance that I hope Members will take to come and listen to what we have to say. We have had 2 briefings for States Members. Do you know how many Members turned up? 14. Those that have been most critical today, Deputy Southern, Deputy Tadier, did they attend? No. I find that disappointing. I was disappointed with Deputy Southern's speech. I was disappointed he used the word "woeful" probably 7 or 8 times. I think it is woeful that he cannot take the time to turn up to a briefing ...

Deputy M. Tadier:

Will the Minister give way?

Senator A.J.H. Maclean:

No, I am not going to give way.

Deputy M. Tadier:

I do have a point of order from the Minister because I was going to bring this up after because I was expecting to speak but the first point is I think he is impugning Members' motives falsely even though to the approbation of the majority of the Assembly because I certainly gave a good reason why I could not come to the hearing. There is email evidence and I think it was being administered by Deputy Baker at the time and I said I could not come along because I had a conflicting commitment and I asked for the information to be sent and your department was very helpful and I suspect every States Member has their own heavy workload and to use these kind of *ad hominum* arguments to discredit the individual rather than their argument is completely unacceptable.

The Deputy M. Bailiff:

What is the point of order?

Deputy M. Tadier:

Imputing false motives and there is a second point of order which I did not want to raise but it is to do with the information about the unions having been fully consulted. I have just come off the phone to a union representative because I was so concerned that we are speculating on what information is being put out and what their views are and he said that there has been lots of consultation when it comes to putting Harbours and Airports under one roof. That has been consulted on very heavily over the last 6 to 9 months but there has been very little to no consultation on incorporation and that is a completely different thing, so I would ask the Minister to consider whether he is ...

The Deputy Bailiff:

Deputy, what is the ruling as a point of order you are asking me to make?

Deputy M. Tadier:

I am suggesting that the Minister is misleading the House inadvertently because the consultation has not been on incorporation, it has been on previous steps to bring Harbours and Airports under one roof and that is not the same as incorporation and that is what I am asking for as one of the terms of references, so that is the ruling. But I am also asking because if the Minister does accept this I have asked for a formal consultation to take place with the union so it is not simply a case of the Minister saying: "I will do this very quickly." I am asking that a formal consultation takes place with the unions and that the results of that consultation be brought back to the Assembly. Is the Minister willing to do that?

The Deputy Bailiff:

There are 3 points there, Deputy. The first one is was the Minister impugning the motives of the persons, that is you and Deputy Southern, who he said had not attended. I heard nothing in what the Minister said which impugned your motives. He was making the point that you had not attended and he was disappointed at that. The second point of order was not a point of order at all, it was a matter of disputed fact and therefore is not a matter on which the Chair can rule. The third was that you were asking for formal consultation. That was not the reference back that you put to me. The reference back put was the request for what formal consultation had taken place and that was not therefore part of the reference back.

[11:45]

Deputy M. Tadier:

I thank you for the ruling. In that case will the Minister accept those as points of clarification to accept now? I did not interrupt deliberately before because I expected to be able to speak.

The Deputy Bailiff:

Minister, have you taken this as far as you need to take it?

Senator A.J.H. Maclean:

Yes, I think I have taken it as far as I need to take it. I have simply said, because I have listened to a number of Members who have raised some points, I am happy to organise a further briefing, I am happy to engage with officers, with Members who have concerns, but on the understanding that Members appreciate that we are dealing at a high level with this information, but it still gives Members the opportunity to come, those that have not, for whatever reason, been able to attend the 2 briefings that we have held. The briefings with the Connétables as well of course was undertaken separately. We will take one more step in the hope that we can provide the comfort to those who are understandably concerned and genuinely concerned for good reason.

Connétable P.J. Rondel of St. John:

Is there any possibility we could have a Scrutiny report on this also, please?

The Deputy Bailiff:

Chairman, is this something that you are able to undertake to the Assembly that you would be able to achieve and if so within what sort of timescale?

The Deputy of St. Martin:

I might need to be led as to whether I am being asked to provide comments or to provide a review. If I have to provide a review it will take some time, I will need to have public hearings, gather the evidence and obviously get it written up. I have indicated to the House that my panel has potentially erred in its judgement not to issue comments. The information that has been asked by Members of the Assembly today we have, we could issue a paper if it would give Members of the Assembly comfort. I need to be led on whether it is a full review or comments.

The Connétable of St. John:

My request is for a review. I should have made it clear for a review.

The Deputy Bailiff:

A review rather than for comments?

The Connétable of St. John:

Yes.

The Deputy Bailiff:

Well, that is not for the Chair to direct in any sense at all. Standing Order 79(2) allows a proposition to be referred to a Scrutiny Panel. As the proposition has been referred back to the Minister it is not appropriate to have a debate today on whether it should also be referred to the Scrutiny Panel and that therefore would be a matter to have to be considered on another occasion. If it came to be considered the fact that the Scrutiny Panel had issued comments on the proposition might be of assistance to Members, written comments, might be of assistance to Members in deciding whether or not to accept any proposition to refer the matter formally to the Scrutiny Panel under Standing Order 79.

Deputy J.A. Martin:

I just wanted to be helpful. Formerly on Scrutiny and scrutinising the incorporation of Jersey Post, the review was done on the detail and we, at the time, said not to incorporate when it came back even though we had done the detail, the House decided to. So I think comments would be very helpful from the information that the Scrutiny Panel has and when the detail comes along in a year's time hopefully the Scrutiny Panel will be in a position or get themselves in a position to do a full review and that will be very helpful.

The Deputy Bailiff:

If I may say so that sounds very sensible but it is a matter for Members at the time. Any proposal is made under Standing Order 79.

Senator P.F.C. Ozouf:

May I ask a process question? Would you please explain to the Assembly what happens with the reversion to the debate. Do we start again? When it comes back to the States do we start again and have a groundhog day and start again with the debate? The Greffier is nodding, so I assume that that is the case.

The Deputy Bailiff:

When the Greffier nods it is not easy to disagree with him. **[Laughter]** Standing Order 103(2)(c) indicates that it is a qualification to the rule that a Member of the States cannot speak twice in a debate, indicates that a Member who has spoken in a debate on a proposition which has been referred back may speak again when the debate resumes. So that shows that the debate continues but Members can ... I will now refer to another Standing Order, and Standing Order 86 allows the Minister to move the proposition afresh if he chooses to do so. I assume therefore that the process that would be adopted on the next occasion is that the Minister, while not wanting to repeat everything that he said on this occasion, will want to deal with whatever new has emerged including the matters which have been referred back to him and what steps he has taken to deal with them so it would seem appropriate to me that the debate will resume on that basis, the Minister will open it and then Members are entitled to speak again and no doubt they will.

Senator P.F.C. Ozouf:

Can I thank you and the Greffier for that quick response? I am sure the Minister is very grateful for the explanation.

The Connétable of Grouville:

Could I ask the Minister if he would please incorporate the 2 words "in principle" in the next debate?

The Deputy Bailiff:

That, Connétable, is not possible because the proposition is as it is and the debate is resumed so ... Besides it is not necessary as the ruling is already given.

Senator L.J. Farnham:

Just to be absolutely clear when the debate resumes, would it be in order under Standing Order 79 for a Member to request a reference to the Scrutiny Panel at that stage?

The Deputy Bailiff:

Yes, it will.

The Deputy of St. Martin:

I might just say before that next debate happens my Scrutiny Panel will have issued comments for the Assembly to take regard of.

The Deputy Bailiff:

That would be very helpful.

Senator F. du H. Le Gresley:

You are not going to like me for saying this, but is it possible for a Member to bring in an amendment to this proposition between now and the debate?

The Deputy Bailiff:

Senator, I am not able to give you an answer to that question as I think it may depend on the amendment so not just on timing but on the content of it. Yes, so I am not able to answer it at the moment.

Deputy J.H. Young:

Since we are on hypothetical procedure, is it possible for the Minister to withdraw his report and lodge a new report with the full information required and debate it in the current session?

The Deputy Bailiff:

Well, with leave of the Assembly he can do that if he chooses to. Right, have we dealt with this? I think we have. We now go on to the next item on the Order Paper which ...

Deputy M. Tadier:

Sorry, can I just thank the Minister for finally accepting, I know I did pass him a note and I think, pragmatism at least, he decided correctly. Could I just ask ...

The Deputy Bailiff:

Sorry, Deputy Tadier, before you go any further, I have been at fault. The Greffier reminds me correctly that the fact that the Minister accepts the reference back does not prevent Members from speaking if they wish to and voting and therefore despite the fact that he determines to accept the reference back, the Assembly can, if it chooses, tell him not to. I have 4 Members who have indicated they want to speak. I hope perhaps in the circumstances they may want to reconsider that but does any Member wish to speak? No. Very well. All Members in favour?

Deputy M. Tadier:

Could I very briefly ... presumably I get a chance to ...?

The Deputy Bailiff:

Yes, Deputy, you are entitled ...

1.2.14 Deputy M. Tadier:

I will not keep Members long, I think it is just important to explain because we have spent so much time debating this so ... Anyway the first point is to thank the Minister formally for accepting this. I think he has made the right decision and I think the fact that the debate has gone on for a good 2 hours shows that there was serious concern perhaps on many different levels from Members about proceeding with this as stated. Just to take the analogy that Senator Ozouf used about getting out of bed and taking the first step in the morning, I think it is important to know where you are going when you get out of bed in the morning, to have a map, to find out what your final destination, what your E.T.A. (Estimated Time of Arrival) is, where you are going, et cetera, and I gather from the murmurings in the Assembly that I have already spoken too long, so I will not proceed any longer.

I would ask the Minister to give serious consideration about entering into formal consultation with workers, because I think that really is key that we take along our staff. The Minister said that they are the key asset to us ...

The Deputy Bailiff:

I wonder if the Assembly might allow Deputy Tadier to speak.

