

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 6th DECEMBER 2011**

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**The Roll was called and the Greffier led the Assembly in Prayer.**

[09:31]

**APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS**

**1. Nomination of members of the Privileges and Procedures Committee**

**The Bailiff:**

Then we come on to F, Appointment of Ministers, Committees and Panels and first of all nomination of members of the Privileges and Procedures Committee. Connétable, I think you should take this in tranches because there are 3 different types of members and under Standing Orders first you should nominate 3 non-Ministerial Members.

**1.1 Connétable A.S. Crowcroft of St. Helier:**

Can I just say that I am grateful for the offers of interest that I have had from Members to join Privileges and Procedures and the list I have come up with is intended to reflect a balance of category of States Member experience and also of gender. The non-Ministerial Members I am nominating are: Senator Ferguson, the Constable of St. Clement, and Deputy Tadier.

**The Bailiff:**

Is the nomination seconded? **[Seconded]** Are there any other nominations?

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

Yes, Sir, I would like to nominate Deputy Trevor Pitman.

**The Bailiff:**

Is that seconded? **[Seconded]** Are there any other nominations? Very well, then those are the 4 nominations, so I think we must move to a ballot then on the membership, so I will invite ballot papers be distributed. You should write up to 3 names of your preferred candidates. I invite the Usher and the Deputy Viscount to collect the ballot papers please. Have all Members returned their ballot papers? I ask the Deputy Viscount and the Solicitor General to act as scrutineers please. Are Members content to move then to the next category before we know the result of this ballot, or would Members prefer to wait? It would be a different category of Member. Very well. I invite you Connétable to nominate 2 elected Members who are either a Minister or Assistant Minister.

**The Connétable of St. Helier:**

Having consulted with the Chief Minister I am proposing Senator Bailhache and Deputy Martin.

**The Bailiff:**

Is that nomination seconded? **[Seconded]** Are there any other nominations for those positions? Very well, then I declare that Senator Bailhache and Deputy Martin are elected to the Privileges and Procedures Committee. **[Approbation]** Then finally, Connétable, a representative of the Chairmen's Committee?

**The Connétable of St. Helier:**

The Deputy of St. Peter.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to propose an alternative nomination? Very well, then I declare the Deputy of St. Peter is elected to the Privileges and Procedures



Committee. **[Approbation]** The next matter on the Order Paper is the nomination of Commissioners for the Jersey Overseas Aid Commission, but if Members agree perhaps that should await the return of the chairman as he is not here today and we could deal with this tomorrow morning. So, the next matter is a nomination of the Environment Scrutiny Panel.

## **2. Nomination of members of the Environment Scrutiny Panel**

### **2.1 Deputy J.H. Young of St. Brelade:**

It gives me pleasure to nominate the Deputy of St. Martin as a member of the Scrutiny Panel. I would just like to say thank you for those Members who responded to me but the arrangement that the Deputy and I set up, if you support this nomination, mirrors the arrangement of the Assistant Ministers in the Environment and Economic Affairs Department, so I think this arrangement will work well.

#### **The Bailiff:**

You want to have 3 Members, is that right, Deputy Young?

#### **Deputy J.H. Young:**

Yes, Sir. In a previous sitting I said I was nominating 3; we already have 2, so this is the final nomination - the Deputy of St. Martin.

#### **The Bailiff:**

Is the nomination seconded? **[Seconded]** Any other nominations? Very well, I declare the Deputy of St. Martin is elected as a member of the Environment Scrutiny Panel. **[Approbation]** There are no matters under G or H, so then we come to Written Questions.

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING ADVERTISEMENTS IN CARS:**

##### **Question**

Will the Minister explain why it is illegal to advertise any car for sale in a States car park, when and why this restriction came into force and the how many individuals were (a) cautioned and (b) prosecuted for this offence since the introduction of this restriction?

##### **Answer**

Article 7 (5) (a) in the Road Traffic (Public Parking Places) (Jersey) Order 2006 explains:

A person must not, except with the written permission of the controlling body, attach advertising material to a parking place or a vehicle in a parking place.

The earliest reference to this provision in TTS's records is the (Public Parking Places) (Jersey) Order 1971 and its purpose is to prevent persons or companies carrying on a trade or a business in a public parking place without permission. There is no record of a specific event instigating this restriction.

TTS do not keep any data regarding cautions or prosecutions for this offence, as on the rare occasions a suspected infraction occurs, my officers' responsibility is limited to reporting the matter to the relevant Parish.

### **3.2 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PLANNING APPLICATIONS:**

#### **Question**

In relation to the processing of Planning applications under Article 9 of the Planning and Building (Jersey) Law 2002, will the Minister advise the Assembly:

- (a) the number of refusals and permissions granted during the previous 12 months made personally by the Minister or his predecessor;
- (b) the number of refusals and permissions granted during the previous 12 months under the Minister's delegated powers by the Planning Applications Panel, by Planning Officers and by the Assistant Minister and for each, the average elapsed time between the receipt of the initial application and the decision;
- (c) the number of planning applications for which decisions are currently pending and the average delay between their submission and the decision being made;
- (d) the number of meetings held during the last twelve months between the Minister and his predecessor, Assistant Minister, all members of the Planning Applications Panel and the Planning Officers to discuss Planning policy and procedure to ensure all planning decisions consistently took full account of the requirements of the Planning Law and the policies of the Island Plan?

#### **Answer**

All figures are for the period 1st December 2010 to 30th November 2011

- (a) Ministerial Decisions  
Senator F. Cohen.

29 approvals, 15 refusals, 1 withdrawn

Deputy R. Duhamel

14 approvals, 2 refusals.

- (b) (i) Planning Applications Panel decisions  
98 approvals, 68 refusals, 1 withdrawn

Average time between valid date and decision = 179 days

- (ii) Department decisions

1,052 approvals, 145 refusals, 209 exempt or withdrawn

Average time between valid date and decision = 113 days

- (c) As at 2nd December 2011, the current number of pending planning applications was 428, with an average of 158 days from validation.
- (d) The following meetings have taken place in the last twelve months and included briefings and discussions on planning policy:

Minister and Assistant Minister

Weekly Ministerial Meetings and ad hoc meetings with officers to discuss policy

Ministerial Meetings

Dec 2010 to Nov 2011 - 11 application meetings plus 1 meeting solely for historic building items

Planning Applications Panel

February 2011 – briefing on new Historic Environment regime and policy implications

July 2011 – briefing on the new Island Plan

August 2011 – briefing on windows and doors policy

December 2010 to Nov 2011 – 12 application meetings

Development Control Officers

Jul 2011 – four separate briefing meetings on the new Island Plan plus weekly briefings and additional ad hoc meetings to discuss policy and process.

It may be helpful for Members to note that there is a constant and ongoing dialogue between officers of all levels and the political representatives. Each application is different and many will raise questions of policy interpretation. The Minister, the Panel Chairman and the Director of Development Control frequently debate the policy issues raised and constantly strive for consistency in the interpretation and application of policy.

**3.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING SCAFFOLDING AT ST. JAMES' CENTRE:**

**Question**

Further to the answer given on 22nd June 2010 when it was stated that scaffolding had first been erected at St. James' Church in September 2006 at a cost of £15,000 a year, would the Minister state –

1. what the total cost to date is of the scaffolding;
2. the nature and estimated cost of repairs,
3. how long the defects have been present and, if from the date of purchase, whether professional surveys were carried out and taken into account at the time of purchase?

### **Answer**

1. The scaffold was erected in 2006 as part of the works undertaken on the building. The scaffolding was hired from 2007 and the costs incurred are as follows:  
2007 – £ 5,036 (part year)  
  
2008 – £ 15,500  
  
2009 – £ 15,700  
  
2010 – £ 15,190  
  
2011 – £ 17,221 (forecast)
2. The building was constructed around 1829 using solid masonry walls in random rubble granite and brick. The more detailed architectural elements, normally constructed using stone in churches, have in the case of St James used a combination of in-situ and pre-cast sand cement. This was obviously done to cut costs at the time.

It is this low cost method of construction which, having deteriorated over the last 185 years, has resulted in the external fabric of the main façade being in a dangerous condition.

Various proposals have been prepared since 2007 to address these building defects. The most cost effective proposals have all been rejected by the Planning and Environment Department on the basis that they would detract from the intrinsic qualities of the building and its status as a Site of Special Interest. The estimated cost of repair has ranged from £88,000 to £750,000 dependant entirely on the scope of work.

Following discussions with the Historic Buildings Advisor in 2011 the view was expressed that most of the applied cement work could be repaired. This was contrary to the professional advice received to date. It was decided therefore to invite a company from the United Kingdom, who specialise in this type of repair to assess the site. The company, Szerelmey, visited the site and confirmed that partial repair and partial replacement should be possible. Szerelmey were then paid to return to undertake a detailed survey with a view to providing a method statement for carrying out the work, a schedule of approximate quantities and an estimate for the work. It is anticipated the repairs now proposed will cost in the region of £300,000.

The proposal is to obtain competitive tenders for the work from local contractors based on the information provided by Szerelmey, who would also be invited to submit a tender. It is the intention to invite tenders early in 2012 with repair work to follow in 2012. The costs of the works will be borne by Jersey Property Holdings (JPH) maintenance budget. Once work has been completed the scaffold will be removed.

3. The original building was poorly constructed in 1826 and very little restorative maintenance had been carried out by the previous owners. All of the extensive dilapidations were obvious to the naked eye at the time the Vicarage and Church were leased by the States of Jersey in 1992 and subsequently purchased in 1994 for £160,000 and £360,000 respectively. The principle reason for the purchase was to acquire St James School which was already used by the Educational Department at a cost of £400,000. There was no identified use for the Church building at the time. A total of £290,000 was spent on repair and maintenance of the buildings between 1993 and 1998.

In 1998/99 the Jersey Arts Trust spent £1.53 million converting the Church to an Arts Venue and rectifying major defects uncovered during the conversion work. A further minor Capital budget was allocated in the sum of £75,000 in 2003.

In 2004 a planned maintenance survey estimated almost £500,000 would be required over seven years to 2011 to keep the building operational. This funding was not made available.

In 2007 it became apparent that the deterioration to the pinnacles to the twin towers was more serious than previously envisaged. The scaffold which had been erected to provide safe access for inspection purposes has remained in place to protect the general public, staff and others using the building. The alternative course of action would have been to close the venue and cordon off the site.

The original purchase was undertaken by the Planning and Environment Committee prior to the existence of JPH and file information regarding whether condition surveys were carried out prior to the purchase is not held by JPH. It is, however, evident that the budget allocated at the time was not sufficient and JPH is now seeking to solve this legacy issue in the most cost effective manner.

The long term future for the building is much brighter. JPH, together with officers of ESC, are undertaking a feasibility study to examine the potential to co-locate Youth Service facilities to St James and enhance the performance space for both the Youth Service and other arts bodies. The proposed relocation will improve the operation of the Youth Service in St Helier and will release the La Motte Street site for much needed residential development.

#### **3.4 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING COMMERCIAL PLANNING APPLICATIONS:**

##### **Question**

Would the Minister make available a list of commercial planning applications that are currently waiting to be determined together with the dates that the applications were submitted to the department?

##### **Answer**

The following is a list of pending planning applications for commercial development. In order to reduce the size of the list (to exclude minor applications such as signage and shop fronts) only those applications with a planning fee in excess of £2,000 have been included.

<b>App. No.</b>	<b>Date valid</b>	<b>Address</b>	<b>Comment</b>
PP/2006/2444	09/11/2006	80 - 92 Bath Street (West Side), The Former Odeon Cinema & 14 - 28 James Street	Application held since 2006 at applicant's request
P/2006/2562	24/11/2006	Thorp House, Broadcasting House & Summerland Le Rouge Bouillon	Police HQ original application. Held open at applicant's request.
P/2009/0647	24/03/2009	Fauvic Nurseries La Rue au Long	Unauthorised garden centre. Currently negotiating outcome
P/2010/0767	26/05/2010	Municipal Services Depot La Grande Route de St Jean	Parish recycling centre. Recent revisions currently being consulted upon.
P/2010/1124	02/08/2010	8-9 Esplanade & 10-12 Commercial Street	Office scheme, held pending outcome of Esplanade height study
P/2010/1869	21/12/2010	Condor Logistics La Route du Port Elizabeth	Extension over yard. Revised plans awaited from applicant.
P/2011/0046	14/01/2011	Elizabeth Terminal Elizabeth Harbour	Warehouse scheme. Awaiting information from applicant.
RM/2011/0443	30/03/2011	Les Ormes Golf & Leisure Village Le Mont a la Brune	Self catering units. Decision imminent.
P/2011/0507	12/04/2011	Lord Coutanche House 66-68 Esplanade & 14 Patriotic Street	Office scheme, held pending outcome of Esplanade height study
P/2011/0647	12/05/2011	27 Esplanade & 3 La Rue des Mielles	Office scheme, held pending outcome of

Esplanade height study

P/2011/0817	14/06/2011	19-29 Commercial Street & 31-41 Broad Street	J1 - Due for determination in December
P/2011/0840	17/06/2011	14-16 Weighbridge Place	Restaurant and office scheme. Awaiting additional information from applicant.
P/2011/0881	27/06/2011	Victoria Club 8 Beresford Street	Restaurant. Decision imminent
P/2011/0918	04/07/2011	La Haule Farm/ West Lodge/ Part of Field 845 Le Mont au Roux/ La Neuve Route/ La Rue du Croquet	Nursery, retail and residential scheme under active assessment
P/2011/1057	05/08/2011	2-4 L'Avenue Le Bas	Indigo Lighthouse – mezzanine floor. Awaiting information from applicant
P/2011/1063	08/08/2011	35 Dorset Street	Commercial garage. Decision imminent.
RP/2011/1101	11/08/2011	Castle Quay The Waterfront	Remove level of basement parking. Under active assessment.
P/2011/1201	06/09/2011	19-21 Esplanade & 34 Commercial Street	Office scheme, held pending outcome of Esplanade height study
P/2011/1219	09/09/2011	Centenary Court Landes du Marche	Trinity Joinery workshop. Waiting Health Protection comments.
P/2011/1283	26/09/2011	4-6 Pitt Street, 6-8 Dumaresq Street & 21-28 Charing Cross	Co-op office scheme under active assessment

P/2011/1294	27/09/2011	Les Avoineries La Rue de la Piece Mauger	Store. Under active assessment.
P/2011/1407	25/10/2011	JY 40 Castle Quay La Rue de l'Etau	Doctor's surgery. Under active assessment
P/2011/1405	25/10/2011	Daisy Farm La Route de Beaumont	Workshop and store. Under active assessment.
P/2011/1560	29/11/2011	Jacksons La Rue Fondon	Extension to workshop. Under active assessment.

### **3.5 DEPUTY R.J. RONDEL OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE ISLAND PLAN AND HOUSING DEVELOPMENTS:**

#### **Question**

Could the Minister advise what progress, if any, has been made in relation to the States-owned sites earmarked for much needed housing development when the Island Plan was agreed in July 2011?

#### **Answer**

Responsibility for the administration of the States-owned land is not vested in the Minister for Planning and Environment but, in general, falls within the remit of the Minister for Treasury and Resources, where it is managed by Jersey Property Holdings.

The Minister for Planning and Environment is responsible for seeking to ensure that the re-use and potential redevelopment of States-owned sites best meets the Island's planning objectives, as set out in the 2011 Island Plan, including their potential to contribute towards the need for affordable housing. To assist in this process, the Department of the Environment is presently preparing draft development briefs, for most of those sites identified in Policy H1 of the Plan, to guide their potential re-use and development.

These draft development briefs will be issued for consultation in the forthcoming months, with a view to their ultimate adoption as supplementary planning guidance, by the Minister for Planning and Environment. This guidance can then be used to inform the preparation of development proposals and decision-making as and when planning applications for the potential development of these sites are received.



### **3.6 SENATOR A. BRECKON OF THE MINISTER FOR SOCIAL SECURITY REGARDING SOCIAL SECURITY CARDS:**

#### **Question**

Can the Minister give details of the number of new or re-issued Social Security cards provided in 2010 and 2011 by his Department to date and state the country/place of origin of applicants?

#### **Answer**

Please find details of the number of new and re-registered individuals for the period 1 January 2010 to 28 November 2011 analysed as follows:

<b>Registration</b>	<b>British</b>	<b>Other EU</b>	<b>Other</b>
2010 – new registrations	3,006	2,233	318
2010 – re-registrations	1,741	1,643	213
2011 – new registrations (11 months)	2,852	2,135	314
2011 – re-registrations (11 months)	1,337	1,806	193

The information available to the Department, and provided in the table above, identifies the nationality of the individual, rather than their place of origin.

It should also be noted that individuals registered as British nationals include Jersey nationals.

All categories include both children and adults.

### **3.7 SENATOR A. BRECKON OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE DELAY IN PUBLICATION OF A GOVERNMENT ACTUARY REPORT:**

#### **Question**

Can the Minister explain why it has taken nearly 4 years to produce the ‘Government Actuary’s Report on the Financial Condition of the Health Insurance Fund as at 31st December 2007’ (R138/2011)?

#### **Answer**

Actuarial reviews are, by their nature, documents that provide information over a timescale of decades, rather than concentrating on the immediate short to medium term.

The analysis included within the review is sophisticated and time-consuming and previous reviews have been published between two years and five years after the review date in question.

The period covered by the recently published review runs from 2003 to the end of 2007. Data in respect of years 2003 and 2004 was collected on the IT system used by Social Security at that time.

In January 2005 a completely new IT system was introduced in the Social Security department, storing information on both contributions received and benefits paid. The data for years 2005, 2006 and 2007 was collated using the current IT system.

The analysis of information from the two different data sets has led to some additional complexity in the production of this report.

### **3.8 SENATOR A. BRECKON OF THE CHIEF MINISTER REGARDING CONTRACT EMPLOYEES:**

#### **Question**

Can Chief Minister advise how many contract and agency employees are engaged in the public sector who have not been resident for 5 years?

#### **Answer**

When considering appointments, it is States policy that preference is always given to applicants who are 'locally qualified' under the Regulation of Undertakings and Development Law.

Only in limited circumstances (e.g. in hard to recruit to posts) may it be possible to appoint someone who has not attained locally qualified status (e.g. on a J Category Licence or locally without 5 years residency). When considering candidates who are not locally qualified, recruiting managers must refer the matter to HR prior to any recruitment activity.

There are 106 employees without five years residency - less than 1.5% of the total workforce.

Approximately 50 of these staff are employed within the Health Department as Doctors or Nurses, a further 13 are employed as Teachers or Lecturers, of the remaining staff a high number are employed in part time positions.

This number excludes people working for the States of Jersey on a self employed basis, these people are not States employees and therefore information about their residency status is not held.

The source of this data dates from the beginning of this quarter- ie September 2011, and excludes J category employees and staff who have zero hour contracts (no guarantee of work).

The States of Jersey also employs temporary staff employed through a recruitment agency, and can confirm that a total of 6 temporary agency staff who have not been resident for 5 years are currently deployed within the States of Jersey.

### **3.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING 'USER PAYS' PROPOSALS:**

#### **Question**

During the debate on the Draft Annual Business Plan 2012 (P.123/2011), the Minister presented comments to amendment P.123/2011 Amd. (6) which referred to the following unscoped user pays proposals -

- “(n) Patient Transport Review PTS provision (user pays)
- (p) Introduce an A&E charging mechanism (user pays)
- (q) Review thresholds for travel to the UK for elective surgery (user pays)
- (r) Consider the re-introduction of prescription charges by H&SS (user pays)
- (s) Surgical specialties: non-urgent cosmetic procedures (user pays)
- (t) Income generation initiatives within Community and Social Services (user pays).”

Elsewhere in the Annual Business Plan, in relation to the initiatives in (t) it stated “Some savings proposals within Community and Social Services require further scoping but could include a review of Occupational Therapy Services less SLA annual increases.”

Will the Minister inform members which of these proposals, if any, are now fully scoped and give members full details of those that are? If any are not yet scoped, will she state whether, or when, they will be, and whether she will bring these proposals to the States for final approval by members and, if not, why not?

**Answer**

The user pays projects identified in the question are in the following stages of development:-

- (n) Patient Transport Review PTS provision

This project has been scoped. It is awaiting discussion and authorisation by senior management prior to being submitted to the Minister for consideration.

- (p) Introduce an A&E charging mechanism

Project scoping is well underway. Pending the outcome of that scoping exercise further analysis may potentially be undertaken during Q1 2012.

- (q) Review thresholds for travel to the UK for elective surgery

This project remains unscoped but the intention is for it to be researched as soon as capacity is available. There is currently no established timeframe due to the lack of capacity associated with this particular project.

- (r) Consider the re introduction of prescription charges by H&SS

This project is scoped. It is awaiting discussion with Social Security and authorisation by senior management prior to being submitted to the Minister for consideration.

- (s) Surgical specialities: non urgent cosmetic procedures-

This project has been scoped by the relevant clinicians. Work will be undertaken during Q1 in relation to finalising a number of operational issues, at which point it will be re-submitted to the Minister for consideration.

(t) Income generation initiatives within Community and Social Services

Two income generation projects are currently being considered. The first relates to charging other jurisdictions for access to secure accommodation. This project has been scoped and awaits legal opinion. The second relates to crematorium services. This project is being scoped and awaits further deliberation.

Following a review of the occupational therapy service a vacant part time post working within the special needs services has been removed (10 hours per week). There are no other planned projects for occupational therapy services at the current time.

We are currently reviewing all SLAs and grants across Community and Social Services to ensure the public receive value for money and that they deliver against our business needs.

Once projects details are available and have been be considered by the Minister, they will be available to interested States Members. The Minister will comply with P63/2003 with regard to all new user pays charges, therefore all new charges will come to the Assembly for consideration.

**3.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE TENANT DEPOSIT SCHEME:**

**Question**

Will the Minister inform members whether he will commit to the introduction of a tenant deposit scheme (TDS) within a 6 month period in accordance with P.130/2009 which called for Regulations to be brought forward under the Residential Tenancy (Jersey) Law (RTL) and, if not, why not?

Will he update members on the progress made on the following issues since the R.37/2010 Tenants' Deposit Scheme: current status was issued-

- a) Whether the draft Law has yet been sanctioned by the Privy Council?
- b) Whether draft Regulations have been reviewed and accepted by the Minister?
- c) Whether the full cost implications of the Law have been identified and, if so, what they might be?
- d) Whether a tender process to recruit a scheme provider has been initiated and, if so, whether one has been identified and appointed and, if not, why not?
- e) When an Appointed Day Act for the Law will be lodged?
- f) Whether work has been completed on compulsory condition reports as part of the scheme?
- g) Whether the goal of "no cost to the States" has been established with any potential scheme provider, or not, and whatever the case, what the manpower and financial costs might be?

**Answer**

The Assembly have directed that Regulations be brought forward to introduce a tenant deposit scheme, and this is being done in accordance with those directions. Obviously, these Regulations cannot be introduced in advance of the main Residential Tenancy (Jersey) Law. However, they will be published in January/February, 2012, once finalised, and thereafter, presented for debate as soon as practical.

- a) The Privy Council sanctioned the Residential Tenancy (Jersey) Law on 16th November, 2011.
- b) Regulations to introduce a tenant deposit scheme have been drafted and are currently being finalised for presentation in January/February, 2012.
- c) A tender exercise has been conducted on the basis that set-up and ongoing administrative costs of the scheme will be the responsibility of the appointed provider.
- d) Three providers have been short listed, but final selection and appointment will not take place until the Assembly have approved the Regulations.
- e) An Amending Law to the Residential Tenancy (Jersey) Law 2011 is intended to be lodged week commencing 12th December, 2011, for debate in January/February, 2012. The amendments add further clarity and will be explained in the Report lodged with the Amending Law. If the Amending Law is approved by the States, and by Privy Council, Appointed Day Acts will be lodged for both the Residential Tenancy (Jersey) Law 2011 and the Amending Law as soon as practical.
- f) A consultation report on compulsory condition reports, a standard tenancy agreement and standard forms of notice, has been completed, and is due to be published week commencing 5th December, 2011.
- g) The goal remains “no cost to the States” – and the tender exercise undertaken has maintained this as a feasible principle. As for the States of Jersey, the only resource implication relate to monitoring contractual relations and obligations, and continually assessing policy, and these tasks do not require additional manpower or funding.

### **3.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE COST OF INCOME SUPPORT:**

#### **Question**

Does the Minister accept the figures I recently publicised on the balance of income tax revenues, and income support and supplementation bills, which suggested that for every £1 produced by jobs at, or close to, the minimum wage there was a cost to the taxpayer of £3 or more?

With or without his acceptance, will the Minister produce for members his department’s figures on the cost/benefit to the taxpayer of low-paid employment along with an explanation of the overall size of the subsidy that is required to be paid by the taxpayer to keep the minimum wage at its present level?

#### **Answer**

This subject has previously been addressed in detail in my written answer to question 6573 dated 1 November 2011 provided by my predecessor as Minister for Social Security and the oral answer of the same date (question 6586 - Hansard reference 2.14) provided by the Minister for Treasury and Resources.

I do not accept the figures recently publicised by the Deputy.

In particular, the assumption is made by Deputy Southern that 80% of workers receiving minimum wage qualify for Income Support. As previously set out, there is very little independent evidence on the use of minimum wage rates in Jersey.

What evidence there is suggests that these rates are mainly used for:

- Young people working part-time or entering work for the first time, who if they are still living with their parents are not eligible to claim Income Support in their own right.
- Seasonal workers, working at entry level who will not qualify for Income Support as they have lived in Jersey for less than 5 years.
- Part-timers, who are not the main wage earner but are contributing to the household income. In this case the family may qualify for Income Support but the level of support will be based on the total income of the household, not just that of the part-time worker.

There is no evidence to support the figure of 80% used within the calculation.

The calculation also includes the cost of supplementation to the records of individual workers. For those workers who work in Jersey for less than 4.5 years (54 months of contributions) in total, supplementation will be paid into the Social Security Fund but the worker will not qualify to claim a pension. The Social Security contributions and the supplementation of the worker will remain in the Fund and will be used to support the pension costs of local residents.

The benefit to the taxpayer of low-paid employment can be clearly demonstrated using the example set out in Deputy Southern's paper. The Deputy's calculations are based on a single person, living alone in rented accommodation, earning £6.80 per hour for a 40 hour week. The individual qualifies for Income Support (and so has been living in Jersey for at least five years).

This person will pay a small amount of income tax and will also be paying Social Security contributions to go towards a pension in old age. S/he will receive a small amount of Income Support and receive supplementation to create a full record for pension purposes. The net cost to the taxpayer of this low paid employee is just under £5,000 a year.

If this person loses their job, the cost to the tax payer increases to just over £14,000 a year in Income Support

The benefit to the taxpayer of low paid employment for this individual is just over £9,000 a year.

The level at which the minimum wage is set is determined on an annual basis, based on the recommendations of the Jersey Employment Forum. The Forum undertakes its own research and consults with local employers and other interested parties. There is always a balance to be struck - a low minimum wage ensures that Jersey businesses are competitive in the international market, but can be seen as exploitative if the level is too low. A high minimum wage gives protection to

workers but it also adds to the cost base of Jersey businesses, making it harder for them to compete with neighbouring jurisdictions.

In difficult economic conditions, a high minimum wage could be seen as a barrier to employment. As shown above, the cost to the tax-payer of an unemployed worker is much higher than the net cost of an employee working at a low wage.

### **3.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHAIRMAN OF THE HEALTH, SOCIAL SECURITY AND HOUSING SCRUTINY PANEL REGARDING REVIEWS TO BE UNDERTAKEN BY THE PANEL:**

#### **Question**

Has the panel had time to study the reports of its predecessors, and in particular, Review of Benefit Levels (S.R.3/2011), and Review of CSR2 (S.R.13/2011), both of which contain questions and recommendations which have yet to be fully addressed by their respective Ministers and, if not, will the panel undertake to do so?

In pursuance of continuity in the scrutiny function will the panel undertake to give appropriate consideration to the conclusions of these reports when it assesses its priorities for 2012 reviews and, in particular, will she assure the Assembly that the panel will conduct some assessment of the impact of the CSR process and staff shortages on hospital waiting lists before further decisions have to be made in the Medium Term Financial Plan for 2013 and beyond in relation to the budget of the Health and Social Services Department?

#### **Answer**

The Health, Social Security and Housing (HSSH) Panel is scheduled to have its first meeting next week, and future reviews is included as an agenda item. The Deputy raises valid points regarding the impact of the CSR process on health policy. It should be noted, however, that the Panel will not confirm its work programme for 2012 until it has met formally and is able to consider its workload thoroughly.

Indeed, the Panel has met informally and has been made aware of the previous Panel's reports, namely S.R.3/2011 and S.R.13/2011. The Deputy can be assured that the Panel will give both reports due consideration when it discusses its 2012 work programme.

### **3.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE COST OF ADDITIONAL UNEMPLOYED ISLANDERS:**

#### **Question**

On the basis that, following the changes brought about by the introduction of Income Support at the beginning of 2008, "residual" unemployment in the economy is reflected in the average figure for that pre-recession year of around 480, what figures does the Minister have for the cost to the States in lost income tax revenues and in additional income support payments for the following years –

2009 average unemployment

960

2010 average unemployment 1,200

2011 average unemployment (to date) 1,370

With the October unemployment figure now standing at 1500, what estimate does the Minister have for the cost of maintaining an additional 1,000 unemployed workers (over the residual figure above) through the coming year?

In addition, what estimate does the Minister have for the cost in both lost income tax and extra income support from the workers who will join the unemployed from the fulfilment industry in the New Year?

### **Answer**

As with previous such questions (for example oral question number 6586 from Deputy Southern on 1st November 2011) the answer must be qualified by explaining that every unemployed person is an individual, and the circumstances of individuals will vary. Both income support payable and "lost" income tax revenues will be dependent on a number of factors including:

- Previous earnings
- Marital status
- Number of children
- Assets
- Accommodation

It is also difficult to make a comparison between "unemployment" statistics produced before and after the introduction of income support. The level of unemployment prior to the end of 2008 recorded by Social Security was an under estimate of the total figure. During 2008 the recording of unemployed individuals became much more rigorous, in line with the requirements of the Income Support legislation.

The improved recording of unemployment figures as a result of the imposition of the stricter Income Support standards coincided with the beginning of the global recession and it is not possible to disentangle the impact of these two separate issues.

Although unemployment is undoubtedly increasing, it is unlikely that the current figure represents as many as 1,000 additional unemployed workers compared to 2008.

For these reasons, it is impossible to give a detailed breakdown in answer to the Deputy's questions. However, in order to be of assistance some data is provided below.

### Income Tax

The following table illustrates the income tax payable for each of the years in the Deputy's question for the following:

- Single person earning £14,144 with no other allowances
- Single person earning £15,000 with no other allowances
- Married man with two children and wife working earning £33,000
- Married man with two children and wife working earning £50,000



	Income	2009 Exemption threshold	2009 Tax liability	2010 Exemption threshold	2010 Tax liability	2011 Exemption threshold	2011 Tax liability	2012 Exemption threshold	2012 Tax liability
Single	£14,144	£12,650	£403.38	£12,650	£403.38	£12,790	£365.58	£13,370	£208.98
Single	£15,000	£12,650	£634.50	£12,650	£634.50	£12,790	£596.70	£13,370	£440.10
Married, 2 children, wife working	£33,000	£30,780	£599.40	£30,780	£599.40	£31,010	£537.30	£31,940	£286.20
Married, 2 children, wife working	£50,000	£30,780	£5189.40	£30,780	£5189.40	£31,010	£5127.30	£31,940	£4876.20

So, for example, if we make a general assumption that all of the additional unemployed in 2010 were married with two children and a wife working, and earning £33,000 per annum, the “lost” income tax would have been  $£599.40 \times 720 (1200-480) = £431,568$ .

The Minister trusts that this provides sufficient information to enable the Deputy to undertake his own similar calculations.

### Income Support

A recent detailed exercise to analyse Income Support costs in September 2011 identified a figure of £12,300 per annum as the cost of an average income support household that includes an unemployed adult.

As noted above, the actual cost of a specific household will depend on a wide variety of factors. It should also be remembered that not all individuals registered as unemployed qualify to receive income support. For example at least one adult in the claim must have lived in Jersey continuously for at least 5 years immediately before making the claim; or have lived in Jersey for any consecutive period of at least 10 years before making a claim.

A cross-departmental task force is currently working on a number of strategies to reduce the number of unemployed adults through a range of incentives, training programmes and work placements.

In light of the potential increase in unemployed workers following the changes to the fulfilment industry next year, the Social Security Department is also undertaking detailed work on the additional costs likely to be experienced next year.

### **3.14 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING SAMARÈS WARD, OVERDALE HOSPITAL:**

#### **Question**

Would the Minister advise when Samarès ward at Overdale was constructed, who it was designed by and what the construction cost?

Can the Minister confirm that the Samarès ward Overdale does not have a bed lift from the first to ground floor and terminally ill patients are pushed down the long and winding wheel chair ramp along the outside of the North east side of the building which is open to all elements, and, if so, can she advise how long she has been aware of the lack of this facilities in this building?

Will the Minister detail what action, if any, is to be taken to rectify this issue at Overdale and advise what the estimated cost would be to fit a bed lift, or put some other means in place to transfer seriously ill patients?

#### **Answer**

The Overdale Assessment & Rehabilitation Unit (including Samarès Ward) was completed in June 2004. It was designed by the Public Services Architects Department and completed at a cost of £7,923,000.

The design included the provision of two passenger lifts, located in the ground floor reception, to allow passenger and wheelchair access from the ground floor to the first floor inpatient and outpatient rehabilitation facilities; it has never had a bed lift.

Samarès is primarily a rehabilitation facility for adults who do not require acute care at the General Hospital and who rarely require use of bed lift. It is not intended as a facility for the care of terminally ill patients, although regrettably some patients may not recover and may need to move on a stretcher bed to a different facility.

Patients who need use of an ambulance stretcher are transported via the double exit doors at first floor level on to the purpose built ramp, ascending to the road level into the awaiting ambulance. The slope is designed in accordance with byelaw standards to allow for the quick and safe movement of patients both on stretchers and in wheelchairs.

HSSD recognise that in some circumstances the use of the slope is not desirable. Our staff work hard to provide the highest possible level of care and consideration to patients using the slope, with our ambulance crews ensuring appropriate protection from the weather.

There are currently no plans to install a bed lift in Samares ward. The provision of a bed lift within the existing footprint of the building would cost an estimated £300,000. The Minister, who has been aware of this issue for a number of years has requested that the existing ramp is appropriately covered to provide patients with a greater degree of comfort. Officers are actively investigating options in relation to this.

### **3.15 THE CONNÉTABLE OF ST. JOHN OF THE CHIEF MINISTER REGARDING A DISASTER RECOVERY PLAN FOR THE FINANCE SECTOR:**

#### **Question**

In the event of a Euro Zone collapse what contingencies, if any, has Jersey got in place in respect of disaster recovery within the finance industry and will the Island follow UK contingency plans or take a global approach?

**Answer**

While the EU Member States supported by the IMF and the international community have said they will act to avoid a Euro Zone collapse because of its systemic consequences, governments are reluctant to further destabilise financial markets by talking about plans for dealing with a collapse and the UK Chancellor made no reference to any such plans in his Autumn Statement last week. However, as an initial step, financial regulators such as the UK FSA are engaging in exercises to assess the ability of their banks to cope with various eventualities. The Jersey Financial Services Commission is no exception. While it is always alive to any significant risks faced by Jersey banks, given the global breadth of the financial crisis it has for some time been looking beyond its normal regulatory boundaries in its assessment of the current financial risks which clearly include the crisis in the Euro Zone. This has included liaising with home regulators, challenging Jersey banks to adequately assess and mitigate emerging or increasing risks, and the conduct of its own assessment of the potential impacts on the Island's banks. It will also monitor the exercise being undertaken by the UK FSA.

The Commission is statutorily required to have regard for the best economic interests of the Island and they will be expected to keep the States fully informed of any wider implications arising from their risk assessments of Jersey banks. Because of the extent to which Jersey banks are subsidiaries or branches of UK banks, any contingency plans in the UK will also be monitored particularly closely. This will help to ensure that States are well placed to assess and plan for what action, if any, needs to be taken to deal with the consequences of a Euro-Zone collapse should it occur.

**3.16 SENATOR S.C. FERGUSON OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING THE IMPLEMENTATION TIMETABLE OF THE K.P.M.G. REPORT:**

**Question**

In relation to the implementation timetable of the recent KPMG Report (Table 8.2.9, p.167), would the Minister confirm whether Health and Social Services is on track to –

- (a) identify the patient groups which are suitable for telehealth (the delivery of health-related services and information via telecommunications technologies) and healthcare;
- (b) undertake the initial rollout of 50% during 2012;
- (c) begin training staff on monitoring equipment from March 2012; and
- (d) would the Minister list and explain the planned timeline?

**Answer**

The KPMG report referred to was the technical document that underpinned HSSD's Green Paper *Caring for each other, Caring for ourselves*. It included key themes, indicative timelines and actions at a very high level. These were translated into the three scenarios as outlined in the Green paper.

Over 1300 responses were received to the Green Paper consultation. Respondents were overwhelmingly in favour of significant service redesign in order to better meet the Island's current and future needs (Option 3 as outlined in *Caring for each other, Caring for ourselves*).

As part of this redesign process HSSD has selected, for immediate early development, eight high impact areas all with existing capacity challenges. Since September 2011 work has been underway to develop a 3 year business case for each area (2013 to 2015) outlining the detail of the change required and the associated timescales. It is envisaged that three of these eight areas - Chronic Obstructive Pulmonary Disease, *Step up Step Down* Care and Dementia – will utilise telehealth.

These business cases, which are currently being developed, will feed into the States of Jersey Strategic Plan and Medium Term Financial Plan which will set out funding for the 3 years period 2012 – 2015. They will also feed into the White Paper to be produced in the Spring 2012. This White Paper will outline the service redesign in detail and provide a timescale agreed by HSSD and the Ministerial Oversight Group.

Alongside these business cases HSSD is also developing a transition plan for the period 2012 to 2021. This will map the development, delivery and cost of the eight business cases and the eight associated service work streams. It will also set out details relating to eight additional cross cutting and enabling work streams for example: workforce, IT and estates. The transition plan will ensure the articulation, coordination and implementation of a complex series of inter-related programmes and projects designed to deliver a new system of health and social care for Jersey.

Dependent on ongoing development of the business cases, the transition plan and the White Paper, it is proposed that the development of the community infrastructure<sup>1</sup> required to support the first cohort of Telehealth patients will begin in mid 2012 with roll-out in early 2013.

These timescales do not directly reflect those indicative timelines outlined in the technical document however the HSSD planning process, which represents a significant volume of highly complex demanding work, is on track to deliver a White Paper with detailed service redesign proposals relating to Telehealth and other initiatives by Spring 2012.

<sup>1</sup> Telehealth requires specialist teams to respond to alerts plus infrastructure to provide the necessary community care for the patient.

### **3.17 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE 'ENHANCEMENT' OF CONTRACTS OF EMPLOYMENT:**

#### **Question**

Will the Minister advise the Assembly –

- (a) how he defines 'enhancement' in relation to contracts of employment for public sector staff;
- (b) what 'enhancements' or other payments were made to the Airport Operations Director who recently left States employment approximately 6 months before the end of her contract?

#### **Answer**

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- (a) It is for the States Employment Board to define contractual terminology.
- (b) I cannot comment on an individual's contractual arrangements. I can say, however, that there was no incremental cost to the airport or taxpayer due to the departure of the Airport Operations Director.

**3.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING HOSPITAL CONSULTANTS:**

**Question**

Would the Minister advise the Assembly –

- (a) the number of specialisms of the consultants employed on a full time, part time, or on an ad hoc basis over the last three years indicating as necessary when any breaks in continuous service or specialisms occurred or, in the case of part time or ad hoc consultants, the periods they were employed;
- (b) the number of operations carried out by these consultants during the last three years detailing which were –
  - (i) routine (public)
  - (ii) emergency (public)
  - (iii) private
- (c) the mortality rates for these operations?

**Answer**

a) HSSD employed 57.9 Consultants in 2009, 56.6 in 2010 and 58.9 in 2011. In addition HSSD also employs 25 visiting Consultants a year from the UK. These Consultants are specialists in their chosen field and many have been providing a service to Jersey for several years. The number of visits provided by these consultants vary depending on patient demand. The breakdown for 58.9 in 2011 across the specialities are as follows:-

Medicine	Surgery	Radiology	Pathology	Psychiatry/ Mental Health	Dental	Public Health
15.7	22.6	5.6	4	7	3	1

No HSSD Consultants have had a break in continuous employment having remained as employees and undertaken continuous professional development in accordance with their speciality. Three full time consultants have however reduced their contractual hours to part-time during 2011.

b) The number of operations carried out by these consultants over the past 3 years are:

	<b>Public elective patients</b>	<b>Public emergency patients</b>	<b>Total public patients</b>	<b>Private elective patients</b>	<b>Private emergency patients</b>	<b>Total private Patients</b>	<b>Total operations</b>
<b>2009</b>			8617			2717	11344
<b>2010</b>	7683	1441	9124	2484	94	2578	11702
<b>2011</b>	6787	916	7703	2316	60	2376	10079 (Jan-Nov)
<b>Total Number of operations over the 3 year period to November 2011</b>							33115

c) The mortality rates<sup>2</sup> for these operations are:

	<b>Total operations</b>	<b>% mortality rate</b>
<b>2009</b>	<b>11334</b>	<b>0.04% (4 patients)</b>
<b>2010</b>	<b>11702</b>	<b>0.05% (6 patients)</b>
<b>2011</b>	<b>10079</b>	<b>0.03% (3 patients)</b>

These mortality rates include operations performed on seriously ill patients who were at extreme high risk of dying, for example patients involved in road traffic accidents. HSSD follows UK best practice to minimise risk to patients. Safety checks and clear strategies are in place to constantly monitor trends and incidents.

<sup>1</sup> Mortality is defined as a death within 24 hours of surgery.

### **3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE RENEWAL OF THE AIRPORT DIRECTOR'S CONTRACT:**

#### **Question**

Could the Minister advise the number of times that he has renewed the contract of the Airport Director who resigned in June 2010, giving the reasons for the renewal in each instance and advising of any revisions to the salary paid and any changes to his duties?

Would the Minister confirm whether the Airport Director is currently employed to undertake the duties of the former Airport Operations Director and, if so, would he also confirm whether the postholder is sufficiently qualified to undertake those duties?

**Answer**

By mutual agreement, the former Airport Director confirmed he would remain in post until the Group Chief Executive Officer (GCEO) post was filled, which was originally estimated to be September 2011. His appointment was then extended until the end of 2011 to allow the appointed GCEO to review and propose a new executive structure combining the Harbours and Airport.

The new executive structure in the integrated Harbours and Airport business has led to the reduction of the number of executive roles from eight positions to five, with the legal responsibilities of the Airport Director being amalgamated into the GCEO position. Within the new executive structure there is a new role of Group Operations Director, where an interim appointment has been accepted by the former Airport Director until end of June 2012. The former Airport Director holds the appropriate competencies for this role.

It is not appropriate for me to comment on individual salary arrangements for employees.

[9:45]

**4. Oral Questions**

**The Bailiff:**

Then we come to Oral Questions and the first question is from Deputy Pitman to the President of the Chairmen's Committee.

**4.1 Deputy T.M. Pitman of St. Helier of the President of the Chairmen's Committee regarding the potential scrutiny of the media by one of the Scrutiny panels:**

Will the President clarify whether she intends to pursue the recommendation from the Education and Home Affairs Scrutiny Sub-Panel to include Scrutiny of the media on the remit of one of the Scrutiny Panels?

**Deputy T.A. Vallois of St. Saviour (President of the Chairmen's Committee):**

My intention will be that the recommendation in question is to be addressed by the Chairmen's Committee and that will be in our January meeting whereby we will receive the relevant papers in order to determine an appropriate way forward at that time.

**4.1.1 Deputy T.M. Pitman:**

Obviously I stress to the President that no one wants to restrict freedom of expression, however, given what can only be described as deliberate suppression of information such as the refusal to acknowledge that far from a reliable witness the former investigating officer, Deputy Police Chief Mr. Gradwell, would have been facing serious disciplinary action for his unprofessionalism if he had stayed in the Island. Does she realise how important it is that something is done about this, because there is a big responsibility on media to be accurate in their reporting?

**Deputy T.A. Vallois:**

I, myself, as one of 6 of the chairmen have looked at the report and the information behind this and I understand the concerns of the Deputy, hence the reason why I am stating that we are waiting until January to look at the information and make sure all the relevant papers are provided to each

chairman so that we can determine an appropriate way to look at this and whether Scrutiny will be the best place for us to do a broadly-based review.

**4.1.2 Deputy R.G. Le Hérissier of St. Saviour:**

Would the chairman not accept, and hopefully persuade her co-members, that in the light of the Leveson Inquiry in fact there are some very pertinent issues being raised and that they could well be applied to the Jersey situation.

**Deputy T.A. Vallois:**

I recognise with the Leveson Inquiry that is going on in the U.K. (United Kingdom) at the moment there are particular issues out there with regards to holding the media to account, however, there are 3 different committees that are looking into this which are working in parallel with each other in order to determine the best way forward. We are one area - we are Scrutiny - and as a Chairmen's Committee we have to all be singing from the same hymn sheet as chairmen in order to ensure that if we should pursue this that it is an effective review and it determines the best way to take this forward.

**4.1.3 Deputy R.G. Le Hérissier:**

If the chairman was inferring or implying, that Scrutiny may not be the best way forward what way would she recommend for the most robust kind of inquiry?

**Deputy T.A. Vallois:**

You are really putting me on the spot. Like I say, it is something that has to be looked at in the round. Scrutiny might be, or might not be, the best way to go ahead. There is a possibility ... like in the U.K. they have a Committee of Inquiry; that may be a possible way forward but I would be more than happy to discuss with the Chief Minister whether that would be an appropriate way forward if Scrutiny cannot determine a most effective way.

**4.1.4 Deputy T.M. Pitman:**

Again stressing the freedom of expression, does the chairman agree that possibly it should be done jointly with P.P.C. (Privileges and Procedures Committee) because there are wider issues. We only have one newspaper on the Island and we see things like faked letters, people who put themselves forward described as meddlers. There is a big issue here, so can she work as hard as she can with her colleagues to try and get this taken forward?

**Deputy T.A. Vallois:**

Absolutely, and I understand P.P.C. are going to look at media in the round and I would be more than happy to work with all colleagues in order to find an effective way forward.

**Deputy M. Tadier of St. Brelade:**

Sir, can I just ask, I did have my light on but I did not know if you saw it, or if I did not have time.

**The Bailiff:**

You are right, I did not I am afraid Deputy. No, I think it is Deputy Pitman's head. **[Laughter]**

**Deputy T.M. Pitman:**

And it is a perfectly formed head, Sir.



#### **4.2 Deputy R.G. Le Hérissier of the Minister for Planning and Environment regarding the adoption of the recommendations contained within the report by the Internal Task Force:**

Does the Minister accept the recommendation within the report by the Internal Task Force, published as R.81, which he chaired, and if so, when will restrictions on the power of the Minister to call in planning applications be adopted?

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

The Planning Improvement Process Political Steering Group made recommendations over 6 broad issues and I still fundamentally agree with all the recommendations and progress is being made towards making all these changes. In relation to the Minister for Planning and Environment separating his Ministerial role from the planning applications process, I have recently signed a new Ministerial protocol, yesterday, which clearly sets out when the Minister will get involved in planning applications. In future the Minister will only make planning decisions in exceptional circumstances.

#### **4.2.1 Deputy R.G. Le Hérissier:**

Could the Minister define what he means by “exceptional circumstances”?

#### **Deputy R.C. Duhamel:**

Exceptional circumstances will be when anything is going wrong clearly with the delegated decisions and also in particular cases of Island significance, in particular very large regeneration schemes or anything else of that nature.

#### **4.2.2 Deputy R.G. Le Hérissier:**

Could the Minister define what he means “going wrong”? Does he mean, for example, that the Planning Applications Panel is not making the right sort of decision? Secondly, could he confirm that he will discuss any taking on of sole powers with the panel before he moves to take on those powers?

#### **Deputy R.C. Duhamel:**

Quite clearly the legal remit lies with the Minister to make decisions. The responsibility for decisions undertaken by the Planning Applications Panel and indeed the officers still is the overall responsibility of the Minister for Planning and Environment. The Minister for Planning and Environment’s powers therefore must not be completely fettered to slip into a situation, which clearly needs to be determined if things are going wrong. I am not at liberty at this point in time to say what things might go wrong, only to say that I must discharge my duties under the law and will do so.

#### **4.2.3 Deputy J.H. Young:**

Will the Minister retain the power to make a decision whether or not an application is of sufficient substance to require a planning inquiry?

#### **Deputy R.C. Duhamel:**

Not necessarily. The Minister in working with the department officers will determine which applications, which will be the majority, are either undertaken by an officer delegation or indeed by the Planning Applications Panel. As I said earlier, it is a case of determining which items are of Island significance.

#### **4.2.4 Deputy J.H. Young:**

Further supplementary. Will the Minister's exceptional circumstance include an intervention when the Planning Officers have recommended contrary to the Minister's own views?

**Deputy R.C. Duhamel:**

Not necessarily.

**4.2.5 Deputy R.G. Le Hérisier:**

Would the Minister confirm that in order to avoid the perception that there was an awful lot of random selection of items under the previous regime, that he will put forward the criteria by which he has chosen to make a sole decision in order that the public are aware it is not being done on a random basis?

**Deputy R.C. Duhamel:**

Certainly, and indeed one of the recommendation of the steering group was to review the scheme of delegation to allow more decisions to be made by officers. A Ministerial Decision again is being made to this effect to suggest that under this new scheme of delegation officers will be delegated decisions to be made if there are 3 or less representations, which are contrary to officer recommendation to speed up the process and lift some of the burden from the Planning Applications Panel.

## **APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS – RESULT OF BALLOT**

**The Bailiff:**

Very well. I will ask the Greffier to put a stop on the clock for a moment while I announce the result of the ballot for the positions on P.P.C. The votes cast were as follows: Senator Ferguson 35 votes, the Connétable of St. Clement 37 votes, Deputy Tadier 37 votes and Deputy Trevor Pitman 21 votes. I therefore declare that Senator Ferguson, the Connétable of St. Clement and Deputy Tadier are elected to the committee.

**Deputy T.M. Pitman:**

Can I just wish all those Members the best of luck and say that after 4 attempts I am really enjoying inclusive Government.

**The Connétable of St. Helier:**

Could I thank my friend Deputy Pitman for his [Laughter] interest in joining the committee and undertake to work closely with him in whatever ways we can.

**The Bailiff:**

We come back to question time and now Question 3, the Deputy of St. Martin will ask of the Minister for Treasury and Resources.

### **4.3 Deputy S.G. Luce of St. Martin of the Minister for Treasury and Resources regarding the 'fast-tracking' of the construction of the new St. Martin's Primary School:**

Given that the construction of a new St. Martin's primary school has been authorised by this Assembly and that the project is not due for completion until autumn of 2014, would the Minister agree that this project would be ideal for fast-tracking, especially as the funds have already been

voted and that the bringing forward of this project would provide a much needed impetus for the economy?

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

May I ask that Assistant Minister Noel reply to this question?

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

In short, yes, we are fast-tracking this project. Last year the Minister said that he would look for a way to bring forward this project by phasing the work. I can now report that the project has been progressing well and a draft planning brief has been agreed. Property Holdings' architects are currently progressing the design and hope to submit a planning application early in the New Year.

**4.3.1 Deputy G.P. Southern of St. Helier:**

Can the Assistant Minister guarantee to this House that when it comes to employment on this particular project it will be locally based?

**Deputy E.J. Noel:**

As with all, if not most, States projects along with the fiscal stimulus regime that we set up, there will be requirement on all the contractors and sub-contractors to have a significant element of local employees.

**4.3.2 Deputy G.P. Southern:**

If I may just point out there is a vast difference between "significant number" and "all".

**Deputy E.J. Noel:**

I am not in a position to guarantee that every single person working on the site will have the relevant local qualification. That is an unrealistic request. We will use our best endeavours to make sure that the proportion is as high as possible.

**4.3.3 Connétable M.P.S. Le Troquer of St. Martin:**

Would the Minister confirm that the media reports broadcast on 5th December, indicating that the existing school is to be demolished after the new school is built, is not the case and that the existing school be returned to the Parish of St. Martin?

**Deputy E.J. Noel:**

I am very much pleased to confirm that. The intention has always been that the existing school be returned to the Parish because in fact they do indeed own it.

**4.3.4 Deputy R.G. Le Hérissier:**

Could the Assistant Minister confirm whether or not this project will knock other projects off the list, or whether all E.S.C. (Education Sport and Culture) approved projects will be steaming ahead at equally full speed?

**Deputy E.J. Noel:**

That really is in the hands of this Assembly. Currently this particular project is funded for 2013; with the approval of this House we may be able to bring some of that funding forward into 2012 and that is the same for any other Education Sport and Culture projects. It is in the hands of this Assembly to allow us to bring capital monies that have already been voted for forward.

**4.3.5 Deputy C.F. Labey of Grouville:**

Would the Assistant Minister not agree that if the old school is going to return to the Parish of St. Martin that this site could have been used for the new rectory that was spoken about that the previous Constable brought to this House that we had to rezone a green field for?

[10:00]

**Deputy E.J. Noel:**

That really is a matter entirely for the Parish of St. Martin. In the Island Plan I voted against that field being rezoned and I stand by that decision but really the Deputy of Grouville's comments really should be addressed to the Parish of St. Martin.

**4.3.6 Deputy G.P. Southern:**

Is the Assistant Minister aware of any specialist work required on this particular project that might justify the importation of non-local labour?