Deputy M. Tadier:

Yes, thank you, Sir. And I would also give encouragement to the Chair of the Scrutiny Panel that if he does need look into this in a formal manner in a review, that is clearly a political judgment for him and the panel to make. But the option does remain open for him to form a sub-panel or to co-opt other Members and given the interest shown in today's debate, I do not think he would have any problem finding one or 2 additional Members who were perhaps not involved in Scrutiny already who do have a level of expertise and interest in the subject that we could all work together. I think part of the issue here is that perhaps the current way we work is that we work in silos and the information has not been shared and that is not levelling criticism at anyone in particular, that is partly a systemic problem. So I leave it there and again I thank the Minister for his co-operation.

The Deputy Bailiff:

Very well. The vote is on whether to accept the motion for a reference back. The appel has been called for and I invite Members to return to their seats and I ask the Greffier to open the voting. If all Members have had the opportunity of voting, I ask the Greffier to close the voting.

POUR: 25	CONTRE: 22	ABSTAIN: 0
Senator A. Breckon	Senator P.F. Routier	
Senator A.J.H. Maclean	Senator P.F.C. Ozouf	
Senator B.I. Le Marquand	Senator L.J. Farnham	
Senator F. du H. Le Gresley	Senator P.M. Bailhache	
Connétable of Grouville	Connétable of St. Helier	
Connétable of St. Lawrence	Connétable of Trinity	
Connétable of St. John	Connétable of St. Clement	
Connétable of St. Brelade	Connétable of St. Peter	
Connétable of St. Martin	Connétable of St. Mary	
Deputy R.C. Duhamel (S)	Connétable of St. Ouen	
Deputy R.G. Le Hérisssier (S)	Connétable of St. Saviour	
Deputy J.A. Martin (H)	Deputy of Grouville	
Deputy G.P. Southern (H)	Deputy J.A. Hilton (H)	
Deputy J.A.N. Le Fondré (L)	Deputy of Trinity	
Deputy S. Pitman (H)	Deputy S.S.P.A. Power (B)	
Deputy K.C. Lewis (S)	Deputy E.J. Noel (L)	
Deputy M. Tadier (B)	Deputy A.K.F. Green (H)	
Deputy T.M. Pitman (H)	Deputy of St. John	
Deputy T.A. Vallois (S)	Deputy J.P.G. Baker (H)	
Deputy J.M. Maçon (S)	Deputy S.J. Pinel (C)	
Deputy G.C.L. Baudains (C)	Deputy of St. Mary	
Deputy J.H. Young (B)	Deputy of St. Peter	
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		

The Deputy Bailiff:

The Minister is not in the Chamber any longer but perhaps I can say to one of the Assistant Ministers to pass on to him that it would be useful, I think, for a date to be fixed for the resumption of this debate when we come to look at the arrangement of Public Business under M of this Agenda and, in the circumstances, it would be helpful to identify one or more proposed dates for the further meeting which the Minister has undertaken to hold for the benefit of Members, and no doubt those Members who have a particular interest in the matter will want to liaise with the Minister as to when that meeting might take place.

2. Protection of Freedoms Act 2012: extension of provisions to Jersey by Order in Council (P.71/2012)

The Deputy Bailiff:

We now come to P.71 Protection of Freedoms Act 2012: extension of provisions to Jersey by Order in Council lodged by the Chief Minister and I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion to signify pursuant to Article 31(1)(b) of the States of Jersey Law 2005 whether they agree that a request be made to the Privy Council for the making of an Order in Council that would extend to Jersey, with appropriate modifications and adaptations, the provisions of part 5 chapter 2 (and part of chapter 3) of the Protection of Freedoms Act 2012 together with associated provisions of schedules 9 and 10 to the said Act, as summarised in the report of the Chief Minister dated 30th July 2012.

2.1 Senator B.I. Le Marquand (Deputy Chief Minister - rapporteur):

Although I rise, I think today probably as Deputy Chief Minister to deal with this, if the Chief Minister had been here he would still have asked me to deal with it as Minister for Home Affairs.

[12:00]

So this is in my Home Affairs area. This is one of those situations in which the Assembly is being asked to support in principle an Order in Council to extend to Jersey the provisions of a U.K. statute. In this particular case the U.K. statute in mind is part of the Protection of Freedoms Act 2012 and the effect of that part was to amend part 5 of the Police Act. The situation is we are here dealing with the area of vetting and barring. That is the process by which employer and agencies and charities can do checks on potential employees or staff members or volunteers to check that they are suitable to have contact with children or vulnerable adults. There is also a wider range of cases in which such information can be obtained in situations in which exemptions apply to the normal provisions of the law in relation to the rehabilitation of offenders. In 2009 the Chief Minister brought to the States a projet seeking approval to the extension to Jersey of part 5 of the Police Act by an Order in Council so that we could continue to have access to the U.K. system and information held there. At that time, it was carefully explained that the U.K. was in a process of changing their system; that certain changes had already taken place which we were then catching up on, and that further major changes to the system would have to be made. There were very extensive proposals at that time including proposals for compulsory checks in a wide range of cases, however when the Coalition Government came in they decided very rapidly to review those proposals and what has come out of that are far more moderate proposals and indeed some additional safeguards for those being checked, and that is in the form of part of the Protection of Freedoms Act 2012. This proposition now seeks States approval to the extent of those changes to Jersey so that we can be kept up-to-date in this. I need to explain to Members of this Assembly that it is vitally important that we keep up-to-date with the U.K. legislation because we are part of a British Isles-wide system; a system that not only involves the United Kingdom, but also the Isle of

Man and the Channel Islands. And we simply have got to keep up with this if we are going to continue to be a part of this and to continue to have access to information, although we do have some degree of flexibility in the way in which it operates on the ground in Jersey. My department, with assistance from the Law Officers' Department, has produced what is called a Keeling Schedule so that the Members of this Assembly could see what the part 5 and other associated legislation would look like after the proposed amendments had taken place. This is incredibly technical, but with assistance I have worked my way through this and checked it until I am satisfied that it is correct and is appropriate for Jersey. However, I need to explain, as always has to be explained on these occasions, that the final form of the wording of the Order in Council is a matter for agreement with the U.K. authorities and therefore I cannot put a final form of wording before you because that may be slightly amended. But the intent and the purpose is to end up with what you have in the Keeling Schedule. However, I wish to assure Members of the Assembly, as I did in 2009, that I will remain part of this process and will be personally involved in it to ensure that what we have is correct and obviously I shall be working on that as before with the Law Officers' Department. So I am not going to take the Members of this Assembly ... I can see that Deputy Le Hérisier is smiling. It is customary on these occasions that I start to embark on a very detailed explanation and that very detailed explanation can be found on pages 6 to 9. It is customary on these occasions that when I have got past the first paragraph that the Deputy stands up and suggests that I go a bit faster so I am going to avoid that today, hopefully, and we will take you instead directly to page 5 where the Members will find a number of bullet points. These bullet points indicate in very simple language exactly what are the main effects of the changes to the U.K. statute which we now want to apply. Firstly, that children under 16 should not be eligible to request checks. Secondly, that criminal record checks should be portable between positions within the same employment sector. There is a system which allows for a continuous process so that a person can elect for that and so if there is a change they can simply request as part of that an update of information to be provided. That is all dealt with. Thirdly, the Criminal Records Bureau should introduce an online system to allow employers to check if updated information is held about an applicant. Fourthly, a new Criminal Records Bureau procedure should be developed so that the criminal records certificate is issued directly to the individual applicant who will be responsible for its disclosure to potential employers and of voluntary bodies. This is part of a process which allows the potential employee to appeal against the information. That was one of the additional safeguards that has been built in. So, if there is something wrong with the information, they can appeal against it and demonstrate it was not correct. There are 4 other measures there, which perhaps I will not go through in further detail. I think, at this stage, in order to avoid us getting bogged down in a total morass of detail, I am going to make the proposition in principle, and invite any questions on any details which may arise.

The Deputy Bailiff:

You are making the proposition? There is nothing further to come, as far as you are concerned?

Senator B.I. Le Marquand:

I am sorry?

The Deputy Bailiff:

You are making the proposition. There is nothing further that comes. You used the expression: "In principle", but actually you are making the proposition.

Senator B.I. Le Marquand:

I am making the proposition, yes. I could have carried on and read down the further 4 bullet points, if Members so wished, but I sense that that probably is not necessary. It is all set out there, and

there is far more detail on the following pages, which I will spare the Members at this stage. I make the proposition.

The Deputy Bailiff:

[Seconded] The proposition is seconded. Does any Member wish to speak?

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

Just a very short question to the Minister: in terms of partial inquiries and partial inquiry judgments, are the U.K. Government aware of our current system, and how would that fit in with the Criminal Records Bureau dealing with inquiries from Jersey to the U.K., for example? Presumably they would not be included in any information that is provided.

2.1.2 The Very Reverend R.F. Key, B.A, The Dean of Jersey:

I spent half an hour out of the Chamber this morning chairing a meeting on C.R.B. (Criminal Records Bureau) and child protection arrangements within the church. Part of that was about making sure that England and Jersey are absolutely in step on the principle; on the process within each congregation; on what happens if some irregularity and misbehaviour is alleged; the suspension mechanisms and the notification, both of the authorities and the diocese of Winchester; and indeed, of me here. So I welcome something that will guarantee this ability to work across that stretch of water, because if we had something that simply was okay in Jersey but not there, it would not work for organisations that function in both places. It does seem to me that we could also do with much greater guidance - whether this is done in legislation; I am sure it is not - in terms of the authorities working together, so that we know exactly who should be subject to C.R.B. checks, because there is no doubt that there is a difference in practice within various groups within the same part of society. For example, one church in my jurisdiction has over 100 people C.R.B. checked, because even if you simply welcome and shake someone's hand at the door, it is thought: "Better safe than sorry. We will do everybody." Whereas others would have a policy of Sunday School teachers and those most likely to come into contact with children. It would be a great help to us if beneath this very helpful Order in Council proposal, the authorities across the Island can continue to give guidance to those particularly running the organisations in what I think we now call the third sector, so that we are all doing absolutely best practice, that can give confidence to parents who leave children in our care.