**Deputy E.J. Noel:**

The answer to that is at this time no I do not, but I cannot rule it out because I cannot confirm something that I do not have the knowledge to confirm. I am sure at some point there will be a number of workers on the site that have not been in the Island for the required 5 years. It is unrealistic to expect that every single person working on that site will have been here for at least 5 years.

**4.3.7 Senator F. du H. Le Gresley:**

Could the Assistant Minister give this Assembly an assurance that the existing buildings will be kept wind and waterproof until such time as the new school is ready and open for business.

**Deputy E.J. Noel:**

We intend to keep those buildings fit for purpose until the new school is open.

**4.4. Deputy G.P. Southern of the Chief Minister regarding the delivery of 'real' jobs for the unemployed:**

Will the Chief Minister provide details as to how he plans to deliver 'real' jobs for the unemployed, what groups are to be targeted, how much funding is required, where that funding is to be found, and whether other projects will now be cut or postponed.

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

As has been publicly announced a cross-departmental task force has been established. All of the work that they undertake has the clear aim of providing every Islander with the opportunity to enter the workforce. A number of areas are being investigated, including the expansion of the training courses and work placement schemes, which are already providing people with the skills and confidence to find work. The team is also consulting with Island employers and industry representatives to make sure that any plans and combination of incentives put in place both in the short and the long term will have an effective and positive impact on the job market. For this to work we must have a partnership between the private and public sector with a common goal of finding work for Islanders. The Minister for Treasury and Resources has assured the Council of Ministers that appropriate funding will be made available to allow the departments to concentrate on the tasks that lie ahead. We are all aware that public finances are tight but I have argued and will continue to argue that we cannot afford not to bear these costs now if we are to avoid long-term

damage to our society. I am not aware of any project which will suffer as a result of these proposals.

**4.4.1 Deputy G.P. Southern:**

So, that answer says he is not going to provide any details in particular. Can the Chief Minister inform Members when he will come to the House with a detailed plan and will he, at this stage, give an estimate of how much money he thinks may be required, because the figures from his written question, 6614, suggests that up to £9 million might be needed in income support.

**Senator I.J. Gorst:**

Of course I have announced the task force, the work is in hand, we have agreed to increase the capacity of the existing schemes - the Advance to Work and the Advance Plus - we know that there are more people waiting to go on there and extra places at Highlands. When I made the public announcement after conversation with the Minister for Treasury and Resources we talked there about possibly using around £4 million of underspends but that is of course on top of any extra capacity required within income support, which will be provided via automatic stabilisers as we have been doing throughout this economic downturn, but more details will be forthcoming as we are able to firm-up schemes during the course of the next few weeks.

**4.4.2 Deputy M.R. Higgins:**

The one thing that is missing from what the Minister has said is the timetable. We have all known that we have had an unemployment situation of 1,300, we have had the under-25s heavily dominating the unemployed and we have people who basically will never, ever get another job and whose futures are quite bleak. Why do the Ministers not already have plans in place, especially knowing that the fulfilment industry is also likely to follow with another 1,000 unemployed? So, I would like to know what your timetable is and let us start rolling this programme out.

**Senator I.J. Gorst:**

We are working on this as our top priority, as I have said. As I have just said in answer to Deputy Southern's question, we will be bringing forward more details in the course of the next few weeks. We are liaising with employers to see where the capacity is that we will be able to place people from one industry directly into another one. The Deputy is absolutely right, the pressures are only increasing. Despite what is happening in fulfilment unfortunately we expect that the number of unemployed is going to rise in the short term and that is why it is absolutely right that this is our top priority. I would not be quite so bleak as the Deputy. We cannot allow people to be unemployed and have no vision for the future for themselves. The challenge is for Government to upskill, retrain, help to place these people so that they do have a future and not so that we write them off.

**4.4.3 Deputy J.A. Hilton of St. Helier:**

The Chief Minister in his response talked about a common goal of finding work for Islanders. Yesterday I was in the Social Security office on behalf of 2 constituents when I could not help but notice and hear approximately 3 individuals registering for work in the space of 5 to 10 minutes. It may be I misunderstood the situation but the distinct impression I gained from this was that these were people who were new to the Island. What measures, if any, will the Chief Minister take to safeguard jobs for local people?

**Senator I.J. Gorst:**

Of course it would not be right for me to comment on the individual circumstances because I did not overhear that conversation either, however, let me be frank. This is a very difficult area and one which has to be handled sensitively, but right at the core of this back to work programme is liaising with employers, understanding their need for non-local employees, and working carefully

with them and upskilling and ensuring that jobs available in the economy are provided to people who are already in our community. The Deputy is aware of the approved new Migration Law around jobs and housing which this Assembly has approved. The challenge is that we work together with employers to ensure that this matching goes on and people are able to move from one industry to another and that jobs are protected for locally qualified individuals. It is not going to be easy, it is the most difficult route, but it is one that we must deal with and we must deal with as a priority.

#### **4.4.4 Senator L.J. Farnham:**

I would like to commend the Chief Minister, the Council of Ministers, and indeed all States Members for getting people back to work. Reducing unemployment is one of the key factors in the forthcoming strategy that has been put together. My question for the Chief Minister is, although it is important to provide jobs for all people, could he confirm that it is his intention to ensure that special attention is paid to creating not just jobs but real career opportunities for our young people?

#### **Senator I.J. Gorst:**

The Senator is absolutely right. This is not a single-stage approach. In the short term we need to get those people back to work who are currently unemployed. In the medium and long term we need to be bringing forward apprenticeship schemes, we need to be increasing the vocational courses because this is also a long term approach that we need to start to deliver and develop and we need to make sure that our young people are appropriately skilled, have the confidence to enter the work place for the jobs which are available in our economy, but again these are not easy areas; it will require a change of direction, but it is a change that we must make.

#### **4.4.5 Deputy M. Tadier:**

Would the Chief Minister support the concept of an arm band for anybody working in Jersey who does not have 5 years' residency so people like Deputy Hilton can identify them and choose whether or not she wants to use their services?

#### **Senator I.J. Gorst:**

Sir, I am not sure that was a serious question which I am expected to answer.

#### **Deputy M. Tadier:**

It was, Sir.

#### **Senator I.J. Gorst:**

I have said in my earlier answers this is a sensitive area. Members of other communities come into our community and are a great advantage, a mutual advantage to Jersey and those coming from other communities. We should never, never allow it to be about the value that those individuals bring. There are people now within our community who are out of work. Our priority should be to ensure that those individuals here now are provided with work and job opportunities.  
**[Approbation]**

#### **Deputy M. Tadier:**

Can I just thank the Minister; although the question was phrased in a certain way that answer needed to be given because I think those words are very important from the Minister.

#### **4.4.6 Deputy R.G. Le Hérissier:**

Apropos dealing with youth and indeed adult employment it has often been argued in this Assembly that work permits do not work in a situation of full employment. Does the Chief Minister believe they would work in a situation of unemployment?

**Senator I.J. Gorst:**

It is difficult for me to give a full answer to such a question in oral answers. The Deputy is aware that we have approved a change to the job and housing law which is going to allow Ministers to review employment licences and a number of locals and non-locals on those licences. We are at the point of preparing for a new Strategic Plan. We need to consider there the population levels that we want, we need to consider that we have the appropriate mechanisms to deliver those levels and protect jobs for people who are already in our community. That rightly, I believe, should be part of those considerations and ultimately should be a consideration for this Assembly, but there are issues and difficulties with whichever approach one might wish to use to deliver those aims.

**4.4.7 Deputy J.A. Martin of St. Helier:**

It follows on from the Minister quoting the sensitive area that we are in. Could he please pledge that somebody like myself, or Deputy Hilton, or other members of the public, when an elderly... or a youngster leaving school, or somebody who has just come to the Island, needs to go to Social Security that the world and their wife are not listening to their personal details and this is going on and on, and I plead that the Minister will do something. There is room. It is a little bit of moving around but it is the dignity of everybody going down there and this has to be sorted and it can be done very easily. I hope the Minister will take this on board.

**Senator I.J. Gorst:**

I do hear what the Deputy is saying. There have been concerns expressed. I have to be careful and I do not want to step on the feet of the new Minister for Social Security, and I am sure it is right there as one of the issues which he will be addressing. Of course there have been changes over a number of years around where individuals are seen at the Social Security Department, there are private rooms available, but as I say it really is rightly an issue for Senator Le Gresley to consider.

**4.4.8 Deputy G.P. Southern:**

Does the Chief Minister have an estimate for the number of fulfilment workers in particular who are likely to be made unemployed who have local qualifications? Because the Social Security Department suggests that at present only one in 5 claim income support and if they are to be made unemployed then most, I presume, will. What estimate does he have of the numbers who will be claiming income support from the fulfilment industry?

**The Bailiff:**

I have to say this has drifted quite a long way from the original question, Deputy Southern, but if the Chief Minister wishes to reply.

**Senator I.J. Gorst:**

Thank you, Sir, it is kind of you to notice in this instance. Of course that is not a straightforward question because individuals in the fulfilment industry may have other incomes coming into the household of which they are a part.

[10:15]

I believe that the number of locally qualified for employment purposes within the fulfilment industry is far greater than one in 5; whether their individual circumstances, should they be made unemployed, means that they are going to require income support, extra work is being undertaken by the Social Security Department to understand that, whether there are other individuals in that household which will mean they will not require that support or whether they will require that support.

**Deputy G.P. Southern:**

Sir, if I may ...

**The Bailiff:**

No, I am sorry, Deputy, we have had plenty of questions on that topic.

**4.5 Deputy R.J. Rondel of St. Helier of the Minister for Treasury and Resources regarding the implementation of restrictions by Jersey Water:**

As the shareholder representative, would the Minister advise why Jersey Water has not implemented restrictions at a far earlier stage before causing great public concern, particularly among the elderly, at the prospect of having to pay extra for water in 2012.

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

I am advised the water supply in Jersey is primarily dependent on collecting and storing the rain that falls between October and March. The weather this autumn has obviously been exceptionally dry and warm. I have also been advised that Jersey Water uses a proven water industry model, which takes account of the balance of rainfall and dry weather. The model indicates when the desalination plant should be operated by the company. They brought into use the desalination plant following normal procedures and within their normal timescales of review. The company also increased its ongoing public awareness campaign about the importance of efficient water use and provided additional guidelines on how people can help reduce the demand for water and stop waste. If the average rainfall does not occur over the coming month Jersey Water would, I am advised, implement formal restrictions on non-essential uses of water. The company's policy is not to implement restrictions on customers unless absolutely necessary. In previous years Jersey Water has not passed on any additional cost to its customers for operating the desalination plant. It has made no suggestion that this policy will change, however the uncertainty of future rainfall means the company has to reserve its position should the lack of rainfall this winter force long-term operation of the desalination plant to safeguard water supplies into 2012.

**4.5.1 Deputy R.J. Rondel:**

As a supplementary, would the Minister inform the Assembly when the lining of the upstream face of the dam at Val de la Mare with a waterproof membrane will be complete and whether it is scheduled to be on time and on budget of £1.6 million?

**Senator P.F.C. Ozouf:**

I know that this is the Deputy's first question and I would probably say that I am happy to answer all questions within departmental remit, however I do not run Jersey Water and neither does anybody in the Treasury. I was asked to visit the site but was unable to do so at Val de la Mare and I have not been informed of any delays in that project and I have a high confidence in the company's ability to deal with its capital project. But if there is an issue I will advise the Deputy accordingly.

**4.5.2 Connétable P.J. Rondel of St. John:**

It is a pleasure to follow the new Deputy of St. Helier No. 3, he appears to be coming from a similar background to myself. [Laughter]

**The Bailiff:**

What a coincidence.



**The Connétable of St. John:**

Given the many historical wells and boreholes which are lying idle across the Island, which did and could supply millions of litres of water to the Island, what work has been undertaken other than the Register of Wells and Boreholes to put in place a scheme to extract water from the aquifer to help supplement the water supply to the Island. I am sure the Minister would have been briefed by the chairman of the Water Board.

**The Bailiff:**

He may or may not because the original question was rather different. [Laughter]

**Senator P.F.C. Ozouf:**

If I may say, I am looking forward to answering all the questions from Deputy Rondel and the Constable of St. John on drains and water, *et cetera*, in the next 3 years hopefully. The Constable will well remember the debate on the Water Law of which there are strongly held views on either side of the existence of aquifers and underground water versus other people who do not believe that is the case. I cannot say that I have been specifically briefed on the issue that the Connétable raises, but I am aware that Jersey Water is making best endeavours in order to ensure that they do not have to take any drastic action in relation to conservation and we are in the lap of the higher authority in relation to hoping that the rain is falling and our dams can be replenished with supply.

**4.5.3 Deputy G.C. Baudains of St. Helier:**

In a similar vein it has been made public that the waterworks company is using the boreholes that it has in the St. Ouen's aquifer. It also has other boreholes across the Island. Was the Minister for Treasury and Resources aware of whether these boreholes are still being used and if not why not?

**Senator P.F.C. Ozouf:**

I am afraid I am not. I am happy to ask Jersey Water to put on a briefing for Members if they are interested in relation to their water conservation and use matters. I know that the company have a number of boreholes, which they do use on an ongoing basis in order to supplement their supplies and I am advised also that the particular problems this year have been because of the draining of Val de la Mare reservoir and indeed I think the foresight of previous Assemblies ensuring that we have appropriate storage facilities, including controversially Queen's Valley, ensure that we do not normally have issues. But particular issues have been arising this year.

**4.5.4 Deputy R.G. Le Hérissier:**

Would the Minister not acknowledge rather than face a drip-drip of questions, as the sole shareholder it is his responsibility to work out whether indeed the strategy of the company is a valid strategy and that means looking into the issue of the source of water and whether there is any validity in the arguments that have been put forward by people like the good Deputy of St. Clement over the years?

**Senator P.F.C. Ozouf:**

I think the Deputy raises an important matter of principle. The Treasury appoints directors, in this case it is not a 100 per cent owned entity, and we delegate the running of this company to a board of directors. I have a standard visiting and meeting schedule with all the owned entities and the partly-owned entities and the Jersey Water entity over the last 3 years has shown itself to be modernising in its approach in dealing with a number of issues. It has cut costs, it has made itself more efficient and over the next 3 years I am looking forward to developing constructive relationships with all the utilities and looking at how they can become more efficient, how they can work together and how they can look after the important issue of providing utility services to

Jersey. Jersey Water will continue to get my attention, with my Assistant Minister, but I have to say I remain confident in their abilities to manage appropriate matters on behalf of this Assembly.

**4.5.5 Senator L.J. Farnham:**

I think the real concern for the general public, especially the elderly, as mentioned by Deputy Rondel in his original question is the prospect of having to pay extra for water in 2012. The Minister did allude to it in the answer to the original question. Can he say for sure that it is not the intention of Jersey Water to pass on any extra charges caused by this crisis in 2012?

**Senator P.F.C. Ozouf:**

There is, I am advised, no intention to increase water rates at the current time. I would remind the Senator that under Article 23 of the Jersey Water Law there is the ability, should the States wish to intervene on pricing, but I would not envisage that to happen, and I would also urge all Islanders to be conservation-minded in terms of the use of water resources. I am also advised that only half of the Islanders are on meters. The remaining 50 per cent of Jersey Water consumers receive no metering of their use and are simply charged on a rate assessment basis, which is outmoded and outdated. I want to see all properties connected to meters. That is a better way to preserve stocks and I will keep under review any issues of increasing water charges, which remain extremely low compared to most other jurisdictions, I would add.

**Deputy R.J. Rondel:**

I thank the Minister for some of his answers although I am not fully satisfied and as Arnold Schwarzenegger once said: "I'll be back."

**Senator P.F.C. Ozouf:**

If he is not satisfied perhaps he will let me know what he is not satisfied with.

**4.6 Deputy M.J. Higgins of the Minister for Economic Development regarding the current and projected financial situation of Jersey Airport:**

Will the Minister outline the current and projected financial situation of Jersey Airport and advise how he intends to finance or eliminate any deficits?

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

The airport published a trading deficit of £4.3 million in 2010 following the introduction of G.A.A.P. (Generally Accepted Accounting Principles) accounting. The 2011 Business Plan showed a projected deficit of £2.5 million but this will now be less based on improved year-to-date figures. In 2012 the deficit is shown as reducing to £716,000, all these figures include depreciation. All deficits are funded from the Airport Trading Fund. During my statement to the States Assembly in September this year, I advised Members that I have instructed the Group Chief Executive Officer for the Airport and Harbours to prepare a business case for the incorporation of the combined business. Included in this business case would be the envisaged financial sustainability of the organisation, which has been subject to independent modelling by Deloitte. As the business case has not yet been finalised it is not prudent to speculate at this stage the full financial implications. However, as I have promised in my statement, this Assembly will have the opportunity to debate the business case for incorporation when it is presented in the first quarter of 2012.

**4.6.1 Deputy M.J. Higgins:**

I notice the Minister's figures do not talk anything about capital and capital investment in the airport, which needs substantial sums of money. However, I would like him to explain how he can justify the paying of almost £90,000 to the former Airport Operations Director who resigned 6 months earlier than the end of their contract, a sum of which is in excess of her actual salary or entitlement, i.e. they paid another enhancement. Could he also explain why he is continuing to ...

**The Bailiff:**

One question at a time, Deputy.

**Senator A.J.H. Maclean:**

The Deputy should be aware that I am not going to stand here in the Assembly and discuss individual details of staff at the airport or anywhere else for that matter. The figures that he has quoted are mere speculation. I am not going to confirm whether it is correct or incorrect, but I simply will not discuss personnel matters relating to individuals.

**4.6.2 Senator L.J. Farnham:**

Obviously being new to the Assembly I am not familiar with the latest figures of the airport, but does the Minister happen to know what element of the losses that have been shown lately is depreciation and what is the trading profit and loss situation?

**Senator A.J.H. Maclean:**

The Senator asks a very relevant question. In fact, it was only in 2010, I made the point in my opening remarks, that G.A.A.P. accounting was introduced at the airport, and that has resulted in the loss. Originally in the Business Plan £216,000 profit was shown, the depreciation element makes up the balance but I am happy to give more detailed figures to the Senator if he would like it.

**4.6.3 Deputy M.J. Higgins:**

I would also like to ask the Minister how he can justify the continued employment of the former Airport Director, I believe, on his original salary in a lesser role than he actually had and in a role for which he has no formal qualifications, experience or competence. If he can also tell us what the current situation is regarding the air traffic controller who was employed at £65,000 per annum and who has continually failed his radar examinations?

**Senator A.J.H. Maclean:**

I think I have already mentioned to the Deputy that I am not going to talk about individuals and individual cases. It is not appropriate to do so. I have every confidence in the management at the airport. I have every confidence in the Group Chief Executive, and I am very satisfied with the arrangements that have been put in place to date. The financial position at the airport is improving dramatically thanks to the hard work of not only the Shadow Board but also the new Group Chief Executive and his team. I think Members of the Assembly can draw confidence from that. It was not long ago, a matter of months, that I was standing in this Assembly indicating that something like £100 million funding gap between now and 2023 was what the airport was facing. Currently we have moved that out to 2032 and it is reduced to £44 million. Great progress has been made and I have great confidence in the management of the airport.

**4.7 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding advice received in relation to the £40 million 'Gigabit Jersey' proposals:**

What independent professional advice, if any, did the Minister take before deciding to support the £40 million 'Gigabit Jersey' proposals?

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

I should start by saying that I hope to be able to make a decision on Gigabit Jersey within the next couple of days. Perhaps, as with the earlier question on Jersey Water, I should remind the Assembly that when we approved the Telecommunications Law in 2002 we did so with the explicit purpose of putting in place an independent board to operate the company. The board is responsible for operating the company as a business and carrying out its own reviews of proposals, and indeed contains a number of non-executive directors for that specific purpose. In developing Gigabit Jersey the board has used its own internal expertise and following a competitive tender the services of an expert consultancy from within the field.

[10:30]

As this was however such a significant decision to provide extra capital to the company I considered that on this occasion it was necessary to seek an independent assessment, and I asked the Economics Unit to carry out an analysis, and this was carried out by Oxera. Their conclusion was that the move to an all-Island fibre network was the correct one, although their main criticism of the case developed by J.T. (Jersey Telecom) was that it could be regarded as being over-conservative in terms of the take-up of high speed services; a point that has been well recognised by the board, indeed it was the board's explicit direction to the management team that it should develop a conservative business case for presentation. I am convinced that this is a valuable opportunity to reinvigorate the Island's economy at a difficult time and that we should embrace that opportunity. It should also be reminded that the proposal is at the heart of delivering the economic growth strategy, and I am very grateful for all the Members that have attended the various different presentations on this exciting proposal.

**4.7.1 Senator S.C. Ferguson:**

What steps did the Minister take to ensure that the proposed structure of the preference share loan was *intra vires* and not *ultra vires* the provisions of Article 5 of the Public Finance Law regarding the Currency Fund?

**Senator P.F.C. Ozouf:**

The Senator will be aware that the Treasury has spent a great deal of time in order not only in reviewing the business case provided by the company but also the manner in which the additional capital is to be provided, and the Treasurer brought forward a proposal with her officials in order to identify the source of the capital, and that has been reviewed by the Law Officers. I had again confirmation yesterday that the proposal is within the scope of the Currency Fund, and indeed is an excellent example of Law Officers and the Treasury working together and finding an appropriate solution to what is an exciting project. But I can assure the Senator it has been entirely checked and I am satisfied with the advice.

**4.7.2 Deputy M. Tadier:**

How does the Minister respond to the criticism in some quarters that this investment will represent an unfair advantage or give an unfair advantage to Jersey Telecom over some of its competitors?

**Senator P.F.C. Ozouf:**

I think that is an excellent question and I am pleased to be able to respond to it. There has been, and I followed with great interest a number of the representations from some of the competitor telecoms companies, and I have looked through all of their suggestions. Jersey Telecom is 100 per cent States-owned. It is the incumbent telecom operator and perhaps other, unlike other telecoms operators who do not have access to capital, who are perhaps more short term in their thinking, they would not be able to take such far-sighted decisions about the enhancement of our

telecommunication structure as Jersey Telecom have done. I have spent a lot of time on this issue, and I am very grateful again to say that a number of Members have also examined this and I do not think there has been one Member who has heard the presentation by J.T. that does not think this is a good idea. It is a good idea for the economic benefit of Jersey. It is a good idea for businesses. It is socially inclusive and it is the kind of decision that we are capable of making for the best interests of our community, and I have therefore dismissed some of the representations that have been made by competitors in terms of the representations that have been made.

#### **4.7.3 Deputy M. Tadier:**

While that was a good answer and I probably agree with most of that, if not all of it, it still does not answer the underlying question of whether or not there is a case to answer in terms of unfair advantage and competition.

#### **Senator P.F.C. Ozouf:**

I think that if there are issues, there is a clear segregation of duty between the Treasury who acts on this Assembly's behalf as shareholder and the regulator who ultimately reports to the extent that the regulator reports to the Minister for Economic Development. Any telecom infrastructure, whether or not it has been provided by additional capital from the States, is subject to regulation. The J.C.R.A. (Jersey Competition Regulatory Authority) who I have also had discussions with, is able to regulate that infrastructure, and I am going to make a condition of the additional capital provided. I am going to make it a condition that the company abides by the J.C.R.A. directions for the avoidance of any doubt, and that this infrastructure is made available to other telecom operators at a reasonable price, and I am asking the Minister for Economic Development and the J.C.R.A. to put in place appropriate regulation. But I do not want to put that regulation in place in a way that delays the actual getting on with this project. I want the project to go ahead and the J.C.R.A. to find out the way of appropriately regulating this important infrastructure, and I hope that answers the Deputy's question.

#### **4.7.4 Senator S.C. Ferguson:**

Has the Minister for Treasury and Resources obtained a unanimous agreement from the Council of Ministers for this decision, and does he consider that such a decision should be made by one Minister alone?

#### **Senator P.F.C. Ozouf:**

I certainly do not think that the decision should be made without consulting Ministerial colleagues, and that is why on 2 occasions it has been discussed by the previous Council of Ministers, and I have also discussed it with the composition of the new Council of Ministers. I would not make this decision without their support. I think I would be correct in saying that I have almost unanimous, in fact not almost, I have unanimous agreement with Ministerial colleagues, and before I make a decision I will check again with all Ministerial colleagues that they are supportive of this exciting proposal. And I have particular regard to the Minister for Economic Development's views on the matter, who is supportive.

#### **4.8 Senator A. Breckon of the Minister for Housing regarding the use of U.K. contractors on the refurbishment of Pomme d'Or Farm:**

Can the Minister detail whether U.K. contractors are working on the refurbishment of Pomme d'Or Farm and, if so, how many and why are they being used?

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

The refurbishment of Pomme d'Or Farm has been undertaken by Camerons, and Camerons are undertaking all the works with locally-based labour and sub-contractors with the exception of a small amount of asbestos removal work. This work is being undertaken by a specialist U.K. subcontractor of Jersey Demolition Contractors, who themselves were appointed by Camerons following a competitive tendering process. There are 3 employees on the site.

**4.8.1 Senator A. Breckon:**

Could the Minister confirm that there are local contractors who are available and qualified to do this work?

**Deputy A.K.F. Green:**

I am advised in this particular case, while there are local contractors capable of doing the work, none were available within the timescales that we had and there have been occasions when - not on this case - contracts have gone out to tender, I can show the Senator one case where the quote was nearly 200 per cent higher locally than U.K. But in this case it was because of non-availability.

**4.8.2 Deputy G.P. Southern:**

Can the Minister confirm that building contracts are, in the main, regarded as temporary contracts, less than 2 years, and are therefore not subject to the requirement to employ local workers only?

**Deputy A.K.F. Green:**

I am afraid the Deputy has me at a disadvantage there. I was not aware of that rule, but I will say that when we go out to tender we try and get as much of the work done locally by local contractors. The Pomme d'Or site, less than 2 per cent of nearly £5.2 million worth of work is being done by specialist workers based on the fact that the local specialists were not available in the timescale.

**4.8.3 Senator A. Breckon:**

Can the Minister confirm whether the department has any policy on whether outside contractors should be used or not?

**Deputy A.K.F. Green:**

The use of outside contractors would be as a last resort.

**4.9 The Connétable of St. John of the Minister for Social Security regarding his definition of a “proper” job:**

Will the Minister explain what his definition of a “proper” job is and, given that society needs people to work in all areas of employment, will he confirm that he values the tremendous work undertaken by blue collar workers such as road sweepers and cleaners across the Island?

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

I am grateful to the Connétable for giving me this opportunity to clarify my position as recently reported in the local press. First, I am very happy to confirm that I fully recognise the valuable work undertaken by blue collar workers throughout the Island, including road sweepers and cleaners and many others. I believe that all work experience, both paid and unpaid, makes an important contribution towards getting an unemployed person back into a permanent paid position. This is what I regard as a proper job. I am also pleased to have this opportunity to publicly record my support for the initiative taken by the Chief Minister to set up the back to work programme. Close co-operation between the Chief Minister's Department, Economic Development, Treasury and Resources, Education and Social Security within the last week has already achieved significant

progress towards a comprehensive package of measures designed to support local people back into proper jobs.

**4.9.1 The Connétable of St. John:**

Given the Minister's comments, does the Minister consider that blue collar workers, such as plumbers and drainlayers, and the like, are not proper jobs?

**Senator F. du H. Le Gresley:**

I think I have made it clear that the choice of the word "proper" also means real. It is an expression that I have noticed used in other questions to Ministers. We are talking about real jobs, permanent jobs and that is, I am sure, what all Members would like to see our work force back into permanent work.

**4.9.2 Deputy G.P. Southern:**

In his efforts to create real jobs for the unemployed, along with his Ministerial colleagues, will the Minister assure Members that he will, at the earliest possible opportunity, talk to representatives of employees in the trade unions in order to seek their co-operation with whatever scheme that he develops?

**Senator F. du H. Le Gresley:**

I agree with the Deputy, that we need to talk to all groups, including employee representative groups, and this is something that I will make sure happens.

**4.9.3 The Connétable of St. John:**

Within the scheme of things, does the Minister consider there are any jobs he considers as non-jobs?

**Senator F. du H. Le Gresley:**

I am not quite sure what the Connétable is trying to get me to say with that question. I think he may be referring to jobs which are unpaid, voluntary-type jobs, and as I said in my answer to the question, there is a value in doing voluntary work. I am not in favour of compulsory voluntary work, but there is certainly a benefit to people who perhaps have never had a job, to get up and do a voluntary job. Part of the back-to-work programme is to bring in schemes that would give people the ability to do some voluntary work, which will benefit them in their search for permanent employment.

**4.10 Deputy S. Pitman of St. Helier of the Minister for Education, Sport and Culture regarding the overall cost of young people attending university in 2011:**

Will the Minister advise the overall cost of young people attending university in 2011 and provide a breakdown of the fees met by parents and those met by the States?

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

The overall cost of sending Jersey students to university is currently in excess of £20 million a year. That is the overall cost. This is met by the States, by parents or by a combination of both, depending upon parental income. The States contribution in the financial year 2011, is approximately £8.2 million, of which around £5 million goes on tuition fees and the remainder on maintenance grants, for living expenses including accommodation, food and books. Where parents earn less than £26,750 per annum all tuition fees are paid by the States and a maintenance grant in addition of £5,200 is also awarded by the States. Where parents earn more than £52,429 the States

makes a contribution to tuition fees, depending upon the parental income in excess of that but no contribution is made towards maintenance.

**4.10.1 Deputy S. Pitman:**

What actions has the department taken to reduce the costs to parents and students?

**The Deputy of St. John:**

The United Kingdom University charging system is going through a huge change at the moment. There is another question later on from Deputy Rondel, which addresses this particular item directly. Suffice to say that with such a lot of change going on it is difficult to know exactly where this is going to end. My department and I feel that we certainly need to wait in the short term to see what settles down. But I think the whole question of tuition fees and costs for further education is a subject that I will want to review over the next 6 to 12 months and the Deputy can rest assured that I will be looking for opportunities to reduce costs wherever possible.

[10:45]

I have not had the time to do that yet, and I hope that the Assembly and parents will have a little bit of patience to give me time to look at all of these areas and report back in due course.

**4.10.2 Deputy J.A. Martin:**

Could the Minister please inform us how many children in 2011 or young people, the £8.2 million of the taxpayers' money represented, and compared to other Island jurisdictions, is it good value? Do we contribute more, less, about the same? I think the Minister will get the gist of the question.

**The Deputy of St. John:**

That is not a statistic that I have to hand at the moment, but I will endeavour to provide that information to the Deputy and the Assembly later on in the course of today. As regards whether we are contributing about the same amount as our sister Island or indeed the Isle of Man, my assumption is that we are, but again I will confirm that in writing in a short period of time.

**4.10.3 Deputy M. Tadier:**

Notwithstanding the contribution of, I think, £8.2 million that the States make towards tuition and maintenance, does the Minister acknowledge that there is still a large proportion mainly of middle class children who do not go to university because the parents either do not have the money or refuse to support the tuition and maintenance costs of them going to university, and therefore they lose out on university or higher education experience? Will the Minister say what his response is and what steps he is taking to look into that issue?

**The Deputy of St. John:**

Our longstanding principles that understand Jersey's approach to higher education are (1) that no young person who can benefit from higher education should be denied access due to financial constraints and also (2) the choice of course should be governed by aptitude rather than cost. These are the 2 guiding principles, and those are principles that I wholeheartedly support. As I say, over the course of the next 6 to 12 months I will be reviewing whether that is still the case. These principles are being covered by our policies and again, in due course, I will form an opinion and I will be able to inform the Assembly of what that opinion is and if there are any adjustments that we need to make in the course of time.

**The Bailiff:**



I think the question, Deputy, is whether you feel that there are people who are unable to go to university because their parents will not pay or cannot pay.

**The Deputy of St. John:**

That indeed is a question that I will want to address in the course of the next 6 months to 12 months. I will specifically look at that one, in addition to everything else.

**4.10.4 Deputy S. Pitman:**

Could the Minister tell Members if Jersey is still considered by the relevant authority in the U.K. as “overseas”, and because of this... one of the highest fees in the world? If so, what action will he take to try and persuade the U.K. Government that we are just part of them?

**The Deputy of St. John:**

I am hoping that we do get around to question number 17 from Deputy Rondel.

**The Bailiff:**

It all depends how many supplementaries there are.

**The Deputy of St. John:**

It does indeed. I will say, with the danger of taking some of the wind out of the Deputy’s sails, I will answer this question obviously as a supplementary. What we have found so far in the main is that we are being treated in the same way in cost terms as local U.K. students are. The overwhelming responses we have had from universities leads me to believe that we are indeed being treated as a domestic U.K. case in the main. There are a few anomalies to that and I can give the Deputy that information separately. What I will say, though, is that we will be in a position to publish the results of our negotiations with U.K. universities and intend to do that on 20th December on the States website, and that will give chapter and verse.

**Deputy T. Pitman:**

Sir, I thought you had seen my light, but could I just ask if the Minister would circulate those figures he gave earlier because I could not write quite as quickly as he spoke.

**The Deputy of St. John:**

Yes, indeed.

**4.11 Deputy G.C. Baudains of the Chief Minister regarding proposals to assist the unemployed find work:**

Can the Chief Minister, with regard to proposals he recently announced to assist the unemployed to find work, assure Members that this will not create more jobs in the public sector and that the employment opportunities will be restricted to local employees and local companies paying Jersey tax?

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

The aim of the proposals is to increase the employment of Islanders both now and in the future, providing a growth in the range and number of job and career opportunities wherever possible, increasing our self-sufficiency and local grown talent. The focus will be on employment in the private sector where part of this growth will be delivered through economic growth. However there are many more opportunities to reduce our reliance upon future immigration to fill jobs and thereby maximise local employment levels. In the long term, such opportunities exist in the public sector,

not growing the public sector but increasing the number of opportunities for locals. The States could deliver many opportunities for our young people through apprenticeships, other trainee schemes and work experience opportunities providing that this is done so within the framework of workforce succession planning. Expansion to successful schemes, such as Advance to Work in the enhanced work zone is vital if we are to address unemployment effectively and support will be targeted specifically at Islanders with more than 5 years' residence.

**4.11.1 Deputy G.P. Southern:**

Will the Minister agree that one way to encourage people to take on more employees is to have a social security contributions holiday and, if so, will he not create such a holiday for companies which already pay no Jersey tax?

**Senator I.J. Gorst:**

We are indeed looking at social security contribution holidays and other incentive payments to employers. If we were to take the premise, which the Deputy has just presented, as the only opportunity for such incentives we would then simply limit those incentives to basically the finance industry and the utility companies, but we must be much broader than that. We must look at every industry and see whether there are opportunities for future employment and employment growth.

**4.11.2 Deputy M. Tadier:**

Would the Chief Minister confirm that it is not really a question of giving an assurance one way or the other about creating jobs or otherwise in the public sector. Rather it is about treating them on a case by case basis and whether jobs are needed and whether they create value; and that is how they should be judged, not ideologically about whether or not to increase or decrease the public sector:

**Senator I.J. Gorst:**

I hope that I indicated that in my initial answer. There are certainly opportunities within the public sector for increasing and, to some extent, displacing so that opportunities are created for people who are already in our community.

**4.11.3 Deputy J.A. Martin:**

I think it is just an emphasis on what the Minister said re the original question. Would the Minister not agree it is not about creating more jobs but, as I said - and a lot of people did say in their manifestos - the States should lead by example and we have a great infrastructure, we have great worth of experience for electricians, plumbers, and even if we only train them these people, local youngsters, or people who have been here more than 5 years, can then go out and we will have enough home grown talent on the Island.

**Senator I.J. Gorst:**

I could not have put it better myself. In the industry that I come from we train people in their professional examinations recognising that those individuals will go out and work for competitor firms. But it is the right thing to do to ensure locally grown, locally trained talent is available across our community. It is something that we, as a States, have been lax on. It is something that we have not been doing appropriately but in the medium and long term it is something that we absolutely must do.

**The Bailiff:**

Deputy Baudains, do you wish a final question?

**Deputy G.C. Baudains:**

No, thank you, Sir, I thought I made it clear that I ...

**The Bailiff:**

Sometimes Members change their mind after other supplementaries.

**4.12 Deputy S. Power of St. Brelade of the Minister for Treasury and Resources the consideration of a payroll tax as a method of raising income from non-locally owned Jersey trading companies:**

Could the Minister state whether a payroll tax is being considered as an appropriate method of raising income from non-locally owned Jersey trading companies and, if not, why not? For the purposes of this question, what I mean by a “payroll tax” is a tax that is paid from the employer’s own funds and is directly related to employing a worker.

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

May I ask Deputy Noel to be rapporteur for this one.

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

We have made a commitment to publish a consultation paper setting out the options for tax treatments of non-locally owned, non-financial service companies trading in the Island. Every potential measure, including a payroll tax as described by the Deputy, is being examined in order to determine its suitability and compliance with the E.U. (European Union) Code of Conduct on Business Taxation. Let me be clear, whichever option is chosen cannot discriminate between locally-owned and foreign-owned companies.

**4.12.1 Deputy S. Power:**

I am grateful to the Assistant Minister for his answer and he refers to the use of the word “discrimination”. Would he not agree with me now that we are positively discriminating against local trading companies by doing nothing? Could he give an indication as to how much time the department will need to finish this consultation process?

**Deputy E.J. Noel:**

I do not believe that we are positively discriminating against local businesses. We are providing a level playing field be it zero tax for companies across the board. I admit, it is not the same for those local shareholders. The shareholders do bear a tax. However, having said that, it is not appropriate for us to move forward with any proposals or move forward with the consultation until Ecofin has formally approved Zero/Ten.

**4.12.2 Deputy G.P. Southern:**

In addition to failing to state how long it is going to take him to do this consultation, would he have a stab at when he is going to produce this paper and reveal it to the public and to Members?

**Deputy E.J. Noel:**

This paper will be produced hopefully in the early part of 2012 but it is reliant on Ecofin formally approving Zero/Ten, which we anticipate they will be doing at the latter part of January.

**4.12.3 Deputy G.P. Southern:**

If I may press the Minister, the early part of 2012, are we talking all the way down to June? Surely the first quarter at least.

**Deputy E.J. Noel:**

A consultation paper will be produced in short order as soon as we have had the approval by Ecofin of Zero/Ten.

**4.12.4 Deputy M. Tadier:**

Does the Assistant Minister accept in principle that a tax on capital and on profit is fairer than a tax on jobs, which a payroll tax could be considered to be?

**Deputy E.J. Noel:**

No I personally disagree with both types of tax. They both stifle competition and stifle our ability to trade in the world outside of this Island. Specifically with a payroll tax I have the personal view that now is not the time for a payroll tax.

**4.12.5 Deputy M. Tadier:**

Just to confirm, the Assistant Minister is saying that he disagrees with taxing profits, presumably income tax and he disagrees with payroll taxes; is that really what he is saying?

**Deputy E.J. Noel:**

No, I was answering the question in terms of capital tax. I do not believe that a capital gains tax is an appropriate tax for Jersey's economy.

**Deputy M. Tadier:**

Can I just clarify, I was not talking about capital gains tax, I was talking about taxing the profit, just for the record.

**The Bailiff:**

I heard you say "tax on capital", so there we are.

**4.12.6 Deputy S. Power:**

Notwithstanding the answers of the Assistant Minister, which I do not really find satisfactory, would the Assistant Minister not agree with me that the directives coming from Ecofin and the problems being caused by Ecofin are causing problems within corporate Jersey and that is not only do we not have Zero/Ten but we have Zero/Ten/Twenty, and that is the real problem.

[11:00]

**Deputy E.J. Noel:**

I do not believe having Zero/Ten/Twenty is a problem. It means at least some of our corporate entities are paying tax at 20 per cent, those being the utility companies, among others. We do have to make sure that our tax regime is Ecofin compliant and until they make a final ruling we cannot bring in any changes to try and capture the funds that are leaving the Island from non-locally owned, non-financial services companies. We will bring measures in as soon as we can, hopefully in the early part of 2012.

**Deputy S. Power:**

In the words of the Carlucci family, I will be back on this question as well.

**4.13. Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding the 'Adopt a Granny' Scheme:**

Can the Minister inform the Assembly whether she has accepted the 'Adopt a Granny' scheme and if so when it will be implemented? For the sake of clarity, it is not that we go out and seek

grannies, it is that grannies in schemes run in other cities are matched to young people who, for various reasons, have family issues or no family.

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

I will ask my Assistant Minister, who has responsibility for children, to answer this question.

**Deputy J.A. Martin (Assistant Minister for Health and Social Services - rapporteur):**

The Deputy has explained the 'Adopt a Granny' scheme. The problem in Jersey... and this was mooted to me on a talkback show from 2 different people, one adopting a granny across the scheme of where a normal mother and father of 2 or 3 children struggling may not have a nanny or a granddad, and people will help maybe take the children to the park, things like this, and be an extra relative. Then there was another lady who phoned-in who thought the scheme would be absolutely ideal for vulnerable children. Firstly, we need to decide which scheme we want, or possibly both. We have been looking at this for a year and officers are working on this. The more general scheme matching, like myself all my family on both sides are in the UK, would be hopefully working with the Assistant Minister for Education and somebody like the Jersey Childcare Trust whom will probably identify these families for us.

**4.13.1 Deputy R.G. Le Hérisier:**

Would the Assistant Minister not acknowledge that while indeed this was brought up on a radio programme a year ago, in fact it has been longer than that and one of the main proponents has told me she is in deep likelihood of becoming a great granny, so could we change the title? Secondly, would the Assistant Minister not acknowledge it is taking far too long, even if there was a difference? Why were not the people interested brought around a table given that at least one of these persons has already recruited volunteers in the hope that the programme would take off.

**Deputy J.A. Martin:**

I have been in email contact with the person the Deputy talks about and the volunteers were very grateful. We had 2 volunteers. I do not think the Deputy understands. I have also been told that Guernsey have a scheme. Guernsey refute they have a scheme called Adopt a Granny. They have something called Home Star, and they say they would not put this in with vulnerable families because of child protection issues. I do not want to get people round the table. Do we want to do it as a States? Should it be done, I think, in partnership with the private sector and then obviously people who are volunteering out there will have to be trained, they will have to be vetted and we have to decide what scheme we need. I do not say it is too long. The ultimate job for the children's service is to protect children.

**4.14 Deputy T.M. Pitman of the Minister for Education, Sport and Culture regarding the future use of St. James' Centre:**

Given the continued cost to the taxpayer of keeping St. James' draped in scaffolding - around £70,000 in the last 5 years - will the Minister advise whether he supports transferring this building to the Jersey Youth Service and, if so, would he undertake to liaise with Property Holdings to ascertain whether the cost of making the structure good could be met from the sale of the existing and dilapidated La Motte Street Centre?

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

The future use of St. James' has been under consideration for many months, I am told, although this was before my time in the Assembly. Liaison with Property Holdings has already taken place. I am pleased to report that Property Holdings have been able to find a solution. The funding

necessary to carry out the remedial work to the church building will be found from Property Holdings maintenance budget for 2012. This work will be completed in 2012 and the scaffolding can then be removed. I am also pleased to report that the Treasurer of the States has agreed a feasibility study of the St. James' site and that this study should be prepared to show how it could be redeveloped. I understand that this includes consideration of moving the Youth Service to the St. James' buildings. The Deputy's question was deliberately couched: "Do I support it?", the move of the new centre to the St. James' building, and without having looked at all of the details my initial reaction is, yes, I would support that. The review will be complete by the end of March 2012. At that time I will have discussions with the Assistant Minister for Treasury and Resources to agree the best way forward. I can assure the Deputy that I will give those discussions a high level of urgency at the end of March.

**4.14.1 Deputy T.M. Pitman:**

Could I just say that I really welcome the news from the Minister, and could he perhaps clarify the House why he has managed to come up with a solution now and yet for 5 years we have been draping it in scaffolding at huge cost to the taxpayer? What is the magic wand he has managed to wave?

**The Deputy of St. John:**

I would love to be able to say that I take the responsibility for that, but I am afraid I cannot. This was formulated by the department with Property Holdings prior to my time. It would be very nice to take the credit for it, but in all honesty I cannot do that.

**4.14.2 Deputy J.H. Young:**

Would the Minister please confirm that within the feasibility study of the future use of St. James', and his personal commitment to the transfer of the building to the Youth Service, would he please give a commitment that he will take into account, the present valuable use by the cultural sector of those buildings, albeit in difficult circumstances because of their condition, including facilities for such groups as the Jersey Youth Theatre, which has accommodated the expansion of cultural activities in Jersey. Would he please give a commitment in that study that he will ensure in some way that that use can continue albeit potentially on a shared basis? Also would he clarify whether he would wish to see that use continue in some way?

**The Deputy of St. John:**

To enable improved access for young people in St. James', and the general public, to the Youth Service officer in their change of venue to St. James' there is going to have to be several elements to it. It should allow for a wide range of arts projects and provide an alternative to using licence premises, i.e. bars and nightclubs, for events such as Gig School and Junior Battle of the Bands. The financial basis of the proposal is that the sale value of the La Motte Street- the existing Youth Service venue - the estimated value is in the region of £5 million and this would be sufficient to meet the relocation costs and moving the Youth Service. It will include the outstanding maintenance costs and it would leave additional funding to be used for purposes not yet agreed, but including investment in the facilities of the Jersey Arts Centre and compensate for the loss of St. James'. To enable the Youth Service to use St. James' it would be necessary for both the Arts Centre and the Arts Trust to vacate the vicarage and for the Youth Service to take operational control of the former church. However once converted this would remain in community use, not only by the Youth Service but also by other groups including potentially the Arts Centre and the Arts Trust, which I think is the thrust of the Deputy's questions.

**4.14.3 Deputy G.C. Baudains:**

With regards to St. James', is the Minister sure the building is worth repairing. The structural engineers have indicated to me that the problems are so severe and so longstanding that the only viable option for this building is to demolish it.

**The Deputy of St. John:**

I would be led by Property Holdings on this. It is their call. It is in their core remit to decide on the very things that Deputy Baudains is alluding to. I remain to wait until the end of March when Property Holdings will be having meetings with my department where we can finally assess the kind of problems that Deputy Baudains is referring to. I am assured at the moment that overall ...

**The Bailiff:**

A concise answer, Deputy. I think you have answered it.

**4.14.4 Deputy T.A. Vallois:**

Could the Minister confirm whether the estimation of £5 million for La Motte Street includes part-use for affordable housing and social housing?

**The Deputy of St. John:**

I am led to believe that it is valued at £5 million by Property Holdings. I am not clear on exactly the basis of that valuation. I do not have that information but I can supply it to the Deputy at a later date.

**4.14.5 Deputy T.M. Pitman:**

It is good to see the Youth Service apparently being welcomed. We will be watching. Could I just ask the Minister if he will confirm that with this refurbishment he will also make sure the steps are refurbished so St. Helier No. 1 can have our polling station back?

**The Deputy of St. John:**

I will certainly bring that to the discussion at the table of Property Holdings.

**4.15 Deputy S. Power of the Minister for Transport and Technical Services regarding road access to any site proposed for a new General Hospital or a new Police Headquarters:**

Could the Minister outline what technical considerations would be necessary in determining suitable road access to any site proposed for a new general hospital or a new police headquarters?

**Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):**

Where any new development is likely to have significant transport implications, a transport assessment would be prepared as part of the design and planning process. It would be a requirement of the planning application and would be used to determine whether the impact of the development on transport is acceptable.

**4.15.1 Deputy S. Power:**

The Minister has not quite answered the question. Could the Minister specifically outline what technical considerations are necessary in any site for a new hospital, specifically a new hospital and a new police headquarters? In other words, what road access is specific to a new general hospital or a new police headquarters, other than ordinary road access?

**Deputy K.C. Lewis:**

I do not think there are any specifics apart from emergency vehicles, as such. Transport assessment is a comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies what measures will be taken to deal with the anticipated transport impacts of the scheme and to improve accessibility and safety for all modes of travel, not just vehicles, while access by motor vehicles for servicing, deliveries, staff and the general public are most important considerations. It is expected that proposals for large developments with significant transport implications would be consistent with the States Sustainable Transport Policy, which seeks to encourage alternatives to private cars, such as walking, cycling and public transport. Of course there will be special considerations for emergency vehicles.

**4.15.2 Deputy J.A. Martin:**

I welcome the Minister's reply but about 2 months ago, just after the election, all No. 1 Deputies, because there is a proposed site for the new police station were invited to high level talks where we were told there is a high level working party looking at every aspect of the new police station. Would the Minister confirm that he has high level members of Transport and Technical Services on this panel so all these considerations are taken into consideration?

**Deputy K.C. Lewis:**

Yes, absolutely. A traffic impact assessment is being undertaken as part of the Green Street Police Station feasibility study. An assessment is being undertaken but it is not as yet complete.

**4.15.3 Deputy S. Power:**

Would the Minister not agree with me that in any consideration of a site for a new hospital emergency vehicle access and parking for visitors is a high priority and could he hazard a guess as to how many sites on the Island are suitable for that type of requirement?

**Deputy K.C. Lewis:**

In the St. Helier area, no, I could not really hazard a guess but I will take the Deputy's comments on board and get back to him.

**4.16 Deputy G.P. Southern of the Chief Minister regarding 2012 pay negotiations with public sector employees:**

What progress, if any, has been made in negotiating 2012 pay, terms and conditions with manual workers, teachers, nurses, health workers, uniformed services and civil servants and will the Minister state whether any pay offer has yet been made to these groups and what detailed work has been done in respect of the States Employment Board's aim of achieving £7 million of savings on employee terms and conditions?"

[11:15]

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

Pay plans for 2012 have been received from some of the groups mentioned by the Deputy, but not all; for example, nurses and midwives remain outstanding. The new States Employment Board will meet for the first time later this week to discuss its position towards the 2012 and 2013 public sector pay review. At this meeting the claims received thus far will also be discussed and the States Employment Board will then be in a better position to agree its response to pay groups and this question. Regarding the terms and conditions review and the C.S.R. (Comprehensive Spending Review) savings target, considerable work has been undertaken in consultation with employee representatives that will form the foundation of detailed discussions with all pay groups in 2012.



**4.16.1 Deputy G.P. Southern:**

Could the Minister explain to Members why it has taken such a long time to produce any changes to terms and conditions and is he certain that he has entered negotiations on terms and conditions with any of these groups because my understanding is that negotiations have yet to start at all on terms and conditions.

**Senator I.J. Gorst:**

It is quite difficult for me to say exactly what has gone on prior to my appointment to this office. As I have said, the States Employment Board has not yet met. We will be meeting later this week to consider the 2012 groups and of course the work which has been undertaken with regard to modernisation of terms and conditions. It is my understanding that consultation and negotiation has taken place.

**4.16.2 Deputy G.P. Southern:**

Could the Minister inform Members whether he has employed a consultant on this process?

**Senator I.J. Gorst:**

I cannot confirm or deny that. No doubt I will find that out when we discuss these issues at the States Employment Board later this week.

**4.16.3 Deputy M.J. Higgins:**

Just following on from Deputy Southern's question about the discussions or negotiations that have taken place on terms and conditions. Will the Chief Minister publish a paper to States Members setting out the date and details of these negotiations so we can get this matter dealt with once and for all. In the past Ministers have said, yes, they have had these negotiations. Others have disputed it. Will you produce a paper showing when these negotiations took place, whom they took place with and just publish it as soon as possible?

**Senator I.J. Gorst:**

I will of course need to understand exactly what negotiations and discussions took place before I could give that undertaking. By the very nature of negotiations, they have to be done, I think, rightly behind closed doors so that all groups can feel that they are being taken seriously, that they can openly together discuss and move forward. Not to be done in the realms of the public domain, which is perhaps where we went wrong in the past where this Assembly was trying to make decisions, which should more rightly be undertaken through negotiation with employer and employee representatives.

**4.16.4 Deputy M.J. Higgins:**

Just following up on the question, I do not believe it is going to be as complicated as the Chief Minister indicates. All we are asking for is there has been dispute for months on this, whether there has been any formal negotiations with any of these parties. All I want to know is the date that there were discussions, with whom and you can just say: "Okay, it is to do with terms and conditions for public sector workers." Do not go into the detail; just give us the facts so we can put this thing to rest once and for all.

**Senator I.J. Gorst:**

As I say, it is quite difficult for me to give a definitive answer. I shall certainly go away and see if I can collate that information, which might be able to be put into a form which could be circulated. But I should say, that must be against the back drop that it cannot be right for the employer or for employee representatives to feel that every meeting and every discussion is going to be carried out by the public domain.

**4.16.5 Deputy G.P. Southern:**

Here we are in December and I can assure the Minister that no concrete proposals on terms and conditions have been put to the manual workers, no concrete proposals have been put to the teachers, for example. When the Minister finds out, if he is engaging a consultant in this process, will he circulate the name and the salary of that particular consultant?

**Senator I.J. Gorst:**

It is not practise for Ministers to circulate private and personal contract details. What perhaps I can say is that if we are to deliver a modernised public service it is important that we try and build trust in a way, which I believe perhaps has not been there in the past, and therefore it is difficult for me to start making public pronouncements. We have to work together, employer and employee representatives, in a new way and understand what the future holds for us so that we can work more effectively and efficiently going forward. Therefore I am loathe at this point to start making public pronouncements which might undermine that trust which we need to start to build.

**4.17 Deputy R.J. Rondel of the Minister for Education, Sport and Culture regarding the U.K. universities which have agreed to charge 'local' fees:**

Would the Minister please inform the Assembly which U.K. universities have agreed to charge local fees and which others he anticipates could be added to the list?"