2.1.3 Deputy R.G. Le Hérissier of St. Saviour:

I am glad the Minister made those remarks, and showed what a real hero he is in terms of learning from experience. I was just wondering, I cannot see them here, but I do remember Scrutiny did make comments, in its old incarnation, on the original proposal, and I was wondering if any had been made on this occasion. The other point I was going to ask; it is an interesting constitutional route by which this has arrived, and whether he has any comments on that. Thirdly, we all know that this arose of course from the Soham case, as I understand it, and Bichard's report, and one of the big issues there was - where I have changed my mind - that they were dealing with an individual who had nothing recorded on paper. He had been interviewed on a long series of sexual offence allegations and the police did not reveal this because they did not think, because they had not reached the point of finding guilt, that it was proper that these be revealed, as I understand. I wonder if the Minister, therefore, under 23 could discuss where it says: "To provide relevant non-conviction information", could he define what is meant by that. As I said, I know the world has moved on, because someone proved that you just could not go with a certain interpretation, because otherwise people would end up in a blind place, so to speak. If he could elaborate upon that.

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

It is really to follow on from Deputy Le Hérissier. With Deputy Higgins, I met a couple of weeks ago with a lawyer representing 57 of the alleged abuse victims, and of course one of the concerns expressed there - and I would like the Minister to explain whether this links in at all with what Deputy Le Hérissier is asking - a concern was expressed there with another couple of new people coming forward that it means that there are now 17 different people alleging that a person still working - and I am obviously not going to name him - has been checked out, or if more could be done. Because as I say, that person is still working for Social Services and now it is 17 people, so how can that help improve that degree of protection, which is what Deputy Le Hérissier is touching on?

2.1.5 Senator F. du H. Le Gresley:

I would just like to ask the acting Chief Minister, there is reference to the independent monitor who is appointed by the Secretary of State. Is he aware of who is currently the post holder, and am I right in assuming that any queries would go to the U.K. independent monitor, and we would not have a similar role in Jersey?

The Deputy Bailiff:

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

2.1.6 Senator B.I. Le Marquand:

The first question was the most difficult, because I am not absolutely certain what the answer is. I think the question was whether information in reference to cautions, whether a Parish Hall Inquiry would go as far as the information back to the U.K. I am not absolutely certain about this. This is not making any change of the system, whatever it may currently be. My understanding is that local caution information would be made available as part of a local check. Certainly, when I read through the whole statute, I noticed that there was reference to cautions in the U.K. legislation, but I cannot honestly tell you whether our local caution information would go. I do not know. What I can tell you is that this is not changing the system, whatever it may currently be. The Dean's question is a very interesting one. Part of the proposals which were shelved in the U.K. was to make it compulsory to make checks in certain particular types of cases. That was very controversial, and that has not taken place.

[12:15]

So, because it is not compulsory, it is very much left to individual organisations to make their decisions as to what the appropriate level of contact is. I personally have in my bag my own check, because of my own role in my own little church, although I have very little direct contact with children. The question of guidance in relation to that; there has been no central guidance produced. That is a matter I could discuss, as to whether in fact, locally, Home Affairs might think it appropriate to put out some guidance. But the general issue is where there is going to be contact or potential contact with children or vulnerable groups, in terms of church matters. Deputy Le Hérissier's question is a good one, and I refer the Members of the Assembly to paragraph 21 on page 7 because here, where we are dealing with the enhanced checks and there is therefore additional information being provided which is not a criminal record check in itself, here the test in relation to provision of that information has been slightly changed. Hitherto, the test was whether in the opinion of the Chief Officer - that is the Chief Officer of Police - the information might be relevant, but now it is a tighter test, so there is a reduction in information, in fact, to a test of: "The Chief Officer reasonably believes" it to be relevant to the employment or position or whatever. So these provisions do make a slight alteration to that and that does set up the appropriate test. In relation to Deputy Trevor Pitman, in terms of a situation where allegations have been made against a person but have not led to a criminal prosecution, that is precisely the sort of information that I would expect to be being provided, and to which I would expect the test of "reasonably believes to

be relevant” to the particular post or job that the person is applying. It is to cover that sort of information, which indeed was a problem in relation to the Ian Huntley case and Soham. This extended information is provided and that is the test. It is a matter, in this case, where it is information held by the Jersey Police Force, it will be a matter for the Chief Officer of Police to make the decision, although he may delegate it. That is the position. Members will see that it is “reasonably relevant” in terms of the actual employment of the individual. The question also of Senator Le Gresley; yes, the appeal process which has now been introduced does involve an independent monitor in the U.K. and so any appeal process in relation to information from Jersey would go there as well. We are buying into the system. This has always been a potential difficulty in this sort of area, but to set up our own independent appeals approach would be very, very expensive and, frankly, we would have difficulties of consistency in relation to that. We looked at this in the past in the context of possibly setting up something locally, but having the same people doing it, but frankly I think that is unnecessary. Thank you for the Senator’s question. I hope I have answered all the other questions, apart from the one where I regret I am not sure. But I can positively say this is not changing anything.

The Connétable of St. Brelade:

If I could just ask the Deputy Chief Minister if he could just clarify at some stage whether Parish Hall Inquiry results and sanctions are disclosed to the U.K. authorities, and whether the U.K. authorities are aware that we do give Parish Hall sanctions, and whether it would be important for them to know the results of those inquiries.

The Deputy Bailiff:

Deputy Chief Minister, I am wondering if this is something that perhaps the Attorney might help you with.

Senator B.I. Le Marquand:

If the Attorney has a better opinion, yes. It is a very complex statute.

The Deputy Bailiff:

This is a question of non-conviction information, and the issue would be whether or not the Parish Hall Inquiry non-conviction information goes before the relevant body.

Mr. T.J. Le Cocq Q.C., H.M. Attorney General:

I am not able to answer that question with total certainty, I regret. Of course, a finding in a Parish Hall does not result in a criminal record - it is not a criminal conviction for those purposes - so it seems to me that if information relating to a criminal record is to be provided under the request that would not form part of that information. However, the Order in Council would extend provisions, which indeed already exist in Jersey, but they would be slightly amended, that provide for an enhanced criminal record check. If there is an enhanced criminal record check, in addition to the details of the record itself, there would also be intelligence and information, and I would anticipate that if intelligence is available to the States of Jersey Police, if information is available to the States of Jersey Police, that would be passed back as part of the enhanced criminal record check.

Senator B.I. Le Marquand:

I think the Connétable was asking me to find out and to provide information for the Assembly, which I will gladly do.

The Deputy Bailiff:

Very well. All Members in favour of adopting the proposition of the Deputy Chief Minister kindly show. The appel is called for. I will ask Members to return to their seats. The vote is on the

proposition of the Chief Minister under P.71, the Protection of Freedoms Act 2012, and I ask the Greffier to open the voting.

POUR: 38	CONTRE: 0	ABSTAIN: 0
Senator P.F. Routier		
Senator A. Breckon		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Mary		
Connétable of St. John		
Connétable of St. Ouen		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy G.P. Southern (H)		
Deputy J.A. Hilton (H)		
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.M. Pitman (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		

3. Draft Price Indicators (Amendment) (Jersey) Regulations (P.72/2012)

The Deputy Bailiff:

We now come to the Draft Price Indicators (Amendment) (Jersey) Regulations P.72, lodged by the Minister for Economic Development, and I ask the Greffier to read the citation draft.

The Greffier of the States:

Draft Price Indicators (Amendment) (Jersey) Regulations: the States, in receipt of article 2 of the Price and Charge Indicators (Jersey) Law 2008, have made the following Regulations.

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

There are 3 matters which these draft amendments to the Price Indicator Regulations seek to address. They seek firstly the display of fuel prices at the roadside; secondly, they deal with matters relating to discounts on U.K. V.A.T. (Value Added Tax) equivalent prices; and thirdly, a new definition of food, with regard to the Regulations. It may be helpful to remind Members that these Price Indicators (Jersey) Regulations were passed by this Assembly back in 2008 specifically to come into force at the same time as G.S.T. (Goods and Services Tax) was introduced. The main effect of the Regulations was to make it clear that as a general rule G.S.T. had to be included in the prices of goods displayed to consumers, which of course followed the system in operation in the U.K. and the rest of the European Union. For consumers, certainty was needed, so that what you see is what you pay. I should add that there were some exceptions agreed by the States, which took into consideration the fact that certain goods imported from the U.K. were already priced indelibly. These included, for example, books, newspapers, magazines, and many food packs, which are zero-rated under the U.K. V.A.T. system, and it would have been a costly burden on business to force them to re-price these particular goods. So on these specific items, the Regulations permit G.S.T. to be added at the point of sale, but with the appropriate signage to inform customers. The principal reason for the amendments is to meet my responsibility to this Assembly following the almost unanimous approval last November of a proposition from Senator Breckon. The Senator's proposition was as a direct result of one of the recommendations in a report by the J.C.R.A. (Jersey Competition Regulatory Authority) titled *Review of the Jersey Market for Road Fuels*. I was required to bring forward for approval the necessary legislation to introduce a requirement for all fuel retailers to display the price of road fuel on sale so that it is clearly visible to passing motorists from the adjacent roadway. I am pleased to say that part of these amendments will, if approved by this Assembly today, achieve that objective. In drafting the relevant amendments, close consideration was given to comments made by some Members during the debate last November that only pump prices should be displayed, so that passing motorists who do not have loyalty or other account cards are clear about what price they will pay before driving on to the forecourt. It is also clear that the price of all grades on sale at a particular forecourt - not including red diesel of course, which is not a road fuel - must be displayed. There are other draft amendments in this proposition which I would like the Assembly to consider, and although I have explained the reasons in the report accompanying the proposition, I would just like to raise a few salient points. At the start of this speech, I reminded Members of the reason for the Price Indicators (Jersey) Regulations being brought into force at the same time as G.S.T. Traders offering goods to consumers are required to display the selling price which, to use the words from the Regulations: "Must be unambiguous, easily identifiable and clearly legible." Provision is made for general price reductions, for example, in a sale, but these reductions must of course be on a price that was previously charged. This brings me to the reason for one of the other proposed amendments, on Regulation 5. Earlier in the year, a U.K. based retailer applied to open an outlet in the Island. This particular retailer has a certain chain in excess of 60 retail shops in the U.K., and as is usual for a new retailer setting up in the Island, representatives met with Trading Standards for advice and guidance on the relevant local legislation. It was at this time that the business revealed that it operated one pricing structure for all its U.K. outlets, which of course are inclusive of the standard rate of U.K. V.A.T. In recognition of the fact that V.A.T. is a U.K. tax of 20 per cent. The business wished to display all its U.K. prices, but to offer a permanent, across-the-board 10 per cent discount on all its indicated prices. The problem with this is that the displayed prices have never been charged, so the proposed discount would be a technical breach of the Regulations. The draft amendment, quite rightly, will rectify this situation by introducing a new option for traders, to indicate the Jersey selling price by discounting their own U.K. selling price. The primary link to being able to use this method is related to what a U.K. price is. So Members will see in the draft that a definition of U.K. price has been introduced for the purposes of the Regulations. A trader

can only refer to their own U.K. selling price. There is one other minor amendment that is an updated definition of food; this is under Regulation 2. I have previously mentioned that the Regulations allow for exceptions to the G.S.T. inclusive rule, and one of the exceptions applies to food packs, which are pre-priced when imported into the Island. In these circumstances, the marked price may be uplifted at the till. However, the exception was always intended to only apply to food for human consumption, much of which is of course V.A.T. zero-rated in the U.K. The updated definition of food clarifies the exception is only applicable to food for human consumption and not pre-priced imported packs of animal food, which is 20 per cent V.A.T. rated in the U.K. In effect, this is a tidying-up provision that removes an important issue. I think that covers everything, so I maintain the proposition. Thank you.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak on the principles of the Regulations?

3.1.1 Senator A. Breckon:

Just a few comments. I welcome this, and I thank the Minister for bringing this forward fairly quickly, because it is a longstanding problem, the displaying and the signage at garages. There is a balance between something that is not very attractive and something that is very informative. It is the information that people want, because there has been some ambiguity, and it is a fairly expensive business, as many Members will know now. If you go and fill up a car or a van, it is not a few bob a gallon any more, it is very expensive indeed. As the Minister said, this came from a review that was done by the Jersey Competition Regulatory Authority. I think it is important that if any organisation like that does produce reports and make recommendations, then they cost money and they spend time and effort doing it, and this is an example of where it can be translated into a practical use for the general public. I think it is an easy thing to be done and something that we should take note of. The other thing I would ask Members to be aware of; there has been some recent publicity between the differences in Jersey prices and those in the U.K.

[12:30]

This is one of those examples where, if we keep doing this sort of thing, then it gives greater transparency and then consumers can make informed choices, because as I say, it can be very expensive. In fact, the difference between going to the cheapest garage in Jersey and the most expensive, if you do it on a regular basis, will nearly be enough to insure your car for a year if you do it, depending on your mileage, obviously. It is a significant amount of money over an annual basis, of course depending on how many miles you drive. I think it is to be welcomed. The other thing that I would like to comment on is that the Minister has been very accommodating here to a U.K. retailer who has demonstrated that there should be a price difference between the High Street in Jersey and the U.K. because of Value Added Tax of 20 per cent. If Members go out of this Assembly, they will not have to go very far to find blatant examples of U.K. price charging, not very far from here. It is something that is a longstanding problem. It is not easy to address, but here we have somebody who is saying: "We recognise that you do not have V.A.T. (Value Added Tax) in Jersey, you have another tax." It blows away some of the arguments about freight costs and higher wages and higher utilities or whatever. It does cut through that, and I would hope that others out there would see this as an example. The Minister has put that in place. It may be that some of us in here could exert some pressure on those who are still charging U.K. equivalent prices, because it is something that is an old chestnut, as it were, but it does rankle with local people when sometimes it is a matter of choice, but it also does hurt the pockets. We have seen recent figures where sales are down. This could be a way where retailers could generate some sales if they were to demonstrate this and do it on volume, albeit at lower prices. So, in general terms, these things

are welcome. I hope Members will support them. They are simple figures to do, but there is a benefit for the people out there which, in difficult times, I think is very welcome.

3.1.2 Deputy G.C.L. Baudains:

In my view, an entirely sensible and probably long overdue regulation. However, and I am not going to suggest this, because it would be referenced back, I am concerned that some retailers may find themselves in an impossible situation, required by this law to display a price on a sign, but refused from doing so by the Planning Applications Panel. **[Laughter]** It is an entirely possible situation. Would the Minister, in his summing up, elaborate on the reference to: "Further work required with the Environment Department", that exists in the last paragraph on page 3 of his report.

3.1.3 Senator P.F.C. Ozouf:

May I start by declaring an interest, that I have an interest in a garage forecourt. I do not run it, but I own it. I declare the interest, so is there any issue in relation to me addressing the issue in this debate?

The Deputy Bailiff:

You have the responsibility to declare it, but as the subject matter of these Regulations is of general importance, there is no specific issue.

Senator P.F.C. Ozouf:

Because I did not want to lose the opportunity of linking this important debate and strongly asking Members to support this. I am sure it is going to be supported, but I want to draw Members' attention to some recent data. September, October and November are the periods of time when we get more economic and statistical data virtually, than any other time, both here and in the U.K. and Europe and other places. Last week, we saw the publication of the Statistics Unit, the comparison of U.K. prices. This is the comparison of U.K. and Jersey prices, and I would commend Members to look at page 42 of that report - I am sure Members do not have it - and I am not going to speak for more than just a couple of minutes. There are serious issues continuing in relation to the underlying prices of dutied products. There are issues with petrol; there are issues with cigarettes; and there issues with alcohol. It does not cost 89p difference to retail a pint of lager in Jersey. It does not cost 73p to manufacture and retail a packet of cigarettes. Cigarettes cost £7.11 on average in the U.K. now; £6.27 here. The underlying pre-tax profit is a difference of 73p. The underlying commodity costs £1.40 in the U.K. and £2.13 in Jersey, a difference of 73p. It does not cost, in my view, an additional 22p per litre of fuel. In Jersey, average retail prices are £1.23; £1.32 in the U.K. If you take out tax, the underlying price is 52p in the U.K. and 74p in Jersey. The worrying issue is that that is up from 18p differential in 2011, and it is back to the levels that we saw in the mid 2005s. There are issues which I have never been successful in getting to the bottom of. There are always reports which say prices in Jersey are what they are because of underlying costs. I do not accept that. I do not accept that social security, rents, employment costs, mean that these additional prices ... there are issues in these markets which must be addressed. The margin on a retail price of fuel in the U.K., as displayed in Sunday papers last week and this, is 3p. In other words, the commodity price, you add 3p on average to that commodity price of a litre of fuel to get it from the distillate producer to the nozzle in the forecourt in the United Kingdom; that is on average. It is 22p here; now there is an issue. These Regulations will help. Consumers need to vote with their feet. They need to drive with their cars to the retailers that have cheaper fuel and they need information, and consumer power is at the heart of this. These Regulations are overdue. They are to be welcomed by the Minister in relation to this, but I am afraid that there is an awful lot more to be done still, a few years after the Jersey Competition Law was introduced. A few years after the J.C.R.A. there are still examples of markets which I do not understand, but it looks to me as though

they are cartelised markets. There is more work and more effort that needs to be done on these important issues, which also relates to duty policy.

3.1.4 Deputy G.P. Southern:

It is a pleasure to rise to my feet to speak after the Minister for Treasury and Resources to support his call for choice and competition, because this is what this measure about exhibiting the price on forecourts is all about, and I am confident that in 12, 18 months' time, the Minister for Economic Development will return to the House and say: "Look, choice and competition have brought the price of petrol down." I look forward to that day.

3.1.5 Deputy J.H. Young:

A very brief comment. Obviously, this is a very welcome amendment, so I would just like to ask the Minister, in his summing up, to clarify the opportunity now for retailers to show prices as a percentage reduction. If they do that, can he advise us whether that is gross or net, before G.S.T. For example, if a retailer shows its goods: "U.K. minus 10 per cent", does that mean that the person buying will get a discount of 5 per cent after allowing for the G.S.T.? I think I would just like to make sure that is not going to confuse people.

3.1.6 Senator L.J. Farnham:

Very briefly, I just wanted to stand. I support this proposition. For the avoidance of doubt, I have no interest in fuel sales or any other sales and tobacco, at this moment in time. I am a director of a hotel, which is widely known. I want to comment on something the Minister for Treasury and Resources said. He said he did not know why there was a difference. I think he does know why, and I can tell him why from experience in the trade over many years. It is simply wrong that in this Island there is one particular company that controls distribution of about 80 per cent of tobacco products and are taking an additional margin. That is a theme that runs through the distribution of many products, so Members should be aware of that, and I think the Minister for Treasury and Resources is aware of that, and I look forward to him working with his colleagues to act and do something to ensure that the States of Jersey and the people of Jersey are better served.