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

In previous years the Islands have negotiated a single scale of fees to be applied to all universities throughout the U.K. This year we are required to negotiate an appropriate tuition fee for Channel Islands students with each university individually, and each university is free to set its own fees in accordance with its costs and its perceptions of its status and of what it feels the market will stand. However the U.K. Government has capped rates for U.K. domestic students, but universities can charge students less if they wish. My department took a proactive approach and wrote to all universities emphasising the similarities between our students and those of the United Kingdom and requesting them to tell us if they did not intend to charge us at the same rate as U.K. students, in other words the domestic rate. The letter from us included a deadline of 19th November, after which date we would assume that we would be charged at the U.K. domestic rate. A small number of universities have indicated that they intend to charge our students in excess of the U.K. domestic rate and the reason for the delay in publishing this list is so that (a) we can try to dissuade them and (b) in case other universities intending charging the domestic rate and seeing others intending to charge more, should decide to change their minds in hindsight. However, I do appreciate that parents and students need to have this information soon so that they can jointly decide which course and university to choose, and that cost will be a major consideration for many families. I can confirm therefore that a list of universities charging in excess of the U.K. domestic rate for courses and associated costs for courses will be published on the States website by 20th December, and the list will be updated as more information becomes available. I can assure Members, parents and students that my department will continue to work with the institutions on this list to try to reduce their costs in line with U.K. students.

**Deputy R.J. Rondel:**

I would just like to thank the Minister for his open and honest answer and understand the sensitivity of the negotiations. I look forward to hearing hopefully a positive outcome on 20th December so that many parents' concerns are put to rest.

**4.17.1 Senator S.C. Ferguson:**

Would the Minister not agree that while cost is important he should perhaps be looking at universities in terms of the quality of their academic courses offered rather than purely looking at cost?

**Deputy R.J. Rondel:**

Universities are now in a free market. This means that if they feel they can charge more because they have a higher quality course then indeed they are entitled to do so. It is up to students and parents, as well as the department with our current principles, to make a call on which university they wish to send their child to. I should not perhaps call them children after all they will be 18 years old, so which university to send their “young adult” to.

**4.17.2 Senator S.C. Ferguson:**

Would the Minister not consider that perhaps we should be keeping in mind that our better qualified academic students that are high flyers, should perhaps be getting more support than the run of the mill or perhaps people who really should consider other vocational courses, rather than university?

**The Deputy of St. John:**

Our current system takes account of so-called high flyers going to more expensive universities. It is catered within the current system. With regards to whether students should be looking at vocational or other kinds of further education, I do agree with the Senator and that there should be perhaps a little bit more focus within the careers advice within our secondary schools to prepare young adults for the world of work where appropriate.

**4.18 Deputy M.J. Higgins of the Minister for Treasury and Resources regarding risks to the Jersey finance industry:**

Will the Minister advise Members which of the proposed changes to British and/or European financial regulations he considers to be of the greatest risk or threat to the Jersey finance industry and why?

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

This is an important question, one probably which deserves more than just an oral answer in terms of its explanation to Members. In the aftermath of the global financial crisis, the Deputy will be aware that regulators across the world have been reviewing and amending the way that their financial services are regulated in an attempt to prevent a repetition of the similar crisis that we have seen across the world and also attempts to reduce the systemic risk from banking failures. Ministers are in regular contact with the Jersey Financial Services Commission, the Channel Islands Brussels office and Jersey Finance, who are monitoring and assessing the regulatory changes that are emerging, and the risks to the Jersey economy and the Guernsey economy of such changes. It is at this stage unclear as to how many of the proposed changes in the regulatory sphere, both at European and at U.K. level will be implemented, let alone what the implications to our own finance industry are. What I will do is undertake with Ministerial colleagues to keep Members informed of changes in the regulatory world. It is probably appropriate for us to respond in a written answer to these issues and I will attempt to do so in the early part of next year. I should also finally say that in the meantime, while there are risks and uncertainties in the regulatory sphere, this should not detract us from our objective of returning our finances to a sound footing and at the same time while continuing to support the economy through what is going to be obviously a difficult 3 or 4-year period.

**4.18.1 Deputy M.J. Higgins:**

I would like to welcome the fact the Minister will keep us informed of these changes. Can I ask him in particular about the Vickers inquiry, which is the independent report on banking, which has implications for the banking model that Jersey adopts, in particular, and can he make any comment on that?

**Senator P.F.C. Ozouf:**

It is unclear as yet where the ring fence will be drawn between the retail and more risky activities of the U.K. banking industry, whether or not the curtain will be drawn on a bank-by-bank basis and where the geographical boundaries will be in terms of E.F.A. (European Finance Association), *et cetera*.

[11:30]

It is not, at this stage, possible to determine exactly what the implications of Vickers will be, but it is something which both the J.F.S.C. (Jersey Financial Services Commissions), Jersey Finance and our local banking groups are keeping under review, and I will include a more detailed comprehensive answer should there be details arising in terms of Vickers in the answer that I will provide hopefully in January next year.

**4.18.2 The Connétable of St. John:**

In the event of a collapse of major European currencies, what is in place by Jersey Finance to protect the Island given we have noticed recently the U.K. Bank of England have passed comment on banking issues within the United Kingdom? Has Jersey done similar?

**Senator P.F.C. Ozouf:**

It is the Jersey Financial Services Commission who has done substantial work in relation to risks of a bank failure within the eurozone and let this Assembly, while small that we are, express the opinion that hopefully the eurozone countries will find a solution to their debt crisis over the next few days. It is really important for both the U.K. economy and, by extension, in certain regards to our banking industry, to the Jersey economy that a solution to the eurozone crisis is found. I can assure the Connétable that there has been substantial work done in order to understand exactly the nature of the risks of our local banking institutions and, of course, our banking institutions, unlike some of the other banking markets within Europe, are largely deposit-based banks which are upstreaming their deposits to the City of London. We continue to keep under review all of those activities and have confidence in the J.F.S.C. in terms of monitoring all of the risks associated with our banking industry and we hope a solution is found to the eurozone crisis this week.

**The Bailiff:**

Deputy Higgins, do you wish the final question?

**4.18.3 Deputy M.R. Higgins:**

I was not originally... but just in response to the last question. Obviously, one of the dangers associated with the Jersey banking model is the upstreaming of the deposits that the Senator talks about to the London money market and, of course, in a situation when credit has been drying-up and everything else, the question is what happens if, for some reason, one of the banks that has been upstreamed to, do not return the money? What contingency plans are there to ensure the survival of the banks here in Jersey, those banks?

**Senator P.F.C. Ozouf:**

I can advise that in partnership with the Minister for Economic Development and under the auspices of F.S.A.B. (Financial Services Advisory Board), which is our body which we sit together with Government, the regulator in Jersey Finance, some work has been commissioned on indeed dealing with various different stress tests in various different scenarios of various different activities of European banks. In the start of the crisis 2 or 3 years ago, there was a consultant that was brought in to exactly understand what the risks were associated with a banking collapse and, indeed, the Jersey experience has been one of significant strength. There was prudence in the overall regulatory approach of Jersey banks, as the Deputy would know, and it is something which the J.F.S.C. keeps continually under review. But let us hope there are not going to be any failures in relation to the Deputy's question and that there is not a banking failure of an upstream deposit in terms of a Jersey bank.

**4.19 Deputy G.C. Baudains of the Minister for Transport and Technical Services regarding the recently installed pedestrian refuge near La Mare Slip:**

With regard to the recently installed pedestrian refuge near La Mare Slip, would the Minister confirm that neither he nor his officers have any concerns about safety as a result of this construction?

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

I thank the Deputy for this question and the opportunity to welcome the provision of this crossing facility for the pedestrians in the area of La Mare Slip. Requests for a pedestrian facility at this location go back many years. This was a challenging location for my department to provide facilities for pedestrians following detailed surveys of car and pedestrian movements and bearing in mind the proximity of the junction with Rue Du Maupertuis, it was determined that a pedestrian refuge island was the safest and most suitable type of pedestrian facility to provide at this location. My officers and I are comfortable that this refuge is the most appropriate means of providing a pedestrian facility while maintaining road safety for all users. As always, with any significant change to the highway, it will take drivers a while to get used to it. Therefore, as is normal, my department will monitor the refuge and take action should there be an unanticipated issue.

**4.19.1 Deputy G.C. Baudains:**

Is the Minister aware that previously drivers coming from the east of the Island to this junction would look for children coming up from La Mare Slip and traffic exiting from Rue Du Maupertuis? They are now forced to take their eyes off that potential hazard and look to make sure that they do not hit the pavement, which comes completely in front of them as they go around this island. It is an accident looking for somewhere to happen. What is the Minister's comment?

**Deputy K.C. Lewis:**

Indeed, the island has had a beneficial impact on speeds at this location which would help in reducing the number of road traffic collisions that have been recorded in the past junction of Rue Du Maupertuis. This section of road is subject to a 30 mile an hour speed limit. It is the responsibility of drivers to drive within the speed limits and at appropriate speed of the road conditions.

**4.19.2 Deputy G.C. Baudains:**

I think the Minister completely misunderstands the situation. It is not a question of speed; it is a question of the state of the road. The driver has to make sure that he does not mount the pavement getting around the traffic island and, as such, is no longer looking for potential accidents, in other words, children running up from the Slip or cars exiting from Rue Du Maupertuis. It is surely an

accident that is going to be happening in the near future. Also, could he confirm that the buses do not have to mount the pavement to get round there?

**Deputy K.C. Lewis:**

Indeed, the bus company has been consulted both prior and following the installation and raised no significant concerns but would wish to review the position of the east-bound stop due to holding up cars, which is not a big issue. I repeat that cars are now being forced to slow down to 30 miles an hour, which is the speed limit, in order to negotiate this area.

**4.19.3 Connétable L. Norman of St. Clement:**

Would the Minister accept my thanks on behalf of the parishioners for the co-operation of his department in improving pedestrian safety in the Parish of St. Clement but while we are talking about La Mare - a very important area - we notice that in the spring time the bus shelter there was removed. The work seemed to have been completed on the improvements in the area but the bus shelter has not been replaced. Could the Minister tell me his plans on having the bus shelter reinstated in this place?

**Deputy K.C. Lewis:**

I thank the Constable for his comments and apologise for the delay of replacing the bus shelter. There was a question of where to exactly relocate the shelter and unfortunately the shelter was removed and placed elsewhere on the Island as we have a policy of putting up as many shelters as possible. A brand new shelter has been ordered and will be delivered to the Island on 16th December, and I can assure the Constable it will be a priority to get it erected as soon as possible.

**The Bailiff:**

Deputy Baudains, do you wish to ask the final question?

**4.19.4 Deputy G.C. Baudains:**

Yes, I am disappointed with the answer from the Minister. Will he ensure that the area is adequately monitored and look to perhaps altering the pavement on the east side to avoid the problems that I have outlined?

**Deputy K.C. Lewis:**

Absolutely. Our senior traffic engineers have worked on this project and, as I have stated previously, this area will be monitored closely and my department will monitor the refuge and take any action should there be an unanticipated issue.

**5. Questions to Ministers without notice - The Minister for Treasury and Resources**

**The Bailiff:**

Very well so that brings Questions on Notice to a close so we now move to questions to Ministers without notice. The first query is to the Minister for Treasury and Resources.

**5.1 The Deputy of St. Martin:**

I am sure the Minister would want to agree with his Assistant Minister with regard to the building of St. Martin's school with best speed but given that the detailed plans for the school will very likely show no parking on the finished site for the staff or teachers, would the Minister assure the Assembly that he will make additional monies available to assist the Parish of St. Martin in funding additional parking spaces should they be required and to make sure that the project is not delayed?

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

I would restate what my Assistant Minister has said, that we regard St. Martin's school as a very high priority and my Assistant Minister will work diligently in order to progress the scheme, and if we can bring it forward from the original plan, then we should do. But the Deputy raises an important issue about parking. I cannot answer whether or not the cash will be made available in order to do so, but I also refer to the Constable's question about the return of the school itself to the Parish. There we also are looking for a scheme hopefully that will benefit, for example, housing or others and we need to work with the Parish in order to find a solution to both parking, the use of the old school as well as bringing forward the new school for the benefit of the parishioners and the young children.

**5.2 Deputy S. Power:**

The Minister for Treasury and Resources in his speech as a candidate for Treasury and Resources offered to change his ways and to do things differently. In the few weeks since his election, what things has he changed and what things does he propose to put in place that are going to change?

**Senator P.F.C. Ozouf:**

I thank the Deputy for the question. We all must change and we must evolve to the new circumstance and I can reply to the Deputy that I am enjoying working with the new Council of Ministers and the new Chief Minister in a co-operative way in order to find solutions to the challenges that we have. Also, as far as my own activities are concerned, I have emailed, I think, most Members in order to try and find a date early in the New Year when we can meet. I will be holding regular briefing sessions - breakfast sessions - with Members in order that they can understand perhaps some of the challenges I face in the Treasury with my department but also respond to their questions that they have about our public finances. Next year is going to be important. We have got the Strategic Plan and also the medium term financial plan and it is my job with my Assistant Minister to find the way of informing Members about the challenges that we face in a co-operative way.

**5.3 Deputy G.P. Southern:**

Obviously the spots have changed because this is a plant that the Minister asked me to ask him. **[Laughter]** Earlier in the day, the Chief Minister stated that £4 million have been put aside from underspends. Will the Minister for Treasury and Resources confirm this sum or state whether it might be bigger and confirm that it will not divert money from other important projects?

**Senator P.F.C. Ozouf:**

If a plant is an attempt to be helpful, then I plead guilty. The Deputy raised an important question to the Chief Minister about how much was available for 'Back-to-Work' and I can state clearly that I have held discussions with the Social Security Department, that their underspend of £4 million will be made immediately available in order for back to work initiatives. That supplements, for example, the £4.4 million that we did find for fiscal stimulus on skills to give the Deputy an understanding of how important £4 million is. I can also confirm that the contingency, which has remained largely unspent during the year, would also be made in the early part of next year in terms of carry forwards for any additional support. Maximum effort is going to be made to get people back to work and we certainly have the financial firepower in order to do so from both contingencies and underspends.

**5.4 Deputy T.M. Pitman:**

The Minister is changing. I am hoping he will answer this question. Could he tell us where within the States Accounts all the details of golden handshakes, pay-offs, payments made outside of contract are listed and can you find them without being a forensic accountant?

**Senator P.F.C. Ozouf:**

The Deputy will recall that in answers in the last Assembly on such matters, I did say that all remuneration of senior officials was going to be provided in the States Accounts under the new G.A.A.P. accounting standards which we comply to and, indeed, that is also the case for owned entities that the States also has, for example, the 100 per cent owned utilities in S.o.J.D.C. (States of Jersey Development Company). So there is going to be full disclosure of the highest standard, the highest transparency, in terms of international guidelines of any pay-offs but, of course, the 2011 accounts have yet to be commenced upon but will be published in the normal timetable by May of next year.

**5.4.1 Deputy T.M. Pitman:**

Could I ask the Minister in that new spirit of openness, would it be possible to find out the total amount since Ministerial government has begun for these types of payouts? Will that be achievable? Will it be available?

**Senator P.F.C. Ozouf:**

I think this very emotive issue in terms of payouts are not necessarily bad, if I may say, and, yes, we can find the total amount indeed of cessation of contracts. That can be available to the Deputy if he wants to ask an oral question or a written question. We will abide by transparency and it is important, I hope, that this Assembly also recognises that it is important that we have the right workforce and that termination is an appropriate way forward in dealing with the reorganisation of management, but they must be affordable and they must be appropriate and they must be defensible and they will be published.

[11:45]

**5.5 Deputy J.A. Hilton:**

Does the Minister know whether Property Holdings are aware of the importance strategically to the Health Department of 2 large sites in Kensington Place, which is adjacent to the hospital, currently with plans submitted for 90 flats and also, if so, whether any consideration has been given to acquiring this site for the hospital portfolio?

**Senator P.F.C. Ozouf:**

That is a very important question about the future of the hospital estate. There is no doubt that there is going to have to be a substantial plan and investment made by this Assembly in order to deal with the hospital and either we rebuild the hospital on a greenfield site or we expand it into adjacent areas, and the Deputy is quite right to put us under notice that there should be the opportunity explored immediately of purchasing adjoining properties for refurbishment and extension of the current hospital site, and I will work with my Assistant Minister in order to ensure that we have those market opportunities and we are ready to act.

**5.6 Deputy T.A. Vallois:**

I was wondering whether the Minister for Treasury and Resources could advise when this Assembly will be seeing the controls and procedures for the contingency funds?

**Senator P.F.C. Ozouf:**

Guidance has already been issued to, I think, the Corporate Services Panel. I cannot remember whether or not it has been published. If it has not been published, then I will undertake to do so in the very early part of next year - certainly in January of next year - in order that Members can be advised about how contingencies and underspends will be controlled. No decision will have to be



made. No decision will be made by me personally. I will consult the Council of Ministers and publish any decisions made.

**5.7 Deputy S. Power:**

The Minister for Treasury and Resources will be well aware that there is a perception in the U.K. and E.U. media that tax havens are an intrinsic part of the financial problems of some E.U. countries. Does he feel that the comments on perception sometimes bears an element of truth and that there may be a knock-on effect on our economy?

**Senator P.F.C. Ozouf:**

I think that there has been an increase in the comments about the activities of offshore centres in European press and, indeed, all developing countries' press. I monitor such comments with interest. I think that offshore centres such as Jersey who provide advantages to particularly the United Kingdom do need to explain those advantages over the coming months. Clearly, there is going to be months if not years of austerity in European economies, and taxpayers in those economies are naturally going to be resistant to changes in cutting spending and increased taxes and we could be caught up in difficult exchanges and unfair criticism. I think that we need to up our communication in terms of explaining the huge importance that we have as a finance centre of gathering deposits in and upstreaming them to the U.K. and assisting the European economy in terms of its recovery and the Deputy makes a useful point about what we need to do to communicate better. Jersey is well-regulated. We have an important role to play to the United Kingdom and European economies and we are going to need to communicate it better.

**5.8 The Connétable of St. Helier:**

Does the Minister agree that the former Le Seilleur workshop in Oxford Road would make an excellent facility to complement the new Millennium Town Park, particularly if it involved assisted employment opportunities and therapeutic work schemes and would he be willing to ask Property Holdings to work with the Parish and the Town Park group to try and bring this about?

**Senator P.F.C. Ozouf:**

Yes, but I also need to point out that the owner of the site is the Le Seilleur Trust, which themselves have an objective in order to carry out certain benevolent activities and it is important that they receive a fair and market valuation of that site and that is going to be the conundrum. We cannot short-change the Le Seilleur Trust in seeking to do very laudable other objectives in terms of the Town Park, but it is something which the Assistant Minister is looking into and I am sure that we will communicate with the Parish as appropriate as discussions emerge. Of course, if the Parish is also willing to also put some resources into the scheme then that will be very welcome too.

**5.9 Deputy S. Power:**

Is the Minister for Treasury and Resources aware that the civil unrest that we have recently seen in Greece was largely composed of middle-income Greece and not lower-income Greece or, for that matter, upper-income Greece, and does that give him any concern that middle-income groups such as those in Greece are taking to the streets?

**Senator P.F.C. Ozouf:**

In my answer a few moments ago, I expressed the view that I think that it is going to be an extremely difficult European picture for some time as middle-income families and individuals are asked to pay more in tax and see services reduced, and I think that that is a concern to all economies. What I will say and take the opportunity of saying to the Jersey Assembly is that in contrast to many other Parliaments across Europe, we have taken the difficult decisions already in

terms of restoring our public finances. We do not have the legacy of debt that other economies have had in terms of dealing with the challenges of the future. We had a deficit. We dealt with it. We do not have any debt and we can benefit from economic growth perhaps unlike other places but that is going to be a difficult message to explain in terms of why we are in such a better position than others because we have taken prudent decisions.

**5.10 Deputy M.R. Higgins:**

Following on from what the Minister has just said, obviously these markets, the European market and also the United States and others, are all going to be suffering for some time. We have seen figures that it could take 7 years or more for some of these economies to even get back to where they should be. What contingency plans or what sort of modelling has the Minister for Treasury and Resources done about the impact this is likely to have on the demand for Jersey financial services because, after all, these are our major markets. So we can say we have been unaffected by the debt crisis. We could be very much affected by what is going on in their economies and the austerity that is going on. What sort of work has he done and what sort of projections have they got?

**Senator P.F.C. Ozouf:**

We have not been unaffected by the debt crisis. We have been substantially affected by it. The previous Assembly had to make very difficult decisions in terms of closing a deficit of £100 million, some of which was a result of the impact of low interest rates that had on our financial services industry. The Deputy makes an important point about where growth is going to come from in order to grow our economy and while we have to continue to make best endeavours in our traditional markets, it is important to recognise that the tectonic plates of the world are shifting. There are growing areas of the world in the Middle East and in Asia Pacific and that, I think, underlines the importance of continuing to geographically diversify our financial services industry in order that this Island can take advantage of the growing areas of the world and continue to provide liquidity into London in that way. In terms of the risk assessment of the economy and our public finances, we have carried out work since the budget on the robustness of our future income and other income plans and I can say that we will, of course, be publishing new estimates of income out to 2015 in the context of the medium-term financial plan. But I remain confident. Indeed, I remain optimistic that the downgrading of income that we put through in the last 12 months is going to be proven to be appropriate and I do not expect at this time to have to make any downgrades in terms of our forecasts and if I do, I can say that we have substantial contingencies in our forward projections for public finances, which should not mean that this Assembly has to make difficult decisions like the last one did on tax.

**5.11 Senator L.J. Farnham:**

Jersey has weathered the storm well; so far, so good. What does the Minister see in terms of the economy as Jersey's greatest opportunities in the 2 to 3 years ahead and how does he intend to exploit those opportunities?

**Senator P.F.C. Ozouf:**

The Minister for Economic Development with the Council of Ministers will bring forward its new economic growth plan. There are without question opportunities for jurisdictions such as Jersey that can say that we have no debt, that we have stability in terms of our tax arrangements. With sound public finances, we can send a clear message of certainty in terms of tax and that will build business and I am also optimistic of developing an I.C.T. (Information and Communication Technology) business sector in the Island on the back of Gigabit Jersey and this being a substantial business opportunity for us to exploit in the years to come.

## **6. Questions to Ministers without notice - The Chief Minister**

### **The Bailiff:**

Very well that brings questions to the Minister for Treasury and Resources to an end so we move now to questions to the Chief Minister.

### **6.1 Deputy T.M. Pitman:**

Having been on P.P.C. it was quite clear to us that the only hope of the independent Electoral Commission coming up with a positive way forward was by that independence remaining sacrosanct. Can the Chief Minister advise whether he remains committed to the independence as he was in the lead-up to his election or is he going to renege on that commitment?

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

I do believe that an Electoral Commission is the way forward. I have also said that I believe that perhaps the best way of ensuring that that Commission understands the local context, which has been the problem that we have had going forward, is to appoint a chairman from this Assembly. I will be consulting with P.P.C. and appearing before them and proposing that my Assistant Minister is the person to chair that Commission. I recognise that not every Member will agree with me but I believe that one of the reasons that we have not been able to move forward on this issue is that we have simply used outside experts who have not understood the local context. The Commission needs to have a strong chairman that is able to drive forward change. We have a window of opportunity here in the next 3 years and unless we grasp it and that Commission is strong, then I fear that we may fail again and that is not an option which I wish to contemplate.

### **6.1.1 Deputy T.M. Pitman:**

I am almost lost for words. Could the Chief Minister tell us what part of “independent” he does not understand with 20 years we have been struggling? The main issue is because there are vested interests. There are many people who feel very strongly on this issue. How does he hope to bring this forward by appointing it to one man with strong views like many of us have? It surely will not work.

### **Senator I.J. Gorst:**

It will not be my decision. It would be a proposal which the States will have to agree upon and that is absolutely right and proper, and that Commission will then bring forward proposals and terms of reference which this Assembly should agree upon. That is the structure that we have in place. We say that perhaps the argument that we will have at that point is whether we should have outside independence on that Commission. If we look to history, we see that that is exactly what happened with the Clothier Review and we picked and chose the bits of that which we liked and those bits which we did not like and we are where we are today. We cannot allow this to carry on in my opinion.

### **6.2 Deputy G.P. Southern:**

Has the Chief Minister in his busy schedule had time to note the latest report of the O.E.C.D. (Organisation for Economic Co-operation and Development) on growing income inequalities, especially in the English-speaking countries? Does he believe that that conclusion applies to Jersey and what will he do in his new Strategic Plan to create a more equal society here?

### **Senator I.J. Gorst:**

I have not and therefore cannot comment as to whether its findings relate to our community. As the Deputy knows, we are at the early stages of formulating a Strategic Plan. I believe quite clearly

that that Strategic Plan needs to have social issues and concerns at its heart, and I have also already said that our top priority should be employment, housing, reform of the public service, reform of the health service. These are issues which affect us all and go some way to helping us to deliver a more equal society where everyone can feel that they have confidence in the future and a belief in their part in our future community.

### **6.3 Deputy J.A.N. Le Fondré of St. Lawrence:**

Given that we have a debate on the Esplanade Quarter later on in the week, could the Chief Minister confirm that the 2008 King Sturge Report which forms part of the Trowers & Hamlin Report on the Esplanade Quarter states that the scheme, which for the benefit of Members is the one that has been endorsed by this Assembly, will result in a negative sum of £50 million - i.e., will lose £50 million - and will he undertake to release unabridged that report, particularly the King Sturge element to States Members?

### **Senator I.J. Gorst:**

I have fulfilled other functions in this Assembly and Government prior to the one I am in now. The report that the Deputy refers to, as I understand it, was a report to the then Minister for Treasury and Resources and therefore remains, I believe, a report to the Minister for Treasury and Resources and is not within my authority to release or not. So the release of that report or the reviewing of that report was by necessity, because of the confidential commercial information contained therein, required confidentiality agreements to be signed and therefore I am not in a position at this point to confirm or deny that. However, I have been on record on what my personal opinion might be around the Waterfront.

[12:00]

### **6.4 Deputy R.G. Le Hérissier:**

In the spirit of the openness and the going where no man has dared to go before, would the Chief Minister be prepared to look at the whole issue of the common travel area and the implications it has for Jersey's immigration policy?

### **Senator I.J. Gorst:**

It is very difficult for a small community to go it alone and say that it no longer wishes to have the relationship that it has with that large community. The previous Council of Ministers - I think it was the previous Chief Minister - did a piece of work along those lines. I am in no doubt whatsoever that we will have to review and reconsider our policy around population levels and the ability of people to reside and take employment within our community, but most likely that will be within the context that currently exists. We need to consider whether the mechanisms we have got now are appropriate or whether we need further mechanisms which will strengthen our community and allow us to manage those influxes in a more perhaps real time and appropriate way. But I do not think that the best way forward would be for us to remove ourselves from those larger agreements and those larger relationships.

#### **6.4.1 Deputy R.G. Le Hérissier:**

Would the Chief Minister not accept that one of the abiding grievances people have is this unfortunate anomaly of people who have the stamp in the passport which, of course, flows from the agreements. Is there any way the Chief Minister can see that we can reintroduce some equality into the situation?