3.1.7 Deputy M. Tadier:

While I take on board the general principle that competition is good, and we have already had the in principle debate for this, and I am glad the Minister took on board ... I recall some contention about the fuel displays for roadside. I know that has been taken on board, which is welcome. I think there has to be something said about the cost of living in Jersey, because there has been an intimation - and I am sure that the truth is somewhere between what Senator Ozouf has said and what I will be saying now - is that if one were perhaps to listen to Senator Ozouf's speech, one gets the impression, if one was a trader outside, if one ran a petrol station or if one was a corner shop owner, that everybody is trying to rip people off in Jersey, or that a big proportion of retailers in Jersey are trying to rip people off. But there may be other underlying reasons why there is a price differential of 22p per litre or 70p (I think it was) on a packet of cigarettes, and that is namely that Jersey has a higher cost of living, therefore there are going to be higher wages needed to be paid in the Island because the rents are higher both for shops and for individuals, when their living costs are higher. So therefore, necessarily, it is not fair to compare simply the base cost of what it costs to get these units into Jersey, but the profit basis has to be higher all around so that the individuals involved can accommodate themselves in a very increasingly expensive Island. I think that needs to be put on record, because it is simply not fair to say that there are cartels operating in Jersey which keep prices high. We have to recognise the contradictions of living in a high cost base Island, which is affluent, but not affluent for everybody. That is the first point. The other one simply relates to the ongoing problem, which will not be resolved here, but may be helped, about Jersey stores charging V.A.T. and U.K. prices, because it seems to me that basically, if the U.K.

price does not include G.S.T. ... and let us talk about food. I will not use a name, but there are shops out there which have very many pre-priced items. So you go into the shop and an addition is put on the till or on the shelf, so your packet of cheese slices which is labelled at £1 is £1.05, et cetera. It seems to be very easy for these shops to be able to mark the prices up, but less easy for them to be able to mark the prices down. That is why, when you go into a clothes shop where the labels are already on there, you do not get your 20 per cent taken off; you very rarely get your 10 per cent taken off. You get nothing taken off, but you get your 5 per cent put on it. We have to find a way to encourage retailers, either by hook or by crook, or rather by legislation or by inducing them voluntarily to do that, to reduce prices, because it does not cost 20 per cent to bring products over to Jersey. We have had an example in here, I think, of the toy shop which recently opened up next to Le Riches Capital or what it used to be. Good on them, they have reduced their prices by 10 per cent. Does that mean that it cost 10 per cent to bring those toys into Jersey? It may not be, it might be 5 per cent, it could be 9 per cent. At least they made an effort, but there really needs to be some kind of effective method, and I know Deputy Higgins tried to do something. He was not quite successful, partly because it was not necessarily completely thought out. But there needs to be something done, and I know that this legislation goes some way towards allowing shops to reduce their prices. The last question I would ask, on page 4, and I agree with the principle again, is talking about goods being discounted that have previously been available at a selling price for a period of time. I would like to know what that period of time is, because some shops may be able to fluctuate their prices, and I am sometimes sceptical when I see something being reduced 70 per cent, which seems very expensive. Have they just reduced it the day before? Have they put the price up the day before and then reduced it the next day, so that they have said there is a 70 per cent reduction. What ways are there to verify what the normal prices are, and at what period of time do they have to be at that previous price before they can be reduced?

Senator P.F. Routier:

You were just looking to me to propose the adjournment. I was just wondering how we were going to, perhaps if we were able to finish this debate.

The Deputy Bailiff:

This is the debate on the principle. You then have the debate on the Regulations themselves.

Senator P.F. Routier:

Yes. I would suggest we keep going.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Minister to reply.

3.1.8 Senator A.J.H. Maclean:

That is a good way to stop anybody speaking, is it not? **[Laughter]** I will just hopefully address the comments raised. There was not much, I think, members who have spoken. Senator Breckon, of course, was the driver behind having the displays at the roadside. I thank him for that. I had some reservations previously about the cost associated with implementing these, which I raised during the last debate, and I think that brings up a point loosely related to Deputy Baudains.

[12:45]

We have to be careful, obviously, with any regulations that we pass through this Assembly, that we are conscious of the full impact, in every respect, and there are costs associated with a move such as this. Nevertheless, the argument was sound, and it is right that consumers have the ability to see what they are likely to be charged when - and before, importantly - they stop to fill up with fuel, so I think this is a positive step forward. I thank Senator Breckon for raising the matter, which was as

a result of the J.C.R.A. report. It is the right move, and I am also thankful to him for his comments about one of the other elements within the amendment in relation to U.K. retail prices and the way in which, yes, we are seeing here an example of a new retailer in the Island who contributed significant employment for Islanders, who were trying to do the right thing. I think that is a really positive move and I really hope others will follow suit. In fact, linked to that is answering, hopefully, Deputy Young's question. The Regulations say the G.S.T. has to be included in the prices of goods as they are displayed. What we often see is that some U.K. retailers, who are obviously not removing their G.S.T., are absorbing within the price the G.S.T. element, within their V.A.T. which they have not taken off. What this particular retailer is doing, he is reducing his price down, but he is obviously including within it his requirement for G.S.T. as well, so G.S.T. included is what you see. That is what the Regulations require. My department has spoken to Planning about the impact of this, and officers have had a constructive discussion about a pragmatic and consistent approach to signs and signage, which I very much hope will mean that there will not be a significant impact in terms of cost above and beyond what is absolutely necessary for fuel retailers. I hope that is what plays out at the end of the day, so hopefully, Deputy Baudains, that will satisfy you. We will see how it plays out in reality. I think that has answered all questions. I maintain the proposition.

Deputy M. Tadier:

I do not think it did answer one of the questions, although the Minister did well to remember most of them. Just the question about what period of time does a particular product have to be on a shelf before it can be considered to be discounted. I do not know if he knows that, or is there any specific time?

Senator A.J.H. Maclean:

I think that it is a decision for the retailer. The key issue was the definition of the discounted price, because of course goods can be bought from all different sources. The important aspect here is that, as far as the U.K. price was concerned, it had to be from an outlet that the organisation was already selling the product at the specific and published price. They can then discount it. They cannot, in other words, discount something that has not been displayed at a specific price. In other words, they cannot mislead the public in terms of pricing.

Deputy M. Tadier:

The second part of the question, which I did ask, was how would that be verified? If somebody makes a complaint to a shop and says they are advertising this product as a discounted good, what recourse is there and what mechanisms are there for that to be verified?

Senator A.J.H. Maclean:

Complaints to Trading Standards get reviewed and checked and, if necessary, retailers are queried on matters, and if absolutely necessary, it is progressed further, but hopefully that is not necessary. It does not tend to be proved to be.

The Deputy Bailiff:

The principles are proposed. All those in favour of adopting the principles kindly show. The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the principles of the Draft Price Indicators (Amendment) (Jersey) Regulations, and I invite the Greffier to open the voting. As all Members have had the opportunity of voting, I will ask the Greffier to close the voting.

POUR: 45		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				

Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Deputy Bailiff:

The Deputy of St. Martin, does your panel wish to scrutinise these Regulations?

The Deputy of St. Martin:

No, thank you, Sir.

Senator L.J. Farnham:

I wonder if, just as a guideline, there is a real possibility that with a bit of goodwill and enthusiasm from the States Members, we could finish the agenda by 1.15 p.m., 1.30 p.m. I wondered, just take a measure now if Members are prepared to do that, and if so, I would propose that, Sir.

The Deputy Bailiff:

Is that seconded? Members in favour of continuing to finish the agenda? Very well. The appel is called for on whether to continue until we finish the agenda. I will ask the Greffier to open the voting. The vote is on whether to continue to debate. Those in favour of continuing until we finish the agenda are to vote yes. I will ask the Greffier to close the voting.

POUR: 39	CONTRE: 4	ABSTAIN: 0
Senator P.F. Routier	Connétable of Grouville	
Senator P.F.C. Ozouf	Connétable of St. Clement	
Senator A. Breckon	Connétable of St. John	
Senator A.J.H. Maclean	Connétable of St. Brelade	
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator L.J. Farnham		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
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.M. Pitman (H)		
Deputy E.J. Noel (L)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.P.G. Baker (H)		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

Connétable A.S. Crowcroft of St. Helier:

Sir, to be helpful, could I just say that I propose that, if we are going to finish before lunch, that we defer the electronic devices to the next sitting.

The Deputy Bailiff:

Let us finish the present debate first, and then we will see where we are. Minister, do you now wish to propose the Regulations in detail?

3.2 Senator A.J.H. Maclean:

I have covered the salient points. I would like to, if I may, with the agreement of Members, to propose *en bloc* Regulations 1 to 5. If there are any questions, I am happy to answer those.

The Deputy Bailiff:

Does any Minister wish to speak on the Regulations? Senator Le Gresley.

3.2.1 Senator F. du H. Le Gresley:

I realise everybody is anxious to go and buy their sandwiches, but in relation to discounted food or toys, I would be interested if the Minister could tell us, under Regulation 5, this enables a shop or whatever to display a general notice “or other visible means” that the goods are or may be for sale at a reduction. What I am asking the Minister to advise me is, is there a legal requirement for the till receipt to indicate the percentage reduction, because there is a danger that staff do not apply the percentage reduction at the till because there is a general display, and you end up paying what is the computer figure, which indicates that a store that is using U.K. prices is a higher figure than you should have been charged, and there is no means of checking unless you look at your till receipt. If it is not already in the legislation, could he advise me if he is proposing to change it?

3.2.2 Deputy M. Tadier:

Just very briefly, and it is very brief. It just came to me that we should be moving towards a point, I think, where rather than shops displaying voluntarily that they are discounting V.A.T. from the U.K., we should be moving to a point where it is obligatory for all shops who charge V.A.T. prices and U.K. prices to have a big poster in their window saying: “We charge V.A.T. here in Jersey.” By the absence of that notification, I think shoppers would have a far better indication of which shops they might like to shop in. That is simply food for thought, because I think V.A.T. does not exist in Jersey. G.S.T. does exist, and I think until we get to that level, it is perhaps something that needs to be done via the Consumer Council rather than via Government, but I think that needs to be seriously pursued.

The Deputy Bailiff:

Does any other Member wish to speak? I call on the Minister to reply.

3.2.3 Senator A.J.H. Maclean:

As far as I am aware, there is no legal requirement for the till receipt to show the percentage reduction. That is all I can say to the Senator. I hope it satisfies him.

The Deputy Bailiff:

Those in favour of adopting Regulations 1 to 5, kindly show. All those against? The Regulations are adopted. Do you propose the Regulations for the Third Reading, Minister?

Senator A.J.H. Maclean:

Yes.

The Deputy Bailiff:

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

4. Use of Electronic Devices in the States Chamber: trial (P.73/2012)

The Deputy Bailiff:

We now come to the use of electronic devices in the States Chamber: trial, P.73, lodged by the Privileges and Procedures Committee. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to agree that elected Members should be permitted to use handheld and battery powered electronic devices, including battery powered laptops, that are silent in operation in the States Chamber during meetings of the States Assembly for a trial period ending on 31st July 2013, provided the devices do not disturb other Members or impair decorum; (b) to request the Privileges and Procedures Committee to monitor the progress of the trial and report back to the States with recommendations before the end of the trial to enable the Assembly to decide at that stage whether to allow such devices to be used on a permanent basis or whether their use should be prohibited.

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

Setting aside my lengthy speech, I am going to start by commending the previous Privileges and Procedures Committee under the chairmanship of the Constable of St. Mary, for having prepared a report on a similar proposition last year, which Members may remember was amended by the then Deputy De Sousa to allow laptops as well. Members have a report in front of them. I have answers to all their questions. I am not going to say much more, other than to say, this is a trial. I understand some Members have strongly held views about the desirability of having any more I.T. things, gadgets, in the Assembly, and I would urge them to set aside those strongly held views, or at least to express them very briefly, so that we can move to a decision. It is a trial we are asking for, until July next year, and if it is unsuccessful - the key phrase is: "If it impairs the decorum of the Assembly", which is a phrase we have plagiarised from the House of Commons report - then the trial will prove that to be the case, and nothing else will happen afterwards. But the current situation is somewhat unsatisfactory. Members have been seen, this very week, hunched over iPads. We need to resolve this one way or the other, and P.P.C. (Privileges and Procedures Committee) believe that this trial, which is not prescriptive, will allow us to see whether a greater use of electronic devices will impair the decorum of the House, or whether in fact it will make us a more efficient Assembly and get the job done better. I propose the proposition.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak?

4.1.1 Connétable J. Gallichan of St. Mary:

I will be similarly brief. I thank the Constable for his kind words. Simply to say, this proposition is subtly different to the one that the previous P.P.C. brought, in that it ours specifically excluded laptop computers, because primarily of the worry about the accumulative effect of keypads. I know that is dealt with in the report, but I just wondered, can the Chairman assure us that there will be a way to modify the trial as it is progressing, if it proves to be a problem, so that we can come to an outcome which hopefully supports responsible use, rather than coming to an outcome where the trial is deemed a failure because it has not been modified if there are initial problems. As someone who has gone almost entirely paperless outside of the States Chamber, to have to come every week

with masses of paper defeats the object of having taken that big step. This is for a responsible work purpose that this is being mooted, and I applaud it entirely.

4.1.2 The Connétable of St. John:

I hope people are going to have the patience; I did vote against the extended lunch period. I have quite a long speech. I speak on this due to the anxiety I have towards implementing such a trial. I have been called a dinosaur by my colleague in the past. I feel I must respond to a number of issues raised in the report, and I would also like to offer a number of factors which need to be seriously considered before we vote on whether to pass this proposition. Firstly, I would like us to examine what exactly the purposes of a parliament are. For the sake of this argument, I will assume that the States of Jersey is a parliament, although for the record, I am aware that we do not possess all the powers necessary to qualify as one. The term “parliament” derives from many of our words; from the French, the word “*parlement*”; took the French word “*parler*”, translating as “to speak”. What we in essence describe as a discussion. I believe that since the evolution of this discussion and debating chamber, while many things have changed, including our political system as we know it, one thing has remained a constant. This constant is our representatives, whomever they may be, have a real discussion on the issue of the day. The principle of gathering together to listen and to debate what the correct way forward is should not be distorted any further than it presently is. Currently, we all know, we can be sitting in the Members’ room listening, or out here. If you have electronic gadgets, it is going to make things somewhat more difficult.

[13:00]

We owe it to the electors, we owe it to the future, and we owe it to ourselves, to come together mutually and offer each other our undivided attention. We have not been elected to sit here every other week, and sometimes every week in the past, and use social media devices such as Facebook or Twitter to communicate and interact with others outside of this Chamber. In fact, this morning, when I sent a note to the Minister about his officers, who would generally be in the anteroom, they were spread around the gallery and in the Maritime House, listening in and feeding back information electronically. In the same way that we expect others to listen to us, we have a duty to offer our undivided attention to those who are speaking on behalf of who they represent. If we turn our attention to some of the reasons in favour of the trial, it would appear that they fall well short of the warranted support. For example, in the report we have read that Members already use BlackBerries - and in my case a WhiteBerry; it is not paid for by anyone else other than myself - and other smartphones to communicate. Others research and send emails. In this case, it would appear that by and large, something we already possess does a majority of functions that this proposition intends to trial. It would appear that all a smartphone does or does not do is make as much noise or take up as much room on one’s desk. Indeed, if an argument is made in favour of laptops in order to work on speeches and research them, then I believe that this is another reason to vote against the proposition. We are not here to conduct preliminary work that should have been completed in our own time at home or in our offices or in the departments. Any time spent researching, writing and Googling is time that is spent not listening to the speeches of our fellow Members. This is discourteous and hardly an example that we should be setting to the rest of the Island. Another argument in favour of trialling this is the reduction of the reliance on paper. I do not think that being eco-friendly necessarily means that we should stop using paper. I believe there are different types of green. Certainly, if I recycle the paper that I use, then this would go some way towards supporting the environment, being a former chairman of the Environment Scrutiny Panel. Further to this, I believe that any laptops in the States Chamber will need to have been charged to the brim, which could lead to Members charging their devices from the evening before to ensure that they will not run out of battery. Given that these devices are so reliant on an electrical source, this is hardly a way to support the environment. I think the fallacy of this

proposition benefiting the environment is not one particularly well thought out at all. It is perhaps a point worth making that the section in the report that suggests that P.P.C. would still disallow Members from using the laptop that they are issued with on election. I may be becoming cynical in my old age, but either this is a fruitless exercise whereby even if this proposition was implemented Members would still not be able to use their laptops, or it is a precursor for more spending on frivolous accessories such as iPads and Netbooks. When are we going to learn we do not need this? A number want this - and I am not one of that number - and may believe they are entitled to it. We are not. We cannot possibly expect the public of Jersey to buy into the idea of austerity and the notion of having little money to spend, if we are going to kit out each politician with shiny new iPads to go with their BlackBerries and their laptops. The buck has to stop here. Interestingly, P.P.C. cites the House of Commons Procedures Committee in admitting that there is no feasible way of determining just what the Members are using their laptops for. While I am one for trusting my fellow States Members, perhaps it is conceivable to imagine a scenario whereby instead of getting on with the job in hand we are stuck in the mud, telling tales to the Presiding Officer, which States Member is on which website. I do not want the Assembly to descend into any more of a playground than it currently is. We should remember that presently we are not blessed with a lot of room in this Chamber, and I shudder at the thought of altering our arrangements in order to accommodate a laptop. Our Assembly is rich in history and I want to see it remain this way for future generations to use in the same way that we do. Finally, I would just like to summarise by noting that this proposition is only suggesting a trial period. Having highlighted a number of the flaws in the trials, perhaps it would be best to sit back and watch other Assemblies do it first. I see no urgent need of a laptop and I doubt that I will urgently need one in the remaining time I have in this Chamber. Therefore, if this is not urgent, why not carry on as we are, and if it turns out that I am wrong and that will not be the first time, and that having analysed similar jurisdictions, we will see how they have got on. It turns out that laptops are the way forward, then I will admit being wrong, but in the meantime I do not want to see Jersey as a trailblazer to have our smallest in the desks cluttered with any more electronic devices than those I see at the moment with either BlackBerries or WhiteBerries, and yesterday I saw an iPad being used by a Member. That is what I have to say and I cannot support this.

4.1.3 Deputy G.C.L. Baudains:

Some Members already make what I would call excessive use of mobile electronic equipment in this Chamber, whether they were emailing friends or playing computer games or perhaps just advising a fellow Member how to vote, I am not sure. But whatever the case, they are not paying attention to what is being said in this Chamber. This is a debating Chamber, surely, where we should be listening to the views of other Members before we come to vote and I do not agree with allowing any more distractions than we presently have. Another issue touched on by the Constable of St. John is the limited space on our desks. How one can work a laptop and have the paper that we have, I do not know. Some Members will say: "Oh well, let us do away with paper." I have seen one or 2 offices where people claim to be paperless. They do not get a lot of work done.

4.1.4 Deputy T.M. Pitman:

When I was on Scrutiny last year, we visited the Welsh Assembly and that was not a good example, I felt, of I.T. technology. In fact, it looked like you were just in a big office full of secretaries, everyone hidden behind their computer screen. I would not like to see the Chamber become like that. However, the reality is we have people in here playing with their BlackBerries constantly. I have brought it up before and it is very distracting. Like Deputy Baudains, I mean, we certainly witnessed during the last Assembly people being told how to vote by BlackBerry, which I think is a real disappointment, and I think if any of the public could see the quality of the elected Members who cannot think for themselves and have to be told or are even willing to be told, then the

elections might be very different. But I feel sorry for the Constable of St. John being called a dinosaur. There are a lot of good things about dinosaurs, I expect.

Senator L.J. Farnham:

Like they are extinct, yes.

Deputy T.M. Pitman:

They are not around anymore. Can I protest that my punchline was stolen? Be that as it may, the Constable of St. John is quite entitled to his views and there is some truth in what he says. As I say, the Welsh Assembly, I would say to anyone who has not been, go, because you really would not want this Assembly to become that way. Equally, I am happy to support this trial. What I do want to see monitored is that people are not twittering or tweeting or whatever it is - and I do not twitter or tweet, or perhaps people think I do, but I do not in the electronic term - I do not want to see people just doing that and liaising with social networks. I do not want to see people playing computer games when they should be listening, because one of my big issues in here, and I have said whatever people think of my politics, my voting record shows that I always vote on the issue, and it has been quite sickening, certainly in the last Assembly, to see a large exodus when people like the former Deputy of St. Mary got up to speak, because he was one of the most analytical and clever men and yet we used to see this mass exodus like a herd of cattle out into the coffee room. As the Constable of St. John says, that should not happen, and if only we could find a way of using some real electronic devices and live streaming, the public could see how discourteous many Members, mainly on the right of the House I have to say, are to those whose views they perhaps do not support.