### **Senator I.J. Gorst:**

As the Deputy knows, this was an agreement reached many years ago and has served our community well. There are some individuals who find that stamp in their passport can be a difficulty but there are many others who quite freely work within the European Union once they have got the appropriate sanction from the country in which they wish to work so it can be overcome. We must be careful what we ask for because it may indeed be that were we to open the door and try to renegotiate such agreements, we would find ourselves in a worse position from an equality perspective than we are now and therefore we should only consider such options, I would suggest, as a last resort. But that does not mean that I do not stand by what I said earlier with regard to the mechanisms that we have for controlling the ability of people to come and live here and work here.

**6.5 Deputy J.A. Hilton:**

States Members attended a strategic planning workshop yesterday. Unfortunately, I had to leave early to deal with important constituency matters but I would like to know whether there was any discussion within the Chief Minister's 5 priorities for an equitable tax system for all, which I mentioned in discussion on our table. Can the Chief Minister inform Members how highly he rates a fairer tax system for the personal taxpayers of this Island?

**Senator I.J. Gorst:**

As has been asked by other questioners this morning, I am not sure that we spent a great deal of time discussing that yesterday because it was a very early stage. I think that most Members would in principle like to see and be in favour of an equitable tax system. We are aware of international requirements to which we wish to comply, which have required us to change our taxation system on the corporate level and that by necessity has transferred the burden to individuals. The Treasury Department have agreed to undertake a review of that but we must at this point wait until we have the approval of Ecofin to our Zero/Ten system and once that approval is formally in place, then of course we must consider carefully looking at mechanisms whereby we can perhaps extend that or develop mechanisms alongside to generate more tax revenues from corporations.

**6.6 Deputy S. Pitman:**

Will the Chief Minister give an indication as to when the terms of reference for the Committee of Inquiry into historic abuse can be expected to come back to the Assembly?

**Senator I.J. Gorst:**

I am not sure whether the Deputy was asking for a timescale or whether it can be expected to come back. With regard to committees of inquiry, it is my understanding that those terms of reference do have to come back to the Assembly for approval and I have undertaken to do that. It is a priority for the Council of Ministers. Further work is being undertaken on those terms of reference from the body, which was initially requested to provide them. They are an independent body and as soon as they are ready then they will be brought forward to the Assembly.

**6.7 Deputy S. Pitman:**

Is that when the terms of reference will be brought back to the States? When is the Chief Minister expecting that?

**Senator I.J. Gorst:**

As I just suggested, as soon as they are ready. I understand that that, I hope, will be within the first quarter of 2012 but I cannot give a firm confirmation of that.

**6.8 Deputy M.R. Higgins:**

The previous Chief Minister began the process for bringing in legislation similar to the United Kingdom to regulate so-called “Vulture Funds”. Will the Chief Minister be continuing this process and, if so, will he give details as to when he intends to bring forward this legislation?

**Senator I.J. Gorst:**

Yes, I share with the previous Chief Minister a desire to close this particular loophole. The consultation process, which the previous Chief Minister instigated, comes to a close on 8th December. I will then consider that consultation and bring forward appropriate legislation as quickly as possible.

**6.9 The Connétable of St. Helier:**

With the smell of wholesome soup wafting into the Chamber from the Royal Square [Laughter] will the Chief Minister join me in congratulating the organisers of the soup kitchen and also commend the work done by the Shelter Trust, the Salvation Army, the Grace Trust and the staff and volunteers of the States and Parish agencies who assist the homeless, particularly at this time of year? [Applauding]

**Senator I.J. Gorst:**

Indeed I will and I am grateful to the Connétable for mentioning those organisations that do invaluable work on behalf of our community and we owe them our thanks as Government. I believe that we deal with the issues facing our community when we work hand in hand with the third sector and with the not-for-profit sector so that we can solve the problems that our community faces. One of my most enjoyable visits as Minister for Social Security- and it might sound strange - was indeed visiting the shelter and seeing the fantastic work that they undertake and they have my wholehearted support and thanks for that work.

**6.10 Deputy M. Tadier:**

Returning to the subject of the Electoral Commission, does the Chief Minister not agree that it would be preferable that it be chaired by somebody who is seen to be impartial, who does not have any publicly stated and predetermined views on what the outcome should be so that the actual process can be one that is credible?

**Senator I.J. Gorst:**

I believe that should the Assembly agree with what my proposal will be, that Senator Bailhache should chair that Commission, that will be part of the debate that we have when deciding whether Senator Bailhache is the appropriate person. But he like all of us is able to put aside our personal opinion in the best interests of the community at large and I have no doubt that that is exactly the attitude that he would bring to such a role.

**STATEMENT ON A MATTER OF OFFICIAL RESPONSIBILITY**

**The Bailiff:**

Very well so that brings Questions without notice to the Chief Minister to an end. There are no matters under J so we then come to K, Statements on a Matter of Official Responsibility and the Minister for Social Security will make a statement regarding access to dental health services.

**7. Statement by the Minister for Social Security regarding access to dental health services**

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

I have recently met with Senator Breckon to discuss his proposition P.170/2011, which seeks to improve access to dental services for local residents. After a positive discussion, Senator Breckon

has agreed to withdraw his proposition on the basis that I will undertake to ensure that 2 issues identified by the Scrutiny Panel review of dental health services will be prioritised within my departmental business plan for 2012. I am pleased that one of my first acts as Minister has been to make this agreement in the spirit of co-operation confirming the importance of the Scrutiny function and that of independent Back-Benchers. The dental health services review was undertaken by the Health, Social Security and Housing Scrutiny Panel under the chairmanship of the former Deputy de Sousa. The report S.R.12/2010 was published on 8th November 2010. A joint response from the Ministers for Health and Social Services and Social Security was published on 20th December 2010. The review noted that support with dental costs was available to teenagers through the Dental Fitness Scheme and to pensioners through the 65-plus Health Scheme. However, neither of these schemes has been reviewed for a number of years. I will undertake to review the provision of assistance with dental costs under both these schemes during 2012. The reviews will also consider the administration of the 2 schemes. Senator Breckon has agreed to play an active part in the 2 reviews that will take place in 2012 and I look forward to working with him during the year.

**The Bailiff:**

So then we have up to 10 minutes of questions.

**7.1.1 Senator A. Breckon:**

Notwithstanding the existing schemes, does the Minister agree with me that many people still do not go to the dentist because of the cost?

**Senator F. du H. Le Gresley:**

When I made my speech for the Ministry of Social Security, I outlined my concerns about the high cost of dental treatment. As the Senator is aware, we have these 2 schemes and also the income support arrangements allow for special payments for emergency dental treatment but it is a fact that a lot of people do find difficulty paying dental bills in the Island.

**7.1.2 Deputy R.G. Le Hérissier:**

Yes, like Senator Breckon, I did not think it got to the root of the problem. Could the Minister comment on whether he thinks the model applied with all its imperfections to visiting doctors might be one of the models that could be considered because it seems very odd that 2 areas of the community are going to get a high degree of attention but there is this massive missing group in between.

**Senator F. du H. Le Gresley:**

The Deputy is quite correct in what he says. We have to bear in mind that the 2 current schemes, in fact, and if we include income support, the 3 schemes, are funded out of taxpayers' money. The Health Insurance Fund could be used to fund a dental health scheme for Island residents. It is a question of whether that is an appropriate use of the fund and that is one of the things that I would be looking at or asking the department to look into is the actual funding of dental health treatment in Jersey.

**7.1.3 Deputy R.G. Le Hérissier:**

Would the Minister acknowledge that even if the sums in these current times might seem absolutely off the radar, that something to pay for inspections, for example, might be a good way of starting?

**Senator F. du H. Le Gresley:**

Yes, I agree again with the Deputy. The actual money that is being paid out at the moment for the combined schemes of the 65-plus Health Scheme and the Jersey Dental Fitness Scheme is in the

region of £239,000. It seems feasible that if we were to consider payments to have check-ups or whatever, we would use the model of the 65-plus Health Scheme where a recipient receives the sum of £22 towards an annual check-up.

## **PUBLIC BUSINESS**

### **The Bailiff:**

Does any other Member wish to ask questions of the Minister? Very well then. We will bring that to an end. So we can then move on to public business.

### **Senator I.J. Gorst:**

Sorry, perhaps just before we get there, I have an item of business down for today, P.173/2011, Draft Criminal Justice (Miscellaneous Provisions) (No. 3) (Jersey) Law. I am asking the Assembly if I could move that to 17th January as my Assistant Minister was going to act as rapporteur for that particular law.

[12:15]

## **8. Clos des Sables: Further Development - Petition (P.121/2011)**

### **The Bailiff:**

Very well, so you will be deferring that one, Chief Minister, thank you. So then we come to the first item which is Clos des Sables: Further Development - Petition, Projet 121, lodged by Deputy Tadier. I will ask the Greffier to read the proposition.

### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to request the Minister for Treasury and Resources to instruct the Property Holdings Department not to proceed with plans for the proposed sale of 2 plots of public land (one adjoining 116 and 123 Le Clos des Sables and the other separating 132 and 145 Le Clos des Sables); (b) to consult fully with residents and Parish representatives before any future proposals are pursued for the sale or development of public land in Le Clos des Sables or Les Quennevais Park.

### **8.1 Deputy M. Tadier:**

Just before we start, I spoke to the Assistant Minister for Treasury who is effectively in charge of Property Holdings and he has agreed that in line with the comments that he will be accepting this proposition although he does have his own comments to make on that and a critique of the proposition, so that is just to let Members know. Because of that, I will not be speaking at length and I hope that Members will indulge us all so that we can get out and support the very good work that Constable Crowcroft of St. Helier talked to us about Shelter Trust otherwise if we do not, the queues might be slightly too long so I hope we will bear that in mind. The reason I am bringing this proposition, and it is quite a good question which any States Member might ask, is why this is being brought to the States? It seems like a fairly localised issue and in many ways it is but just to put it in context, it is on the back of a petition and a petition by its very nature is not my work, it is not the work of a politician, it is the residents of this area who have got together and who have put in quite a lot of hard work and time bringing this proposition forward obviously, which I have tried to assist with because it is an issue they feel very strongly about. So they are taking democracy into their own hands which is not simply about voting but it is also about coming together on issues which are of community importance. With that in mind, I just want to read the wording of the petition which is not very lengthy. It essentially says: "The residents of Le Clos des Sables St. Brelade are of the opinion that this estate has more than its fair share of development. The area is



already very built-up. In addition, there is a large secondary school in the form of Les Quennevais School right in the middle of the estate which brings with it its corresponding large traffic flows at peak times. The residents believe that those green areas which remain provide a vital breathing space, both physically and psychologically. They enhance the aesthetics of the estate and in some cases provide an area for recreation. In summary, the residents oppose any new development for 2 reasons: (1) the open spaces are valued in their own right and would be missed if they were removed and (2) the estate would become even more built-up and busy.” Now, I do not need to bore Members with the intricacies of living in Le Clos des Sables and Les Quennevais, which is a very built-up area. It was not designed for today’s demographics or today’s traffic flows and for that big school in the middle of it and, sure, if we were to redesign the estate, we would do it very much differently to the way that it is run at the moment. There are ongoing issues. The first thing I want to add before we get into the main arguments for supporting this proposition is just to correct perhaps one of the implications that has been suggested in the comments of the Minister. It relates to part (b) which is the first part I will be dealing with because I think part (b) is perhaps the least controversial part of this proposition, which simply relates to the fact that before any building does take place in Clos des Sables or Les Quennevais Park in any of the areas, it should be done with full consultation with parishioners and Parish representatives beforehand. I think that is common sense; that is supported by the Minister. But this does not mean that up until now that is not a criticism that the department has not been co-operative. I think it is important to acknowledge the work of the previous Assistant Minister for the Treasury who is acting as the head of Property Holdings because he did take time out but more importantly, or equally importantly, the officer from Property Holdings, who I will not mention but he knows who he is, took time out in a week in the evening which he often does because we have got ongoing issues with the 99-year leases in St. Brelade and we have to acknowledge the good work that has been done. So it is by no means a criticism. It is simply to say that consultation must be at the foreground if any decisions are being made in those areas, which I think all Members would agree with. I think the report essentially speaks for itself. Simply to say this is not about not-in-my-backyard; there are very good reasons for not building on these properties and although like any good Parish Deputy I stood on a platform of saying that I would oppose any over-development in the area, any unnecessary or unbecoming developments in the area, I am by no means living in ‘how quickly’ land. I know that we do have a housing shortage in Jersey. I know that it is very complicated. For example, I am supportive as are I think the other Parish representatives, of such developments like Lesquende which has been long overdue, which hopefully now will be coming forward very soon, which does provide over-55s and a mixture of that and social housing. The whole issue though is that simply we are not going to do anything to solve the housing problems we have in the Island by building on these 4 plots and if we look around the estates in Clos des Sables and Les Quennevais, and it is probably the same in many other parts of the Island, certainly in the estates, there are lots of ‘For Sale’ signs up on houses already and I could find 4 or 5 quite easily within the Clos des Sables area alone. So the issue is not so much with building more 3-bedroom houses for families. It is about creating the ability - which is something I spoke about a few weeks ago - to allow those homes which are now currently occupied by 50, 60, or even 70 year-olds where the children have moved out of home, where the grandparents want to downsize but are not being able to. The problems are much more complicated than that and that is why I think, as I have said in the report, and as I think my colleague Deputy Power said during the public meeting, is we do not solve the issues of housing by building 2, 3 or 4 houses at a time. We do it by looking at plots which can be developed at higher densities and that is the way to do it. So I will not make any more comments. I think the report speaks for itself. I will listen to comments during the debate and obviously respond as I need to.

**The Bailiff:**

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

### **8.1.1 Deputy E.J. Noel:**

The Minister for Treasury and Resources and I are minded to accept both parts of this proposition. However, such support does however carry a caveat that I would like to refer Members to the matters that were raised in the report that was issued on 31st August. Previous Members of this Assembly will have received that report in the early part of September, and the newly elected Members to this Assembly should have received them in their induction packs. I would like to briefly recap on the points raised in that report. First is that the Minister and I and, indeed, the former Assistant Minister responsible for Jersey Property Holdings, have visited the sites concerned along with officers and I would like to take this opportunity to comfort the residents of the area and advise them that any future proposals will be encompassed with further consultation with them and their Parish representatives. That is not to say that extensive consultation has not already taken place and I welcome Deputy Tadier's comments regarding the former Assistant Minister responsible for Property Holdings and for the Property Holdings staff themselves. It is greatly appreciated, thank you. I would like to remind Members that Deputy Tadier's proposition as written does not preclude development on these plots providing that those plots remain in public ownership. Further, Property Holdings will be continuing with their review as to whether the residents could or should be contributing to a proportion of the maintenance and other appropriate costs for this area of the Island. For Members' benefit, there are clauses in the original deeds of the properties that require them to have a recharge of the maintenance costs for the area. Historically, they have not been implemented but that is something that Property Holdings is reviewing to see whether or not it is appropriate for that to remain in place but again consultation will take place with the property owners. Members should be aware that Property Holdings have been tasked with generating capital receipts to help fund the capital projects that this Assembly deemed to be appropriate over the coming years and although these are potentially small contributions to those receipts, nevertheless they did form part of that programme and therefore there may be some compensatory measures that may have to take place in the future to make sure that we meet the targets that this Assembly has set us. In my mind on a slightly separate matter, this proposition does appear to cross the line between this Assembly setting policy and strategy versus implementation matters. I regard the arrangements that we currently have under Standing Order 168 to be sufficient to allow Members to review property-related matters in the 15-day rule as and when they cannot and I would just like to flag that, particularly for the newer Members. But to recap, I promised Deputy Tadier that I would be brief. The Minister for Treasury and Resources and I, after careful consideration, accept both parts of this proposition.

### **8.1.2 Deputy S. Power:**

Very briefly, soup beckons. In the months preceding the election, both Deputy Tadier and I were aware of the strength of feelings in this area in Clos des Sables and Les Quennevais Park and the people's feelings were heightened by the fact that there was a perception that more houses would be shoehorned into what are already well-established housing estates and that on top of existing problems to do with those estates, such as a secondary school of 890 pupils and all the corresponding traffic and car parking in that area. To give Deputy Tadier his credit, he has done an incredible amount of work in trying to find a solution to car parking in the Les Quennevais Park and Clos des Sables area. So when this raised its ugly head - sorry to say that - but when this did raise its head in the early summer, there was a lot of strength of feelings and indeed those of us that walked the highways and byways of Quennevais in September were told in no uncertain terms that this was an issue that had to go away and go away quickly and we are where we are today. So I thank Deputy Tadier and, indeed, the Treasury team for coming to what I regard as a sensible solution on this and I hope that all of those good people that attended the public meeting will have some assurance from this Assembly and, indeed, from the executive side of Treasury and

Resources, that there is a solution to this that we will not, for the foreseeable future, push perhaps what might be considered as inappropriate new housing on well-established estates.

### **8.1.3 Senator A. Breckon:**

Just a point. I think this is an issue which I hope the House will support fully but it demonstrates what Parish Deputies have picked up, concerns of residents, and I think it shows due process of how they can bring the matter to this House and persuade others because perhaps where residents are concerned is where there is rumour and innuendo as something is going to happen here or it is not, and what this does in a very appropriate way, it brings it to a hopefully a sensible conclusion where it says that people will be consulted. Now, it does not mean it will never happen but it means if it does, at least their thoughts and opinions and views have been taken into account and I think it is, as I said, a good use of the process of Deputies and others in this House where they do pick up an issue. They can bring it to the attention of others, the Ministers, other Members, and seek their views and opinions and it is, I think, something where the Deputy and his colleague should be congratulated in doing it this way because it also means that their constituents know that they have been listened to. It is not just a case of well yes, you were around knocking on doors, you wanted a few votes but they have also persisted with this and whatever the concerns are of the residents will be listened to by the Minister, Assistant Ministers, Property Holdings, whoever, and hopefully given due weight and consideration.

### **8.1.4 Deputy R.G. Le Hérisier:**

Just to congratulate the Assistant Minister and Deputies Tadier and Power. We have 2 instances in St. Saviour. Very quickly after it was built, Cinq Chênes had its play areas filled-in and it has been an awful legacy ever since trying to remedy that situation where there was no informal space around the estate. It was just filled-in. There has been an attempt because of similar legal problems cited, which have gone on since the beginning of time as Constable Refault knows, and Deputy Noel is about to enter that magic era, there have been similar problems on Maufant Village and one of the solutions put forward there was to use vacant spots of land to try and deal with this impenetrable legal situation. It was an awful solution and I am so glad to hear Deputy Noel speak as he has and to hear Deputy Tadier take the initiative.

[12:30]

### **The Bailiff:**

Does any Member wish to speak? Very well, then I call upon Deputy Tadier to reply.

### **8.1.5 Deputy M. Tadier:**

First of all, I accept that acknowledgement that there will be a commitment to consultation, which is always welcome, and that is an acknowledgement which I think the Parish Deputies also give to the parishioners and residents of the area as well. Just to take a couple of the technical points which Deputy Noel raised. It is quite true that of course as the proposition is worded that it does not preclude development if the sites were to remain in public ownership. They could obviously be built for social housing or be retained for that purpose, but I think the reason it has been worded in that way is quite simply because there was a proposal, albeit in the embryonic stages, to look into the sale of these pieces of land. So the proposition is quite simply to say we do not want these pieces of land to be sold but, of course, there is an implication there that the petition itself is very explicit that the intention there is for the sites not to be sold but also not to be developed. Deputy Noel talked about a separate issue of maintenance costs to do with what is reasonable for residents of the area to contribute to the upkeep of communal areas. I think that is basically a bridge that needs to be crossed when we come to it. I think there is something that validly needs to be looked at there but, of course, I will be happy to scrutinise that in a fair-minded way when it comes to the

time. I am also grateful because if this is approved today, it will give peace of mind to the residents of the area who are already living with very many problems to do with the school, as I said, to do with traffic, *et cetera*. There was a point about capital receipts where Deputy Noel was saying that this will obviously affect capital receipts. It is very negligible because I think the maintenance costs, for example, if we look at that, are only about £2,800 which is the estimate, but also they are small tracts of land, but I think something which is important to say at this point is that there have been instances, certainly in the last 3 years, where 2 small pieces of land have been sold off, I think raising roughly £60,000. Now, that money goes straight into the Treasury pot but when the Parish turns around and says to Property Holdings: “We would like you to provide some lighting” or: “We would like you to provide some parking in the estate”, they will say: “We do not have the money for that.” So I think there is a tension and a possible solution to be found because if pieces of land are being sold, and this is not simply about St. Brelade but in your communities wherever you happen to be a representative for in the Island, if you are getting pieces of your land sold off, there should be a *quid pro quo* which goes back to the community. So I would like to see any capital receipts or at least parts of that being ring-fenced for community projects so that Deputies, Constables and perhaps Senators do not have to go back cap in hand to Property Holdings and say: “We would like to get this done in our area.” There should already be some money left aside from any sales. I think that would only be fair. I also think my final point is to say that there is scope for thinking outside the box on this. It is quite clear that Jersey Property Holdings have a liability. They have a big portfolio to maintain. They are looking to either realise some return on areas which could be better used in their opinion by no longer being in their portfolio, but I think one of the things we are looking at as a Parish and which we hope to be continuing with the new Constable is whether there is scope for the Parish to take some of the liability away from Property Holdings; if there are pieces of land which they feel they can no longer maintain if there are things which the Parish is very keen to maintain. But, as I said, Property Holdings do not necessarily have the inclination or resources to maintain that, there is a scope for some kind of transfer there. It is very complicated. The devil will be in the detail, of course, but there are ways to ensure good outcomes for the community without it necessarily impacting on the budgets of Property Holdings. So I thank those Members who spoke and I thank Deputy Noel for his support of this proposition and I ask for the appel.

**The Bailiff:**

The appel is asked for then in relation to the proposition by Deputy Tadier, Projet 121/2011. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 43</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
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 St. Ouen				
Deputy of Grouville				
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 T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

**The Bailiff:**

Now, Senator Breckon, do you wish to ...

**LUNCHEON ADJOURNMENT PROPOSED**

**Senator A. Breckon:**

Sir, I do not think in 7 or 8 minutes I will be able to do that justice. I know it is a little bit early. In view of the occasion in the Royal Square, I propose the adjournment.

**The Bailiff:**

The adjournment is proposed then. Do Members agree to adjourn?

**Senator A.J.H. Maclean:**

Just before we do, I did email yesterday Members about deferring P.172/2011, that is the Draft Shipping (MARPOL) (Jersey) Regulations 201-. It has been removed I see but I just wanted to confirm that point that Members are satisfied?

**The Bailiff:**

Yes, it has been removed from the Order Paper. Do Members still wish to reconvene at the usual time of 2.15 p.m.? Very well, the Assembly is adjourned then and will reconvene at 2.15 p.m.

[12:37]

## **LUNCHEON ADJOURNMENT**

[14:15]

### **PUBLIC BUSINESS - RESUMED**

#### **9. Homebuy or Shared Equity Scheme: approval by the States (P.163/2011)**

##### **The Bailiff:**

Very well. Well, I trust Members enjoyed their liquid lunch and now we move to the Homebuy or Shared Equity Scheme: approval by the States (P.163/2011) lodged by Senator Breckon and I will ask the Greffier to read the proposition.

##### **The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Planning and Environment, following consultation with other Ministers as appropriate, to bring forward for approval by the Assembly a comprehensive Homebuy or Shared Equity policy (set within the proper context of legal advice) and to agree that the Homebuy scheme should not be extended to any other properties until this policy has been approved by the States.

##### **9.1 Senator A. Breckon:**

First of all, my apologies to Members. I did give a handout but the front page was missing so that came later, so the front page goes in front of the pages behind that. As a way of a general introduction, this has been a concern of mine for a number of years and it does not just go back to the last Members of this House but also the one before because that is when this scheme, as it was, kicked-off. As Members will know, affordable housing is an emotive issue and it is not something that is easy to define. This proposition looks at one way of partly achieving this, but I say that it should be, I believe, in a regulated and understandable framework. It does not address many of the other problems associated with affordable housing and I believe that is a matter for another day and perhaps another debate but, having said that, some Members will remember when, for under £10,000, money could be borrowed on a States Loan and you could build yourself or you could even buy something for that. Indeed, years ago, you could buy a number of properties, and it sounds rather silly now but it is in fact true. But things have moved on, including the housing market, and the question is have there been winners and losers? Yes, indeed there have; but have there? Where does this all stop? So it is against this background that the States have had a number of objectives perhaps to make things better and then the question is how do we do that? Of course we rent out our own properties, we subsidise housing costs through the rent rebates system, we have supported housing trusts through capital write-offs and interest subsidies and we have had a States Loan system, but of course we have now outgrown that. The latest response, to which I wish to now address, is this Homebuy shared equity scheme that was on a trial basis and, as Members will see briefly through the handout, this things happens across the U.K. It is a common practice. Developers and national Government get involved to get people on to the housing ladder and, as Members will see, the prices are slightly different but it does beg the question how much does it really cost to build a house in Jersey when they can be built for that price elsewhere? It is really a question perhaps that somebody, again, should ask on another day. But, again, I am consciously aware that that is not the Jersey system and it is not the prices and it is, for example, only of what can be achieved but I believe that that needs to be done, but it needs to have checks and balances. But I did witness the attempt of the Jersey Homebuy scheme and this started with a White Paper that was issued by the then Planning and Environment Department on 30th January 2008, and what it said was this was a consultation document and it was to gauge public opinion on Jersey Homebuy and a shared equity type of proposal to make some first-time buyers homes available to approved applicants at a 35 per cent discount. It went on to say: "The Minister for Planning and Environment

is proposing the introduction of Jersey Homebuy scheme, which aims to provide a new form of affordable housing in addition to social rented housing. The key proposals are Jersey Homebuy properties would be available to qualifying first-time buyers at a discounted rate initially set at 35 per cent.” Well, that did not happen and I will explain that in a moment. It also said - and, again, this is important because this did not happen either - as one of the bullet points: “A not-for-profit recognised provider of affordable housing would receive and administer the remaining sales proceeds which would be re-invested into other affordable housing.” That did not happen either but what it did do is it did raise people’s expectations. If you said to somebody: “Would you pay £500,000 for something or would you like 35 per cent off?”, there are not many people would say, regardless of how much money they had: “Yes, I would like to pay the full price.” So what happened in the interim period, there was a calming-down when a lot of people who were thinking of buying and, indeed, struggling to buy, just backed-off and said: “Well, wait a bit. What is going to happen here?” So there was a level of expectation that perhaps, in hindsight, could not be met. Following on from that, there was a States debate on the proposition P.74/2008 and although it was to do with the Homebuyer scheme, it was under the name of the Minister for Planning and Environment and the key phrase in there was this: “The States are asked to decide whether they are of opinion to refer to their Act dated 11th July 2002 in which they approved the Island Plan 2002 and *inter alia* policy H1 and to amend that policy to include provision for Jersey Homebuy housing within the definition of Category A housing for the remaining H2 sites” and agree to other things in there. But that was the gist of it, to put in there the planning obligation to insert “Jersey Homebuy” alongside other things but chiefly first-time buyer and social rented so that is what the States debated at the time. However, I do remember it was fairly emotive and there were some things said and some promises made and what this is based on, just to give Members a background, is a number of years ago - and I know Senator Ozouf was involved in this - as a planning obligation, it was said there needs to be a 45 per cent/55 per cent split rather than let a landowner or developer take all the profit as then was. There needs to be some payback for social housing off a first-time buyer and that is where Jersey Homebuy was meant to sit. But what happened in this particular instance on these houses here, there were 46 houses on a particular development that were pencilled-in for social rental but when the Jersey Homebuy scheme kicked-in, they said: “Well, okay, we will do them as Jersey Homebuy” but the difference in monetary terms was this: at social rental, the houses were in for about £180,000 each. When they became Jersey Homebuy, the value changed to £260,000 each so the difference to the developer on those houses was very close on £3.7 million and that was at a time when the market was difficult because people could not borrow the money, they could not get their deposits, the price had come off the top as it was softening and when the Public Accounts Committee looked at this, they found evidence of that from the Statistics Unit’s quarterly survey of the house price index. But of course the developers welcomed it because it was a bit of a lifeboat really that we were doing this because we were rescuing them from a difficult situation so, if anything, in my opinion, I think the States interfered at the wrong time. If we had stepped back, then perhaps the market might have found a level against falling prices. The other thing at the time was Members were not really sure at the time of the debate where this stood in legal terms and we were not informed of some of the advice that was then given and, subsequently, the Public Accounts Committee found this out during the investigation. It is contained in the interim report that the Public Accounts Committee - which I must say, to declare an interest, I was the lead member of that particular inquiry - and it said this under “Legal Advice”: “On 2nd August 2006 [this is 2 years before the debate] the Solicitor General wrote to the Minister for Planning and Environment to advise that any scheme whereby a first-time buyer bought a share and the vendor retained a share would run into problems. On 5th December 2007, the Solicitor General advised that, in order for the Homebuy scheme to be properly implemented, adequate legislation should be put in place from the outset.” That was never, never done. The report went on to say: “Further, on 3rd January 2008, the Solicitor General wrote to the Minister for Planning

and Environment: ‘The only way of making perfectly certain that the scheme is workable is to introduce it by legislation’.” The Public Accounts Committee went on to say in paragraph 3.3: “In practice, it appears that no heed was taken of this legal advice and the Homebuy scheme was pushed through without a suitable legal framework.” Also during the States debate, we were told that the Homebuy was for: “... people to get a foot on the property ladder who otherwise could not afford it.” The subsequent inquiry by the Public Accounts Committee revealed the deposits paid. One person paid £106,000 deposit, 2 paid £115,000, one paid £150,000, one paid £95,000, one paid £75,000 and another 7 paid around £50,000 deposit. Now at the time of the States debate - as I say, I remember it was very emotive - these are people who cannot get a foot on the property ladder. Well, if Members look at the *Jersey Evening Post*, on a monthly basis I think, they produce a booklet with a paper “Our Home” and if Members look, there are properties there under £300,000 at the moment. So my question is if somebody had £150,000 in cash, could they buy a house for £300,000 and the answer is probably yes, so what indeed have we done and that is my reason for wanting structure and a legal process to this before we go any further to make sure, if we do target it at people, then it is fair and reasonable and we can apply it to a number of housing situations. The other thing is I am not sure that there were any checks and balances. Again, the House was told there would be a 35 per cent discount. When it came out, the discounts were up to 42 per cent and this was a bit like fool’s gold because what happened was instead of reducing the price, the developer said: “I will increase the discount” so it went from 35 to 42 to keep the value of the houses up and that is what happened, so what the States discussed under P.74, the sentiment of that was not followed through either. Also, there are some Members - and I think Senator Ferguson was involved and Deputy Gerard Baudains when he was formerly in this House - who were on what I think was considered a review group and this was an offer made by the Minister for Planning and Environment: “Anybody who wants to can get involved and see what is going on here and rubberstamp the process” but, again, the Public Accounts Committee looked at this.