The Deputy Bailiff:

I am not aware that there is a right and a left of the House. We are independent Members.

Deputy T.M. Pitman:

You are not political, Sir, so I appreciate that answer.

The Deputy Bailiff:

I think I am merely repeating the line that the Bailiff has taken previously.

The Connétable of St. Mary:

I think he means your right, your left right.

Senator L.J. Farnham:

Sorry, Sir, I thought you had said House.

Deputy T.M. Pitman:

I mean, the right is there and I am normally right, but there we go. But I think we have got to support this. You know, it is not a large timescale that the Chairman of P.P.C. is talking about and the previous P.P.C. which I was part of for the last year or so did bring something very similar, and I think we have got to give it a go. If we descend into mass games of, I do not know, Space Invaders it was when I was a kid, whatever people play now, then it has got to go, but I think we have to give it a chance to see if it does add anything to the States Assembly. I mean, certainly Ministers are being fed information while they are reading their speeches and there is the unevenness that certainly on Scrutiny last time, none of us had access to these devices at the taxpayers' expense on top of our expenses. So I think there are quite a few issues that need to be monitored, and I trust the Chairman of P.P.C. to do that, so I would say support it and the best way to monitor it is if you have got someone sitting next to you who abuses it, out them, shame them

and come July, whenever it was, the Chairman suggested we can go back to the way we were and the dinosaurs will be happy. So I will leave it at that, thank you.

4.1.5 The Deputy of St. Martin:

I might be wrong, but I am presuming that the Constable of St. John and Deputy Baudains will not be offering themselves as Chairman and Vice-Chairman of Digital Jersey, but to get serious though, there are 2 small parts of this proposition which are the most important to me. The first one is the word “silent” and the second one is the phrase: “Devices that do not disturb other Members.” I think this is progress. I will certainly be voting for it, but if we get to the end of the trial and I have been disturbed by devices that are not silent I may not be inclined to support it.

4.1.6 Senator P.F.C. Ozouf:

Two years ago, I was going on a trip where normally I would have to take lever-arch files of information and I got sick and tired of having to check baggage in and I bought an iPad, and I have to say while I probably am regarded as an early adopter of technology, I like it, it has revolutionised the way I work. So I understand the comments of what would be regarded perhaps as traditionalists, and the Constable of St. John has some good points that he makes and also about perhaps the issue of not just the issue of having a device which in my place would, in this Assembly, replace this, which is paper; there is another issue about whether or not we should be communicating from our seats, and perhaps the Chairman of P.P.C. does need to deal with that. Next week we are holding in Jersey a debate on Digital Jersey. In that debate, we are going to be talking about technology and how technology has the capacity of revolutionising people’s lives across the board, improving productivity, increasing knowledge, making communication between people easier. I believe that this Assembly needs to be seen as a leader in terms of technology. Last week I was taken on a trial to take my iPad so that I can use email and my diary can be read on my iPad. It is a trial and I hope that every Member of this Assembly will have the opportunity, and if there is an issue of resources, then I think that we are more than happy to talk to P.P.C. about it.

[13:15]

Every Member should be given the opportunity of having the ability to trial an iPad. It will revolutionise their lives and having it used outside the Assembly means that effectively in document management, in information that you have, you need to be able to bring it in this Assembly, and I will even spend time with my good friend, the Constable of St. John, to show him just how much his life can be made more easier and he can be a better representative, he can have better communication with his parishioners, he can be more knowledgeable in relation to using technology, and that is what this debate really is about. It is a trial. We may well need to have rules of conduct about whether or not we twitter from our seats, whether or not we should be communicating. There are rules that need to evolve, but technology can help us and we need to be seeing technology is the future. It doubles in terms of its speed every 5 years. We are going to see things in the next 10 years that we do not even dream is possible and we need to be up-to-date in this Assembly. We need to show the fact that technology matters in education, it matters to productivity, it matters in our lives, and that is what this trial is about. Yes, there are rules. Yes, we need respect, we need to have rules of code of conduct, but let us get on with this. I will work with P.P.C. from a Treasury point of view to allow this trial to not only just simply happen, because there are Members who have the ability to go and buy an iPad and others that cannot, but they must be able to be given the opportunity of enhancing technology and improving, because by doing so, we will improve the way that we operate. The Greffe are leaders in technology, if I may say. The Greffier has led the States Assembly website. I think the Greffe themselves can become more efficient in their interaction with Members. We can save money on printing. If there is just one

other issue that we need to do, we can save money, but there are lots of other reasons why we should say yes to this trial and get on and have a vote and say: “Yes, let us start it.”

4.1.7 Deputy M. Tadier:

As Vice-Chairman of P.P.C. and having worked on the previous P.P.C., I know that this has been a tentative issue. It has not been something which has been brought forward hastily, and it has been several years in the making, and I am going to be slightly more cautious than the previous speaker, because I do not think it is an absolutely clear area that there is an absolute case for using electronic devices without any negative sides. That is not true, and the caution I think that we heard from certainly Deputy Trevor Pitman and other speakers is quite right, and many of the comments that we heard from the Constable of St. John were quite right; not all of them, I think a lot of them were not correct, and I will perhaps explain why. But there is a balance to be struck here, and I know from personal experience, because I went to the Welsh Assembly with Deputy Pitman and I have been on a Parliamentary Assembly, and if I give a small anecdote, that we had been travelling, some of us, for 36 hours and as soon as we realised that we were given internet access on the first day of the conference that pretty much all of their delegates were checking their emails for the first session. It was questionable to what extent they were paying attention to what was going on, but I know that they were paying attention, because valid questions were being asked. So there is a balance to be struck between what we expect in terms of behaviour from States Members and parliamentarians, but on the other hand I would argue, and this is the great possibility with electronic devices, is that it does open up and create a level playing field. It allows access to information. Senator Ozouf referred to the fact we have a great and increasingly better States Assembly website. It was not always the case. We have an increasingly better gov.je website. We cannot even access those from the States Chamber. If I want to, I have to go on to my BlackBerry, which is my own BlackBerry incidentally, and access it via a very small screen. I have to zoom in as far as I can and I cannot get the information, and I would ask perhaps some Back-Benchers who are sceptical is that it provides an equality of access to information and a parity of arms, because if a Minister or somebody else is coming up with information and saying: “X, Y, Z, this is the case, the latest statistics in the U.K. show this” we just go on to Google, we can look for that information and say: “No, this is not the correct information” or we can satisfy ourselves that the information being put forward is correct and it does that in a much more speedy way. Interesting to note the Constable of St. John’s notes were all typed out there, presumably done on a computer, so we are talking about the environment and he has had to print those notes out or have them printed out for him - I do not know if he has got a computer at home that he uses - and then he has had to bring those into the States Assembly and read them out from a piece of paper which presumably he will send to recycling afterwards. But he could have just brought a laptop in, which all States Members are entitled to have. He could have brought an iPad in if he is subject to that, or any kind of other device that he would be able to read from. Also it is important to note that currently Standing Orders 99(1), which is at the top of the report, says that: “Before entering the Chamber, a Member of States must switch off any mobile phone or any electronic device that would be likely to disturb the proceedings of the States.” So technically it is already in my interpretation not possible under Standing Orders technically to bring a mobile phone in or a BlackBerry, because first of all it says that, and it is likely to cause a disturbance and it often does. Mobile phones often cause a disturbance in the Assembly even for the most fastidious of us who keep them on silent or vibrate, but laptops and wi-fi works in a completely different way, so while mobile phones interfere with the microphone system even if they are on silent because of the magnetic loop, so you do not even have to be near the microphone, you could be on a different row, you could be sitting down the end of a row and the induction will cause interference. Laptops will not do that because the wi-fi system works in a completely different way. So ironically, the debate should be perhaps about whether we should be having mobile phones in the Chamber, but it seems that in terms of

disturbance, laptops and other iPad devices are not so much of a problem. I just emphasise again this is a trial period. P.P.C. does not have any uniform views and it does not have any fixed views on this. We will see at the end on 31st July, we will presumably compile a report, say how the period has gone, the test period. There will be a chance for all Members to give their feedback and there will be the added safeguard of any Chair being able to intervene if it is felt that any particular device or the cable from a device, for example, is causing a problem. But in reality, most of these things will be self-regulated, because I think we generally have a basic respect, if not for all Members, then certainly for the 2 Members that are sitting next to us, because we rely on them for our access and egress, and so I am certainly not going to be putting leads in front of me so that Deputy Young or the Deputy of St. Peter is going to have trouble getting in. I mean, that is basic common courtesy, and I would not even bring the wires into the Assembly. Other ideas to say that Members will be sitting there playing on games. I think it is frankly preposterous because we have papers and pens. If I wanted to I could sit here doodling all day, drawing faces, playing noughts and crosses with myself, and all the other Members would think I am doing hard work and making notes for my speech. So I think we have to give individual Members an amount of latitude. We are all parliamentarians, whether we like it or not, and I think we have to give the relevant responsibility with that. Therefore, I would ask Members for their support, albeit perhaps cautious and tentative support. Let us see how it goes, and if on 31st July we realise that the Assembly is not cut out for electronic devices or that certain devices are not appropriate in the States Chamber, then let us kick it out, but let us give this a chance and see what becomes of it.

4.1.8 Deputy J.M. Maçon:

I will be very, very brief. I do support the proposition, but as I get the opportunity, just to ask for an undertaking of the Chairman of P.P.C. for one of my little bugbears, which I have noticed going on in the Chamber is that perhaps some extra training could be offered for Ministers and Assistant Ministers, because when they are scrolling down on their BlackBerries I have noticed around the Chamber the clacking sound, and I would very much appreciate it if that could be tackled. I am very supportive, but the key is to make sure that these devices are silent because people know how to be able to do that. I would very much appreciate that undertaking.

4.1.9 Senator L.J. Farnham:

90 per cent of what I was going to say has been said, but I would just point out, perhaps ask the Chief Minister to speak to I.T. because if this is passed then some Members who use iPads will know that the States intranet is not fully operational on the Apple platform and that will need to be addressed. I fully support this proposition. I also hope that a fining system will remain in place for noisy laptops and noisy iPads, although I would much rather see a fine implemented for people who refer to this Assembly as a House.

4.1.10 Senator F. du H. Le Gresley:

I knew it was a mistake when my colleague said the rest of the agenda will not take much time.

The Deputy Bailiff:

So did I.

Senator F. du H. Le Gresley:

To make it worse, he has also spoken. That means we have been delayed even further. However, I have a lot of sympathy with the Constable of St. John and also Deputy Baudains and one thing I have always learnt as life has gone on for me, and women have always told that men cannot do 2 things at once, and it is a fact that you cannot listen to the thrust of a debate and scroll or Google the internet or send emails to other colleagues or whatever it is you are doing. It is a fact, because I have observed it in meetings where I have seen other people on their iPads or on their BlackBerries

and then call a halt to the meeting and say: “What were we just talking about, because I have not been following” or they clearly comment on something which is totally irrelevant because we have already discussed it. So I would suggest that, as the Constable of St. John has quite rightly said, this is a debating Chamber and we have to have more respect for people who are speaking. In particular, some people take a lot of time to prepare for speeches they are going to make and it is totally discourteous for Members to be using handheld devices when that person is speaking, because they are not paying attention to what they are saying. I think this is a trial, so I am sure we are going to be monitoring lots of things, but I would ask the Chairman of the Privileges and Procedures Committee to include in his monitoring the number of times the Chair states that the Assembly is inquorate, because I would hope that this trial will mean that more Members can stay in their seats and therefore we will not have the frequent situations where we become inquorate. So I hope and I ask that that be a measure of the monitoring process. Finally, not wishing to prolong this debate, the irony of what we are proposing today is that the august newspaper called the *Jersey Evening Post*, we will not be able to bring in a paper copy, but we will be able to read it online.

4.1.11 Deputy G.P. Southern:

Briefly as I can, the pros and cons of progress. Well, a pro for me, I will be able to sit here at this desk and write proposition after proposition after proposition. Of course, some Members would think that is a con. On the other hand, I will become far less fit, because I will not regularly leap up 2 flights of stairs in an attempt, usually in vain, to achieve a vote, but the pro to that is that I may get off the bottom of Deputy J.M. Maçon’s list of how many times I am absent from voting. It swings in roundabouts, does it not? We have to give it a try then.

The Deputy Bailiff:

Does any other Member not wish to speak? **[Laughter]** Then I call on the Chairman of Privileges and Procedures.

4.1.12 The Connétable of St. Helier:

Members will be pleased to know that I am not going to go through every comment. I thank Members who have spoken in support of the proposition. I was passed a note, an old-fashioned note, about a certain new fossil that has been found in the cliffs of St. John called a Philiosaurus, which I was grateful for. It seems to me the key points that have been raised are P.P.C. first of all have been asked to develop rules as part of the trial, particularly in relation to communication, and I would point out, as some Members have done, I think, but you can tell someone how to vote with a paper note just as you can with an email. But clearly some Members do have a concern about communication from our seats and that is something we can look at. Equally, I think there are some people here who believe that - whether it is men or women, I do not think it matters - nobody can do 2 things at once. You can only listen. If that were true of course nobody would write any paper notes at all during Assemblies, because they would be giving all their ears to the speaker. We all lead busy lives, we do all multi-task with paper at the moment and some people with I.T. and I do not believe this trial will change that at all. I think the main concern that has been raised, and that was from the previous Chair of the Committee, was about whether laptops were suitable, and I think there is an agreement that if you have more than a couple of them in the room in the Assembly, then it is going to become a disturbance and I am grateful to the Minister for Treasury for really recommending Members to look at the tablet kind of device, the iPad, as it is called, as being really much more silent and preferable to laptops, so I would encourage any Member who plans to come in 2 weeks with their old States laptop to consider they should not; try using something a bit quieter. Certainly my laptop not only makes a noise when I type at super speed, but it also whirrs and hums and I certainly would not bring it into the Chamber.

[13:30]

Maybe I am using one of the old ones. It seems to me that there is not much else to say and I think there were no specific questions. Obviously some Members, as I say, do have strong feelings about whether this will be a change for the worse. It seems to me that it is probably just inevitable that more and more Members are going to want to use this kind of mechanism and I maintain the proposition.

The Deputy Bailiff:

The appel is called for. That is an electronic device, I believe, Connétable. [Laughter]

The Connétable of St. John:

We can do the old-fashioned way, Sir, if we could.

The Deputy Bailiff:

I would invite Members to return to their seats. The vote is on whether to adopt P.73 and I invite the Greffier to begin the voting. If all Members have had the opportunity, I ask the Greffier to close the voting.

POUR: 37	CONTRE: 6	ABSTAIN: 0
Senator P.F. Routier	Connétable of St. John	
Senator P.F.C. Ozouf	Connétable of St. Ouen	
Senator A. Breckon	Connétable of St. Brelade	
Senator A.J.H. Maclean	Deputy S. Pitman (H)	
Senator B.I. Le Marquand	Deputy G.C.L. Baudains (C)	
Senator F. du H. Le Gresley	Deputy J.P.G. Baker (H)	
Senator L.J. Farnham		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of Grouville		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisssier (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy T.M. Pitman (H)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy of St. John		
Deputy J.H. Young (B)		
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 Deputy Bailiff:

Chairman, as the vote has been taken and it is only a trial period, can I just ask you that when you come to do your review that you look at the word: “elected” in paragraph (a) of the trial, because there are some lawyers who are as good as other lawyers, but very much more techie than others and may want to have a handheld device.

The Connétable of St. Helier:

Yes, well spotted, Sir. That was drawn to my attention during the debate. It is something that the Committee overlooked. It should of course apply to all Members.

5. Jersey Appointments Commission: appointment of Chairman (P.75/2012)

The Deputy Bailiff:

Very well, we now come to P.75, Jersey Appointments Commission: appointment of Chairman lodged by the Chief Minister, and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion in accordance with Article 18(1) of the Employment of States of Jersey Employees (Jersey) Law 2005, which is concerned with the appointment of Commissioners to the Jersey Appointments Commission to appoint Mr. Brian Curtis M.B.E. as Chairman for an initial period terminating on 23rd February 2014.

Senator B.I. Le Marquand (Deputy Chief Minister):

I ask Senator Routier to act as rapporteur.

5.1 Senator P.F. Routier (Assistant Minister - rapporteur):

Before I propose Mr. Curtis, I would like to thank the previous Chairman, Mr. Alan Merry, for his expertise and valuable contribution that he has made to the Appointments Commission. **[Approbation]** So with no further ado, I would like to propose Mr. Curtis. He has been on the Commission for a number of years and his appointment would be until 23rd February 2014. Members have been provided with a copy of Mr. Curtis’ C.V. (curriculum vitae) on the desks and I hope they are able to approve his appointment.

The Deputy Bailiff:

Is the proposition seconded? **[Seconded]** Does any Member wish to speak?

5.1.1 Deputy R.G. Le Hérisier:

Very briefly, is it possible, because I only saw Mr. Merry operating formally on a couple of occasions, but he was clearly a person of considerable gravitas. Is it possible for the rapporteur to speak about why Mr. Merry has left? Secondly, could the rapporteur explain the appointment procedure? Is this is a nomination that has emerged from the States Employment Board, or am I correct in thinking it has emerged from the Appointments Commission itself, because if it has and it has nothing to do with the individual as such, I do not see that as a terribly good way of going about things. This is an absolutely key position, a position into which the States should feed, and thirdly, despite the excellence of the newly enlarged or bridged C.V. I wonder if the speaker could, other than the time on the Appointments Commission itself, address Mr. Curtis’ experience in senior human resource management.

The Deputy Bailiff:

Does any other Member wish to speak? I call on Senator Routier to reply.

5.1.2 Senator P.F. Routier:

The reason for Mr. Merry standing down is a matter for him, I am afraid. It is not something which I am able to expand upon. He has made the decision and that is a matter for him and his colleagues, really. With regard to the Appointments Commission, the process is explained in the report, how it goes about. It comes through from the States Employment legislation that the States Employment Board would make that selection and the Chief Minister would propose the Chairman. I quite appreciate what the speaker is ... in this particular case, how does somebody appoint somebody to the Appointments Commission, because it seems to be a circular argument, who is going to oversee that, but it does come through the work that is carried out by the Employment Board and they have made the recommendation, they have spoken to Mr. Curtis and recognised that they would need somebody to fill the period which Mr. Merry would have continued to. Then I would imagine, I have not checked, but obviously there would be a fresh process that would take place at the end of Mr. Merry's existing term. Mr. Curtis' experience with regard to human resource matters; I have no information about that other than what is on his C.V. I cannot answer that, but we all know that Mr. Curtis is a very, very experienced person. I have worked with him personally on a couple of appointments and I have to say that his expertise has been really valuable to the appointment process, and I will be working again with him tomorrow to do another appointment, so I think he is going to be a very good Chairman and I maintain the proposition.

The Deputy Bailiff:

All Members in favour of adopting the proposition, kindly show; those against. The proposition is adopted. Chairman.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

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

In regard to arrangement of public business, we have the items as set out on the Consolidated Order Paper with the addition of Projet 83, Jersey Police Complaints Authority: appointment of members and Chairman on 9th October, and Projet 84, Draft Health Care Registration (No. 4) Jersey Regulations 201- on 23rd October, and I also understand that the Minister for Economic Development would like to bring back P.70, which was referred back today to the sitting, I believe, on 9th October.

The Deputy Bailiff:

Does any Member wish to speak? Those arrangements are noted and the States now stand adjourned until 25th September.

ADJOURNMENT

[13:37]