[14:30]

The minutes do not follow when some of the decisions were made and with respect to the people involved, it seemed to run into the sand. It did not happen. It was the same with the Scrutiny process. Again, I was chairman of the panel at the time. We had a number of meetings but things were not flowing, as it were, but things still seemed to be happening and a lot of questions went unanswered. As a result of that, the research shows - and it is not my opinion - the bankers and the lenders were uncomfortable and what was said at the start about another provider getting involved, they were having none of that. They said: “It must be the States that get involved to do that” and I will touch on that in a minute or so. The Public Accounts Committee took evidence and this is what one of the witnesses said in response to a question, and the question was was the scheme sufficiently thought through before implementation? The response was this: “I think certainly that La Providence pilot scheme has worked in as much as we have 46 families in houses and it has not cost the States anything. I think the actual scheme to me seemed a little bit hurried and, to be truthful, I think it was a little bit half-baked.” The other thing that came from this is that the Minister for Treasury and Resources at the time of that was uncomfortable. We have seen some of the documentation that went backwards and forwards and the Minister for Treasury and Resources says in the Public Accounts Committee report: “Therefore, when asked to approve the transactions, the Minister for Treasury and Resources was presented with something of a *fait accompli* and, indeed, he registered his concerns regarding this on 18th June 2009 via a memorandum to the Chief Officer Resources approving a Ministerial Decision with a caveat that it was: “... not an approval for the Homebuy scheme” and that there were several issues to be addressed before his reservations would be put to rest. Also, the Public Accounts Committee wrote to the developer’s lawyer and on 10th January 2011, the developers wrote back to the Public Accounts Committee to advise that, in



his client's opinion, Jersey's legal framework should be changed to allow "shared equity" in the proper sense of the words and he wrote this: "I do not think it would be going too far to say that the form of bond stretched near to the limit the appropriate principles of Jersey law. I think it is unlikely that any commercial lender or property holder including housing trusts would find it a sufficiently secure basis for transacting." I will not mention any names but that particular lawyer is well-respected in contract law and I know regularly appears in another place. Also, there were some unanswered questions and the Public Accounts Committee did not get an answer to this. What happens if there is a relationship break-up and the property needs to be sold? What happens if there is death on inheritance? Can anybody occupy it? Who pays off the debt? Again, these questions were not answered. What happens if a couple or an individual has financial problems? How do they get out of this? No answers were forthcoming. What happens with negative equity if that were to happen? Who shares the burden and, again, there was evidence to show that perhaps the people that went into transactions were not aware of some of these things. The other thing that happened and I mentioned earlier is that the idea was that it would be a social provider - perhaps a Parish or a housing trust - but the lenders were having none of this because they wanted the States as virtual guarantor for this. Now, instead of this being private transactions between a developer, an association and the people, it was not and it came back before this House in R.68/2009 under land transactions under Standing Order 168, paragraph 3 and we purchased 46 residential units at La Providence from Bel Royal (Jersey) Limited and the onward sale to 40 purchasers in accordance with P.74/2008 and MD-H-2009-0049 and MD-H-2009-0055. Well, we did not because P.74 never agreed any of that at all. We never agreed any of that at all and the substance of this decision is that the report says: "Decisions under Standing Order 168(3). The Minister for Treasury and Resources hereby notifies the States that it has accepted the recommendation of the Property Holdings Department to agree to the following. Land Transaction. (1) Accept the recommendation of the Minister for Housing in relation to the purchase of 46 residential units at La Providence from Bel Royal (Jersey) Limited; (2) approve the immediate onward sale of those units to the 46 purchasers selected in accordance with the Gateway process for the prices set out in the attached appendix; (3) authorise the Director of Jersey Property Holdings and, in his absence, the Assistant Director of Finance and Investment to approve each of the onward sales under his delegatory authority; and (4) approve the use of receipts from the sale of residential units at La Providence to fund the purchase of the units and for these transactions to be managed through a rechargeable account. The Minister hereby authorises the Attorney General or the Greffier of the States to pass any contract which is required to be passed on behalf of the public and after the expiry of 15 days following presentation to the States, the transaction may be concluded." Well, this process was never designed for this. We should not have been involved at all but it ran into such deep sand that this had to be used really to bail it out. So all in all, many people were not satisfied with what was going on but, as I said earlier, expectations have been raised and, as we say, we are where we are and that is how it progressed but it was unsatisfactory. Now my reason for bringing this proposition is that, again, there was publicity and what we were going to do was do something very similar for another scheme and then do something very similar for another scheme and people were put under pressure, especially the Minister for Planning and Environment. "You need to do this" but then he has a duty to do things so that others can follow and others perhaps can share in the benefit of a scheme and we did not set up the scheme in the first place, and that is the reason for this proposition. It is to come back to that and I welcome the meeting I had with the Minister for Planning and Environment and the Minister for Housing and I share their problems. This is not a criticism. It is just saying: "Well, if we are going to do it and people have a level of expectation, let us tell them what it is, what the rules and regulations are, what the Gateway is, how much money they will need, what is involved, what the subsidy is, how the shared bit can work and whether it is in percentages, we can take things for other places and then get the legal advice in place. The Law Officers are aware of this and there is some advice already around and knowledge that could move,

I believe, fairly quickly so it could happen. We have some sites that could be released to do this so we can make home ownership a reality for people but it is within that context that I bring this so that we do set up a framework. Okay, it might take 12 months to do it but then it gives those people who are entering this transaction ... because we are talking about many, many millions of pounds and, for most people, it is the most money they will ever spend. So they need to do so, I believe, with some degree of certainty and comfort that, if things do go wrong, we do have some rules and regulations and if circumstances change, there are some get out clauses and I do appreciate that it will not be straightforward. There are some difficulties but I believe it can be done. It is achievable but I think what we must do, having said that, is re-adjust people's expectations because not everybody can expect a 3-bedroom home in the country with a garden and a garage. That is just not achievable unless we are going to develop the whole of Trinity and I am just looking at the Constable of Trinity now. Yes, he is awake. So it is just not possible to do that so I think it is fair to people because if we create this structure, then people, as I say, will know the rules and then they are either in or out. There are still some people that will not be able to afford to buy housing but I think this is the fairest way and I do not think it is a step back. It is where we should have been when we set up Homebuy. We have moved away from the States Loan system, which was not this. This is something else and I know the Minister for Planning and Environment is fairly confident that he can have things within planning obligations that will achieve what we are trying to do so, having said that, Sir, I make the proposition.

**The Bailiff:**

Is the proposition seconded? [**Seconded**] Yes, Deputy Duhamel.

**9.1.1 Deputy R.C. Duhamel:**

It is only right that I am first to stand up and reply to the Senator and to welcome his proposition but broadly speaking, without trying to take away too much of the credit, a lot of the things that he is asking to take place are taking place but I do welcome his bringing of this proposition to bring clarity to this new House and to underline the things that are going to be done. In accepting both parts of the proposition, I would like to just add one thing and that is for people to widen their interpretation of Homebuy or Shared Equity Policy schemes. There are, if you trawl the internet and look at other jurisdictions, a myriad of different shared equity schemes on the market but not many of them differentiate between a shared equity policy and a true affordable homes policy. In my mind, in trying to solve the housing problem that we have in the Island - and the States have already agreed to some extent in the way that that could be done - I have put forward as part of the Island Plan of last July a request that we should move towards the provision of truly affordable homes built on States sites predominantly in addition to the other schemes that might well be applicable to more commercial sites. In suggesting this way forward, the whole basis was to try and move to a higher plain people's understanding of what could be possible should the political will be present. When I talk about affordable homes, what I am thinking of in particular are large homes at least 30 per cent bigger than the ones that we have been building over a number of years and for a price that should not exceed the equivalent mortgage that is able to be levied on a rental property in the States sector for 3 bedrooms. At present, the rental money is around about the £280 a week mark for a 3-bedroom house and for 5 per cent mortgages, I am told - and I can work it out - that a mortgage of around about £200,000 is available. Now, in the past, one of the difficulties that we have had in this Island is that although if one is paying a fair rental - because that is what the States charge I am told - of £280 a week for a 3-bedroom unit, in paying a fair rental and being able to get a £200,000 mortgage, it is of no use to our youngsters if indeed there are no properties that are being put on to the market and built at that price. Hence the second part of the plan which, within the Island Plan, was to suggest - and this House has agreed - that in the next 2 years, we will endeavour by working with the Minister for Housing and the Minister for Treasury and Resources

and other Ministers involved to deliver at least 150 truly affordable homes on States-owned sites and the reason that was suggested was because, in using our own sites, the public has paid for the land and the land price therefore does not have to be conveyed in the total price of the unit. It can be retained by the public for ever and that means that instead of going for deferred payment schemes or shared equity schemes or schemes that inevitably continue to encourage the developers to build more and more expensive houses, which become more and more unaffordable and you have a smaller and smaller piece of it: "But do not worry. You have got your foot on the housing ladder and as long as you have a small foothold, we are doing the best we can", I do not think that is good enough for our public. So I think if we can move ahead in a fairly radical way, we can square the circle so to speak and deliver truly affordable homes in significant quantities for the public, and that is what I intend to do.

[14:45]

In terms of mortgages, I am told, again, the difficulty, if we continue to move forward along the path of allowing developers to build very expensive houses, is that we make it impossible for our youngsters to afford them on a single salary without having gifts from maiden aunts or whatever or from rich parents to give them assistance in putting forward a large enough deposit. This is not the way to do things. We must consider truly affordable homes, as I said earlier. The work that has been committed to under this year's Island Plan debate was to allow all those interested parties and States Members to come together and to discuss the way forward in relation to the H1 and H3 policies. That working group was set up a number of months ago and has sat on a number of occasions. I am still taking names, if you like, for any other new Members of this House who would like to continue with this work which is ongoing. As part of the recommendations of that working party we are hoping to deliver the way forward by February/March next year. It is not a particularly long time in order to bring forward a resolution to these policy issues, but with a fair win behind us I am sure that these things can be delivered in that timeframe. So, I would encourage any other States Members who would like to assist in finding a true resolution to the Affordable Homes Policy, which may well include shared equity legislation or indeed some successor type of Homebuy scheme, of which there are many variations in the U.K. and other places then I would welcome their support. In doing that I would like to fully support both parts of Senator Breckon's proposition and hope that my long speech will deter many others from making this into an extra long afternoon.

### **9.1.2 Deputy A.K.F. Green:**

I hope that Members would have had a chance to read my comments and they would be pleased that I do not intend to rehearse them all again here today but when considering Homebuy and other affordable homes options it is important that we look at the facts. Notwithstanding the comments made by the Minister for Planning and Environment, currently Jersey prices for first-time buyers are very high - greater than £400,000 - and an average 2-bedroom flat is similarly expensive at around £300,000. The prices of houses have risen significantly above the average income of £34,800 per person at June 2011. Lenders are applying more stringent lending criteria and now even a couple both earning the average income will quickly discover that finding a home at the price that they can afford is a serious challenge; I am sure most of us can identify with that. There is clearly a significant affordability gap in respect of buying homes at the present time and we need to address this and quite understandably I believe there is a strong desire from Members in this Assembly to do so. Dealing with the issue of affordability of homes will require a long-term strategy - and the Minister for Planning and Environment has covered some of those - and will not be achieved by making *ad hoc* decisions about individual sites or individual schemes, and I think on that point I clearly believe that I agree with Senator Breckon. What is required is a deliberate

long-term strategy aimed at making homes affordable. It is not easy, but I am committed to seeing that strategy developed. First and foremost there needs to be a steady supply of new homes into our market. The effect of bringing the supply and demand into relative balance should not be underestimated. We must determine how affordable housing units can be generated from our planning system in a similar way that we did in 2002 with that Island Plan through the use of planning obligations and in the manner proposed within the Draft Policy H3 of the new Island Plan, which of course was not approved in the debate, but I know it is at the front of the Minister for Planning and Environment's mind. The second policy area that we need to determine will be how the affordable housing units are generated. We will need to decide the tenure, what sort of schemes are appropriate, whether they be leasehold, whether they be shared equity, whether it be the provision of low cost deposit loans, whether it be about building at a cheaper rate. All of these things need to be looked at. We need to look at the requirements of those qualifying for affordable housing and what is important is that we must target our affordable housing better than we have done in the past. We must also ensure that we retain that social benefit beyond the initial sale; in other words there should be clear, enforceable conditions on resale in the future. We can do all this - fine words - but we can do all this through the Affordable Housing Gateway which I will establish in January 2012. Alongside that we will be developing the Strategic Housing Authority, which will be proposed as part of my long-range policy of initiatives being developed within the Housing Transformation Programme. I will support this proposition although it is only one very small part of what needs to be done. We need to ensure that we have a whole raft of different schemes to ensure affordable homes and when I talk about affordable homes I do not only talk about affordable homes for people to buy, but affordable homes that people can rent as well. It is my view that the proposals, which I will bring forward shortly in respect of the Strategic Housing Authority, will be better able to meet all of the concerns of this House, meet the needs of Senator Breckon by ensuring that housing opportunities - be they for rent or purchase - are more readily available to Island residents in the longer term, but I will - although it is only one small bit of what needs to be done - support this proposition.

### **9.1.3 Connétable J.L.S. Gallichan of Trinity:**

I wonder if the proposer could clarify whether this is going to affect a Parish-led development because I am sure it is pretty well known that the Parish of Trinity is well in advance with a planning application now for a first-homebuyers property and we do have a shared equity scheme and our shared equity scheme is going to be, I think, what Senator Breckon has mentioned, that if the value of the property goes down so will the share of the Parish go down. The actual people who will have the homes will not be tied into a said figure. Where my concern is, is we have been delayed already at planning. I have young couples waiting to go into houses. We are building houses which I think are of a high standard, homes for life which will go from 2-bedroom, 3-bedroom and even up to 5 bedrooms so the young couples do not have to move properties. They will also have to be handed on to first-time buyers so they stay in the chain. The problem with this is I was told when we first started with housing, that this is the Parish, their scheme, the Parish are financing it, the Parish own the land, they can virtually not do what you want, but you are not restricted the same as somewhere like La Providence and the other housing schemes. I would like to have and need to have some comfort that we can keep going forward. We have missed a very dry autumn, which I was hoping through planning process, and it just seems I started as Connétable in 2002 and I said what we need in Trinity is homes for first-time buyers and we are now in 2011. When are we ever going to get moving on these properties? I say that all we seem to have is people coming up with, not gateways, but blocked gates and somewhere along the line we have to move on. There are young couples asking me - I have got some with 3 children - I had one phone me only 2 days ago saying: "My lease has finished on my house in the Parish. Will I still be able to have a house because I might move now [because they can move into a lower rented property], but

I will not be in the Parish?” and I said: “Well, at the rate we are going, it is a possibility you will not be in the Parish when it is approved” and this has been going on since 2007. Where are we going? I must say I am disappointed with this last minute thing and what I would like to know is if a Parish is financing the whole project where there is no States money at all – privately, money from banking - surely we should be allowed to do our own scheme for our parishioners and for those people who wish to live in our Parish? **[Approbation]**

#### **9.1.4 Deputy S. Power:**

I am going to speak briefly on this because I am the Member that was involved in this from inception in 2007, 2008 and 2009 and if we were to listen to and accept what Senator Breckon said, I am responsible for a great shambles and that is far from the case, and I would say to the Constable of Trinity that if he wants to find the road blocks and the fences all he needs to do is sit in this Chamber every now and again because everyone speaks things down. Where is the encouragement, where is the innovation, where is where we show some leadership and say we will take something that does not have a template, we will take something that has not been tested before and we will try and make it work, and the answer is in this Assembly it gets shot to pieces. So, do not try anything in this Assembly, do not try anything that has not been templated because you are going to get attacked. So, I say to the Constable of Trinity you might have to wait because if you were depending on this Assembly nothing will ever happen. I want to go back to what Senator Breckon said about P.74/2008. He was right to say that it was a planning proposition. What he did not say is that it was a planning proposition that was scrutinised by a housing sub-panel that composed of myself, Senator Breckon, Deputy Le Hérisier, the Constable of St. Martin and the Constable of St. John. The majority of that sub-panel - I know there were 2 that did not agree - said that Homebuy was worth trialling because it was a trial scheme, it was a prototype scheme, it was a template scheme, it had never been done before and it was then dropped into the Housing Department at the end of the P.74 debate in 2008. We had an election at the end of 2008 and then in 2009 the then Assistant Minister for Housing - I was there then - had to pick up this Homebuy scheme and run with it and we did run with it and what happened was there was a scheme in St. Lawrence, La Providence for new Members; 102 houses were approved. They were not complete; they were at foundation stage during the debate in the summer of 2008. As a result of P.74 the developer, Dandara, spec'd all the houses to the same specification. There was no difference in the houses or the specification; 56 of the houses were for first-time buyer and 46 houses that Senator Breckon referred to were changed from social rented to this Homebuy scheme; this new scheme, Homebuy. Because they were not constructed during the debate, the 102 houses were virtually the same specification. So, it is not correct for Senator Breckon to say that the houses would have been at a value of £180,000 because they were never designed to be social rented houses. They were changed by this Assembly in the summer of 2008. They were of a much higher specification. What happened then? Well, I will bring Members back to the summer of 2007 which was the Northern Rock disaster and I bring Members back to the summer of 2008 when Lehman Brothers went bankrupt, and then at the end of 2008 we had an election and this proposition was delivered to the Housing Department for delivery in the middle of an even worse financial meltdown than what we have got today. Maybe there will be a worse one again, but at the time the housing team then had to persuade the finance industry - the banks - to come up with 46 mortgages for these 46 houses and Senator Breckon referred to 7 deposits being over a significant amount; £50,000 up to £150,000. There were 69 families on the waiting list for the final 46 houses. Of those 46, 7 had large deposits and one particular person - we do not need to mention any identities other than that it was a local lady who came out of a divorce - and there were other people that used Mum and Dad's bank and I did not see anything wrong with that at the time. The majority of the houses - 38 or 39 houses - barely scratched through the gateway and the eligibility scheme. So, if 46 mortgages were issued in the spring and summer of 2009, then those

conservative banks that took up those mortgages on that new product called Homebuy, which was explained to the banks and the finance industry by the senior management team of the Housing Department, so be it.

[15:00]

Those mortgages went through in the spring and summer of 2009 and so far as I am aware there have been no tests of the validity of the mortgages, the validity of the title, and indeed on the States balance sheet - I am sure Senator Ozouf will be able to confirm this - there is a bond of £8.2 million for the States share of the deferred payment on those houses and that bond is on the States balance sheet as of 2009. So, that is the other side of the coin. That is the side of the Homebuy experiment, the Homebuy template, the Homebuy pilot scheme that Senator Breckon did not like, and I stand by what was done in the spring and summer of 2009. The Housing Department delivered 46 houses at about a mean price of £250,000 to £260,000 to 46 Jersey families and if that is something that we have done that is wrong then I hold my hand up and say we did it wrong. I do not believe I did it wrong and this is the fourth or fifth time I have had to stand up in this Chamber and listen to waves of negativity in this Chamber about a pilot scheme. I hope that the new Minister for Planning and the Minister for Housing and the Minister for Treasury and Resources will evolve a scheme so we do have a Homebuy Mark 2, Mark 3, Mark 6, Mark 22 and going into the future, but I really get rankled and annoyed when so much negativity comes out in this Chamber. I know Deputy Green has picked up on the good work of the Housing Department and the good work that will continue through the Housing Transformation Programme, and I have every expectation that the new Housing Association, whatever it is to be called, will advance the calls of affordable housing on this Island. But let me tell Members, new and existing, this Assembly has a responsibility; it has a responsibility to bring out new and affordable means of housing. We tried it on Homebuy. It was not perfect - I will be the first to say it was not perfect - but we trialled it, we tried it and we got 46 families into 46 houses at £250,000 each and if that is bad work, if that is a litany of rows and legal problems and disasters and negativity then let me do it again. I would be up for it again. All I say to Members is I am quite clear where I am. I am quite clear with the work that I did with the good officers of the Housing Department and I will give them 11 out of 10 for the time they put into that in the spring and summer of 2009, and I will also give 10 out of 10 for the former Minister for Housing, Senator Le Main, for backing it all the way and allowing us to run with it. Deputy Green said that average house prices are £425,000 to £450,000. I am not quite sure what they are out there at the moment. There may be some properties, Senator Breckon said, that are for sale for less than £300,000. I do not know what that means. It is just a ballpark figure, but there is an aspiration out there that we should be able to deliver a family home with a States-designed scheme for somewhere in the region of £250,000. Indeed I have had discussions with Deputy Duhamel, the Minister for Environment, about looking at affordable schemes coming from some of our European neighbours and I am hoping that in the New Year as a result of my recent visit to Romania that there may be something worth examining in that area to bring back a template or a design that may be affordable, and could be sitting on exactly the type of publicly owned site that may be available for affordable housing in the future. So, what I say to Members is - and I do not want to go on, but I feel passionately about Homebuy and about affordable housing - anyone who has ever invented something or innovated something or designed something or trialled something for the first time, you learn - you really learn - whether it is the first heart transplant in Cape Town or whatever we do, the first Model T Ford or the first Homebuy affordable scheme in this millennium, I would say we tried it, we got shot at, but I am not afraid of putting my head over the parapet again if ever I am given an opportunity, and I would welcome working with Deputy Duhamel on creating Homebuy Mark 2, Homebuy Mark 15 and Homebuy Mark 22. I will finish on this. Senator Ozouf has often said that there are many people on this Island who talk down the Island, who talk down that we

cannot do this, this is wrong, that is wrong, prophets of doom and gloom, everything is going down the can. It is not. We have issues ahead, we have got challenges ahead and Homebuy has got its own challenges - they can be fixed - but let us not talk it down to the extent that we have heard this afternoon. It was a good pilot scheme, it was not perfect, but hopefully the next one will be.

#### **9.1.5 Senator P.F.C. Ozouf:**

I have sympathy with the remarks of Deputy Power, the Constable of Trinity and Senator Breckon. The policy intention of the 45/55 scheme was that with the right to develop the 55 per cent of first-time buyers on rezoned sites came the obligation of providing social rented units; 45 per cent of them at almost a zero land cost. It was a tax. It was an obligation, with the right to exploit the profit of 55 per cent of the unit came the obligation of the 45 per cent and the origin of it was that the 45 per cent of social rented units on one site on La Providence was moved into a shared equity or shared equity variant in terms of its intent. Senator Breckon is right that there was some discomfort on the fact that the residual land value for the Homebuy units was vastly superior to that of the social rented units. So, on the one side Deputy Power is correct that it delivered 46 units of Homebuy units. On the other hand the policy intention of grabbing the uplift in land value for the 45 per cent was not entirely captured, and that is the dilemma that I faced when I was faced with signing the La Providence scheme knowing that it got people into home ownership, but it did not take the tax. I was faced in exactly the same position a week ago when I was presented with bonds to sign in terms of the Uplands scheme. That was exactly the same thing and I need to tell the Assembly that there is a variant of Homebuy, with which also I registered my uncomfortableness. I was presented with it, but there was no alternative but for me to sign it because we would have lost the entire land value in terms of the Uplands units. So I just want to be clear that there should be an absolute understanding of the Assembly that there have been some other Homebuy schemes. I think there is another one on a site in La Moye that is also going to need to be in the process of being determined, and I have to say to the Senator that notwithstanding this proposition I believe if that would come forward I am going to hope that the Minister for Planning and Environment or the Planning Department and Minister for Housing are not going to put me - no criticism - in a situation where I am going to have to sign something. I have sympathy with the Constable of Trinity, but I think there are 2 things to say in relation to this. His scheme is distinguishable from the other schemes because it is entirely a not-for-profit Parish scheme and for my part I would not have any difficulty at all, and indeed I understand that those units are not, perhaps frustratingly, up for construction at the moment, but this Assembly surely by the time those are complete we should have a completed Homebuy scheme. But nothing should frustrate the Parish of Trinity's excellent work in delivering home ownership for some of their parishioners and we need to solve that. We certainly do not want to dawdle and delay in relation to finding a Homebuy scheme for the Parish of Trinity. I support shared equity. I was grateful for Senator Breckon to remind us of some of the history of it. He and I have been supporters of it for shared equity schemes for a long time. I think the Minister for Housing and the Minister for Planning and Environment are supportive of getting people - the whole of the Council of Ministers supports getting people - into shared ownership or forms of shared ownership. We do need to be careful of the economic implications of shared-ownership schemes. They are the right thing to do, but they can also disrupt the overall housing market if you do not take economic advice in their design. Senator Breckon is asking us to bring forward an overall policy for a variant of a shared equity scheme or variance of a shared equity scheme with proper advice. Proper advice that has been properly thought through that has the understanding of the legal implications, that has the understanding of the economic implications and this Assembly approves it and nobody can really, not agree with that. That is the right thing to do and certainly there are lessons to be learnt from the other Homebuy schemes. I support the proposition, but wanted to inform the Assembly that there have been other Homebuy schemes,

which have certainly caused me some difficulties in relation to the application under Property Holdings of the fact that I have had to sign them off.

#### **9.1.6 Deputy M. Tadier:**

I think it is quite evident from the impassioned speeches that we have had today that there is no lack of enthusiasm among many Members in the States. There is no lack of ideas when it comes to what could be workable; either Homebuy schemes or shared equity schemes. We have got very many capable Members in the Assembly, but quite clearly what has happened here is that we have put the cart before the horse again in the States Assembly, not for the first time, in the sense that we have started bringing forward schemes. It is quite interesting the way that Deputy Power talked about templates, experiments, pilot schemes - which are all valid and I think that work has to be condoned - because of course he was working within constrained parameters in his department at the time. But the fundamental problem was that there was no policy framework and there was therefore no legal framework for any kinds of Homebuy or Shared Equity scheme in which to function properly. In other words we were winging it. It was a bit of a cowboy job we were doing with the best intentions and that is why this proposition, I think, is necessary. So, the wording of the proposition of course presumes that there is not a comprehensive policy in place; that is what it is asking us to do. So we have to start off acknowledging that and that is what we are acknowledging today if we vote for this proposition. It is not to bring forward and decide schemes here in this Assembly today. It is to agree that the policy that underlies those schemes and the legal framework needs to be in place and, of course, as other speakers have said there will be very many different schemes which are all possible and which are going to work, and it is that which needs to be thrashed out. Just to comment very quickly on the Minister for Housing's comments that it is about supply and demand. Well, clearly supply and demand is an element of that, but of course we know that the housing market in particular in Jersey does not work on conventional supply and demand logic. That is for various reasons because we have various regulations and constraints. Within our market we have the qualified and unqualified sectors. We have the ability for companies to buy property in Jersey when they do not have any residential qualifications because those qualifications do not apply to companies. Of course I think the underlying problem which will not be recognised is speculation, and that is not something which can simply be left down to supply and demand because whichever scheme is brought forward - and I do make an appeal to whoever the Ministers and other Members are that will be involved in this - it is not simply about bringing forward schemes and building more houses. It is all about who owns those houses, are those houses going to be ring-fenced? There is no point in building more houses if they are being owned by landlords and rentiers who are simply making a living out of that. What tax measures, what steps are we going to put in place, what safeguards are we as an Assembly going to introduce to make sure that speculation is kept to a minimum and what I would call legitimate homeownership for people who want to buy a house and live in it for a large number of years and, quite radically, perhaps even their whole lives who want to buy a house and live in it rather than just buy it and sell it for speculation? This policy area needs to be fully thought through and that needs to be one of the areas that it goes hand in hand with, so of course we have to support this proposition and that does not undermine lots of the good work and the energy and the efforts which have been carried out by Members, but this will focus that energy and that good work so that we can put together a coherent and legal plan. Because I do have to say last of all - which I forgot to mention - that I think my colleague, Deputy Duhamel, came under a lot of undue criticism both in the media and from some of his fellows in the States Assembly because the Homebuy scheme was not perfect, it was not workable and that is why it was pulled by the Minister at the time. So, I think we have found a pragmatic resolution to that and I think going forward we should be able to put a scheme in place which does tackle all of these issues.



### **9.1.7 Deputy J.A. Martin:**

Just briefly, the Homebuy scheme: what I always had the problem with is the States. Somebody has just said that we dither and we hither and we do not do things and then suddenly we find a scheme and we push and push and push whether it is right or not, but we have to remember we are speculating with taxpayers' money. I do remember very recently I think it is in an email where the Deputy of St. Brelade says that he takes full responsibility for accruing the taxpayer £8.2 million. Well, that is if everything stays the same. I did not hear the Minister for Treasury and Resources agree with him. Now that £8.2 million is somewhere in the ether. It may be realised and that is only if house prices stay the same. But my main concern with this what we call the Gateway Scheme is bullet point 5 on the report.

[15:15]

Yes, we did get 46 Jersey first-time buyers housed, but were they the right 46? The form in the Gateway Scheme I saw is not even a third of the information you need to go and get an income support payment or part rent payment. They do not want that sort of information. Now, who are we checking on? These are highly subsidised schemes provided through the taxpayer, but we do not want to know; it is too much effort. I think they went back 3 months; if that is what you get when you apply for income support you need 3 months' employees things, you need last year's tax. This scheme did not cover half of that. So, I think we need to really - the taskforce or the working party - look at different angles, stop what we are doing... and I do not think we are talking about Trinity. It is Trinity money; it is Trinity people. If they can buy, if they are prepared to make a loss in Trinity or house their people, this scheme stopping the homebuyer today will have no affect at all, which is good because we do not want to stop any Parish building, especially Trinity, or any country Parish when they are offering; I bite their hand off. But all I am saying is I need to know we do not just represent those. Some will say that they are the lucky 46, but are they the right lucky 46? I do not know because the scheme was so vague and this is where we start, we get a couple of schemes, might be again opening the States Loan, might be looking at if we do own property we do not realise all the land value of it. Shock horror: I have said this many times, but if we really want affordable homes we are going to have to start thinking again outside the box but not knee-jerk reaction; thought-through schemes that can be done quickly and absolutely legally. We should have this in legislation; shared equity, part-rent buy. Stop this today, find a good scheme forward because we all said it; every single one of us did not miss in our manifestos: "We support affordable housing" which is completely different to everybody, and we want to know what it is, but we want to know a scheme and we want to identify the right people and we want to help them. As the Minister for Housing said it is not just buying affordable housing; it is good affordable rental housing because not everybody can buy, not everybody will ever be able to buy, always be able to buy and we need to do it across the board. So I think it is good that we step back but not dither for ever. Get something going that is really acceptable and legal. Thank you.

### **9.1.8 Deputy J.A.N. Le Fondré:**

I just want to make a couple of comments. I will be supporting the proposition but Homebuy basically is not a shared equity scheme in the true sense and I think a lot of people have accepted that. When originally it was held out that people will have shared equity... but there is no ability for buyers to move or increase their percentage of equity that they hold; they go in at 65 per cent, I think it is, and they are fixed there for ever. I think the point is there is this huge balance between what we were referring to yesterday as J.D.I. (Just Do It) or other variations on that phraseology but that can, in itself, lead to... We have had that situation in the past and history has shown that whether it is 5 years later or even 30 years later it comes back and bites us because it has not been thought through properly, and at the end of the day the taxpayer ends up picking up some form of

bill at the end of it and normally it ends up costing us significantly more money, let alone time. The reason I can say that is - having been in Property Holdings for quite a long time - property is there for a long time. It is not just there for 5 years; it is there for 80 years, if not longer. Land and property and Jersey property law in particular make things ... things need to be done properly, otherwise the lawyers will take you to the cleaners at some point in the future. The other point is we are the lawmakers at the end of the day. We have to, I would say, enforce the law as it stands. It is not much good ... the Homebuy scheme, yes, was a trial scheme; I take that point and there were obviously problems that arose with it. But if there is legal advice in existence, which Senator Breckon has referred to and I think other people have referred to, we must listen to that legal advice and that legal advice says the scheme is not enforceable. At the end of the day developers are businessmen. Developers will also be advised by their lawyers and their lawyers will turn around and happily say: "Well, the Government has got it wrong, therefore you can do X, Y or Z" which is probably completely against what the Planning Department or whoever has envisaged with very good intentions, and that is why you need to have a legal basis for the scheme. It has been said in relation to the Constable of Trinity, as far as I am concerned, the second part of the proposition: "To agree the Homebuy scheme shall not be extended to any other properties until this policy has been approved by the States", that does not preclude somebody coming up with their own individual scheme, which is not called Homebuy but is a shared equity scheme or whatever, which then the Parish can run itself. That is a legal contract and nothing is stopping a legal contract being generated here. It is about some form of States supportive scheme. What we are saying is get it right, get it with a legal foundation and bring it back here, and that was the fundamental to the Public Accounts Committee report. I will stop there but I do urge Members to support the proposition.

**The Bailiff:**

Does any Member wish to speak? Very well, I call upon Senator Breckon to reply.

**9.1.9 Senator A. Breckon:**

Thanks to all those Members who have made a contribution. Now, I do not intend to respond to each in detail; I will just cover some general points. I would like to start first with the Constable of Trinity; as he knows I have visited the elderly housing scheme he has got there and I must say what an excellent job he has done and he is working hard on the housing scheme. The only thing that I think was a bit ironic is involvement with the Planning Sub-Panel will be well known and he stood up about 10 minutes ago and criticised the Planning Department for being slow, indecisive, cannot do this. This is clearly a case where there is no favouritism there, absolutely no favouritism. If somebody, who has been involved for the last 5 or 6 years cannot get things done and through, then there is certainly no favouritism there. The same as the Constable of St. Peter and the Constable of St. Brelade are looking at private financing for schemes; I am looking at the back of the Minister for Treasury and Resources here because in the good old, bad old days the States used to come up, pound for pound, on all sorts of things but unfortunately we have gone away from that and it may be if finances have been difficult. I know that the Constables of St. Peter and Trinity have had to go out and become like finance managers and take advice from Procureurs and all sorts of other things, and in St. Brelade, in Parish Assemblies, to get money through from sources where the States would have been forthcoming. I know in the Trinity scheme 15 years ago this would not have been the case because the States would have said through the Treasury: "We will assist you with this scheme" and unfortunately - and I say unfortunately because I think it is unfortunate - we backed away when we should be doing things in the community. The Minister for Treasury and Resources is looking around now and perhaps he could give this some consideration in his new-born existence, so...

**Senator P.F.C. Ozouf:**

Would the Senator give way a second? I am prepared to say, and perhaps I should have commented in my remarks, that this is something that the Treasurer and I are looking at with my Assistant Minister and we are proposing to look at ways that we can fund our Parish schemes.

**Senator A. Breckon:**

Thank you, that is most helpful, and I hope that gives some comfort to the Connétables because I mean that is really what we should be doing because we talk about the Parish connections, the schemes for the young and the elderly and everybody in between and it is good and welcome. I welcome the comments of the Minister for Planning and Environment and the Minister for Housing; they are generally supportive and they are not... and the same as the Minister for Treasury and Resources, and I believe we are all in this together. But I say that... but as other Members have picked up, it needs to be in a co-ordinated way. I understand entirely Deputy Power’s emotions on this because he did get involved and when he spent hours, days, weeks and months on it; he started off on the Scrutiny Panel and finished up as the Minister for Housing. So, I am not sure where that goes but he had seen it in the all roundabout way. I would just remind him of a comment that was made at the time on the Jersey Homebuy housing scheme by the Health, Social Security and Housing Scrutiny Panel and it said this: “To summarise the sub-panel considers that there is insufficient detail to enable it to be evaluated [it being the Homebuy scheme] at a satisfactory level but there appear to be so many areas of uncertainty that it is impossible to draw any positive conclusions, whereas a number of substantial concerns arise that are not addressed.” That is what the panel said; those comments are dated 9th July 2008 and I was a member of that sub-panel at the time. But I mean I do know the ... and Deputy Power was determined to make this happen and his enthusiasm should not be mixed up with anything else; it was his involvement with the department to make it happen. But, having said that, as other Members have pointed out, it was within a bit of an undefined structure. Again, Senator Ozouf: I mean we go back a long way on this because with affordable housing he was a former member of the Housing Committee and I think he fell out years ago with Senator Le Main over this about how it might be achieved but again, it is something that we need to come back to and I believe we need to do, hence, the reason for this proposition. I do not think I have missed any particular point that any Member has made, so I just maintain the proposition and ask for the appel. Thank you.

**The Bailiff:**

The appel is asked for then in relation to the proposition, Projet 163 lodged by Senator Breckon. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 44</b>		<b>CONTRE: 1</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf		Deputy S.S.P.A. Power (B)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator F.du H. Le Gresley				
Senator I.J. Gorst				
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 St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
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 Bailiff:**

I can inform Members that the Chief Minister has lodged a report - R.146 - States of Jersey Law 2005: Delegation of Functions - Authorisation of Actions in Connection with Iran Sanctions.

**10. Draft Endangered Species (CITES) (Jersey) Law 201- (P.171/2011)**

**The Bailiff:**

We come next to the Draft Endangered Species (CITES) (Jersey) Law - Projet 171 - lodged by the Minister for Planning and Environment. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Endangered Species (CITES) (Jersey) Law 201-. A Law to regulate the trade in certain animal and plant species that are or may be in danger of extinction and to ensure the implementation of CITES and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

The Endangered Species (CITES) (Jersey) Law 201- proposes an updated legal and administrative framework for the full implementation of the C.I.T.E.S. (Convention on International Trade and

Endangered Species). The C.I.T.E.S. convention has been extended to Jersey through the U.K. but the Island is not yet fully compliant because the Island does not have primary legislation relating to C.I.T.E.S. C.I.T.E.S. is an important international conservation tool that regulates and monitors the trade in endangered species, both animals and plants, ensuring that wild populations of listed specimens are not detrimentally affected by the legal trade in specimens. The key to C.I.T.E.S. is national legislation in each jurisdiction that regulates the trans-boundary movements of C.I.T.E.S.-listed species. Regulations and restrictions are conferred upon species' lists and appendices, or their derivatives or parts, meaning that they can only be traded or moved if there is sufficient documentation and import or export permits to prove their legal origins, as defined by the convention. The current legal framework for the licensing of endangered species is carried out through the Import and Export (Control) (Jersey) Order 1992, which is administered by the Jersey Customs and Immigration Department. The Environment Department jointly administers C.I.T.E.S. licences with Customs and Immigration and operationally the Island has worked within the spirit of the convention for many years, monitoring and administering permits for the movement of C.I.T.E.S.-listed species in and out of the Island. However, there is need for Jersey to achieve fully compliant status with the introduction of fit-for-purpose primary legislation and this is the intention of this law. This draft law would implement in Jersey law the prohibitions and restrictions on the movement, sale, possession of endangered species or plants and animals, that are set out in C.I.T.E.S. Species, as I mentioned earlier, that are covered by C.I.T.E.S are listed in the 3 appendices reflecting the convention's designated level of protection; these appendices will be periodically updated by order to reflect changes made at subsequent conferences of parties. The level of protection afforded to each appendix is reflected in stricter provisions for their import or export from the Island. In addition, the Minister will designate a management authority which has specific functions in respect of the operation of the law, for example, the issuing of permits. The Minister will also designate a scientific authority whose role it is to advise the management authority on the conservation status of species for which licences have been applied.

[15:30]

The intention at the moment is that the Department of the Environment will fulfil both roles with assistance from D.E.F.R.A. (Department for the Environment, Fisheries and Rural Affairs) and U.K. scientific authorities where necessary. In addition, the law sets out main offences under the law; 4 separate new categories, I will just briefly mention them: Firstly, it will be an offence to import, export or re-export listed specimens without the appropriate permit or certificate granted under the law and there are exemptions to this regime; if other certificates are granted, for example, a certificate of captive breeding. The law sets out in detail requirements for the grant of specific categories a permit or certificate and the appeals process if one is refused. The second area to be noted; it will be a criminal offence for commercial traders and producers of schedules specimens not to be licensed. Thirdly, it will be an offence to cause a listed specimen to enter or leave Jersey except at Jersey Airport, any harbour at St. Helier Harbour or at any place prescribed by the Minister. The fourth area is that it will be an offence to possess, sell, purchase, export or transport a listed specimen that a person knows has been imported into Jersey in contravention of the draft law or unlawfully taken from the wild or unlawfully exported from another country under the law of that country. In conclusion then the adoption of this draft law is necessary in order for Jersey to become fully compliant with C.I.T.E.S. This will demonstrate that Jersey is genuinely committed to conservation and protection in its treatment of endangered species and their derivatives. This is particularly relevant, given that the Island is home to internationally recognised conservation institutions, such as Durrell and the Eric Young Orchid Foundation, who all regularly operate within the current C.I.T.E.S. regime. By the introduction of this legislation the Island will protect its reputation for having effective control over the implementation of the C.I.T.E.S. regime and will

be recognised as meeting the highest standards in relation to this global convention. I propose the preamble.

**The Bailiff:**

Is the principle seconded? [**Seconded**] Does any Member wish to speak on the principles? Yes, the Constable of St. John.

**10.1.1 The Connétable of St. John:**

I am fully supportive of this - fully supportive - given that, as a Jerseyman, we are all endangered species ourselves. [**Laughter**] That said, this proposition is of concern. We see on a daily basis in the media how these animals and these mammals and birds, *et cetera*, are traded and the conditions they are traded in and it is a total disgrace, and anything that we can do in this Island to stop it must go ahead. Hopefully, at some time in the future, Durrell and others may look at some of our own endangered species on the Island, which have been referred to in this House at different times, given we do make grants to these trusts and the like. But in tackling this we are doing something about it at long last.

**10.1.2 Deputy M. Tadier:**

I would probably like the speaker, when he sums up, to address what level of priority this was given; whether this was seen as a 'nice to have', whether there are cost implications to bringing this in. But it is also just an observation, I will be quite happy to support this proposition; it is something that we should be doing as an Island. I think it is also something which is good for our status, which ties-in with the good work that Durrell is doing, which I think was mentioned or touched on by the previous speaker. But we have still got other areas, such as the Rights of the Child, which Jersey has not signed-up to and I am wondering how we square that. When we are passing propositions or adopting and signing-up to these kinds of agreements to protect endangered species but we have not signed other basic provisions which you would expect in any civilised jurisdiction, especially one which is trying to punch above its weight on the international stage. I think that is just food for thought for Members and I would like those Ministers and their counterparts on Scrutiny, but also Back-Benchers, to make sure that they are asking the pertinent questions and prioritising other important legislation and signing other important agreements and documents, not simply T.I.E.A.s (Tax Information Exchange Agreements) and not simply things relating to endangered species, but also when it comes to basic human rights and basic rights for children and the most vulnerable in our society.

**10.1.3 Senator L.J. Farnham:**

Just very briefly, if only to beat Deputy Le Hérissier to the point, notwithstanding the seriousness and the welcomeness of this; it is a long overdue piece of legislation. I wonder if the Minister would consider placing an endangered Jersey species on the schedule for its own protection and survival. Of course we talked about the position of the public office known as Senator, [**Laughter**] although perhaps the said office could be excluded from permission to artificially propagate or licensing to be bred in captivity.

**10.1.4 Deputy J.H. Young:**

I think I want to support the new law but I would like to make a comment and I would like the Minister to just give us his views on it. One of the concerns I have about this administrative legislation is the imposition of the appeal processes on the Royal Court, and while I accept that in this particular case there is not any valid alternative but if we continue to pile on the tasks of appeals against licences and quite a lot of minor administrative issues, I have concerns about the costs that we impose on our court system. I would very much welcome the Minister's comments on that when he sums up. Thank you.

**The Bailiff:**

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

**10.1.5 Deputy R.C. Duhamel:**

In reverse order; Deputy Young was worried about the cost of any ongoing appeals process within the Royal Court. Yes, that is an issue but we must not find ourselves in a position in bringing forward legislation which does not carry within it any right of an appeal. Senator Farnham, endangered species for Senators; yes, that is a fun thing to say but this law is a serious issue and it shows our position as responsible members of society and I am sure the Senator would agree with me that Senators, whether they be endangered species or not, are also responsible members of the human race. Deputy Tadier mentioned cost implications and why do this particular piece of legislation when we have not, as yet, signed-up to other pieces of legislation and why has it taken so long? This is perhaps a fundamental issue with the House; we do like to sign international treaties without perhaps fully recognising the underlying costs of taking these international treaties on board. I think here is a particular case of one where in 1976, I believe, the U.K. signed the C.I.T.E.S. legislation and of course we were committed underneath that. We did think at the time that perhaps we could wing it with a prayer and a song, as they say, under the existing Customs legislation that perhaps there was a cheap way of dealing with this and after a number of years we have been told by the C.I.T.E.S. Secretariat, as I mentioned, that that was not really sufficient. It is a point well made from Deputy Tadier that when we do enter into international agreements we should forecast the true costs before we punch above our weight, sign on the bottom line and then do not deliver. I thank of course the Constable of St. John for seconding the proposition and his support for Durrell and our other international bodies. With those comments in mind I propose the preamble.

**The Greffier of the States (in the Chair):**

All those in favour of adopting the principles, kindly show? Against? The principles are adopted. This is a matter that falls within the remit of the Environment Panel; the panel does not wish to scrutinise the draft, Deputy?

**Deputy J.H. Young (Chairman, Environment Scrutiny Panel):**

No, Sir. I think Members' views are plain on this: to be supported.

**The Greffier of the States (in the Chair):**

Thank you very much. Minister, how do you wish to propose with the ...

**10.2 Deputy R.C. Duhamel:**

I am wondering, Sir, whether I should test the mood of the House and see if we could take everything *en bloc* and I will answer questions on everything.

**The Greffier of the States (in the Chair):**

There appears to be general agreement. Do you wish to speak to the Articles or simply propose them?

**Deputy R.C. Duhamel:**

I think I would just like to simply propose them, Sir, and I will do my best to answer any questions.

**The Greffier of the States (in the Chair):**

Very well, are the Articles seconded? [**Seconded**] Does any Member wish to speak on any of the Articles? Deputy Young.

### **10.2.1 Deputy J.H. Young:**

I would like to take the opportunity of clarifying my question on the Royal Court appeal; in summing up, would the Minister advise us that if the opportunity came in the future to have an administrative tribunal system, as opposed to the Royal Court would he be in support of such an arrangement?

### **10.2.2 Deputy R.G. Le Hérisier:**

I wonder under Article 9, Part 2, could the Minister give us some examples of what are scientific authorities because, as we well know, with scientific authorities they are very capable of delivering 2 diametrically opposed opinions, so what would he see as a final scientific authority? Thank you.

### **The Greffier of the States (in the Chair):**

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

### **10.2.3 Deputy R.C. Duhamel:**

One of the things I failed to mention this morning in terms of the planning improvement process was that work would be undertaken to set up an independent appeals process with planning applications. Indeed, it might well be an outcome from that body of work that perhaps a wider appeal process could be applied to other areas and it is certainly something that I would be interested in encouraging and looking into. Deputy Le Hérisier was asking about scientific authorities; I did indicate that that would be D.E.F.R.A. and indeed any other scientific bodies. They could be universities; they could be eminent biologists in their field. It is up to the Minister to take advice from any scientific authority that he considers would be useful in bringing forward that advice, while at the same time of course reserving his right to ignore it, as one would expect any Minister for Planning and Environment to do. But I do not think I can go any further to highlight any particular scientific authorities other than to say that in suggesting that they are a scientific authority they must obviously have the educational and learned qualifications behind them to speak with authority on the issues that I will be interested in. I do not think there were any other points, Sir, so I would like to propose all of the Articles *en bloc*.

### **The Greffier of the States (in the Chair):**

Articles 1 to 50 and the schedule are proposed. All those Members in favour of adopting them, kindly show? Against? The Articles are adopted. Do you propose the Bill in Third Reading, Minister?

### **10.3 Deputy R.C. Duhamel:**

I do, Sir. I would like to thank the officers from the department and, in particular, Senator Ferguson who usefully put our department to do extra work in suggesting that her Latin was not as good as it used to be when she was at junior school and to ask for the common English names of all the animals that were mentioned as endangered species and indeed the plants and the other things within the 3 schedules. If Members have not seen the very good work that was undertaken by the officers I would ask them before they commit their papers to the incinerator that they do take time to educate themselves as to the Latin and the English common names and maybe after Christmas I will send out a useful test. Okay, I propose the Bill in Third Reading.

### **The Greffier of the States (in the Chair):**

Is that seconded? [**Seconded**] Does any Member wish to speak in the Third Reading?

### **10.3.1 Deputy M. Tadier:**

I just wanted to ask the Deputy if there was a prize for the Member who remembers the most Latin names.



**10.3.2 The Connétable of St. John:**

All I will say to the Chair is that given that it is quite a hefty piece of legislation there has been very little debate on it and I am surprised. Thank you.

**10.3.3 Deputy R.G. Le Hérisssier:**

Deputy Duhamel mentioned things like international conventions go through very quickly; no one thinks about them. The other issue is he knows things go through quickly and we never really seriously think about the resource implications. I wonder if the Minister could give us an indication of what are anticipated to be the resource implications.

[15:45]

**The Greffier of the States (in the Chair):**

I call on the Minister to reply.

**10.3.4 Deputy R.C. Duhamel:**

I reply to Deputy Le Hérisssier. I think I did mention it earlier. The resource implications are likely to be not much more, if any more, than what we have been doing in the past. We have been operating a regime, a C.I.T.E.S. type regime, with the Customs authorities for a number of years and the bulk of the work will remain unchanged. In essence, what this will do will perhaps maybe even assist us in finding some savings in that instead of having to reinvent the wheel each time in terms of the form filling. We will, through this law, be standardising on the forms and formats that other jurisdictions, who have adopted the primary legislation, apply to the transfers into boundary transfers of these species. I think there was another point. No, okay. I propose the Bill in Third Reading.

**The Greffier of the States (in the Chair):**

Yes, the appel is called for. The vote is for or against the Bill in Third Reading. If Members are in their seats I will ask the Greffier to open the voting.

<b>POUR: 43</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
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 I.J. Gorst				
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. John				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				

Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
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 M.R. Higgins (H)				
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)				

## **ARRANGEMENT OF PUBLIC BUSINESS**

### **Senator P.F.C. Ozouf:**

Sir, before we move to the next item, would it be possible just to test and to ask Deputy Le Hérissier whether or not he would be ... I am assuming that the next item is the election period?

### **The Greffier of the States (in the Chair):**

It is indeed.

### **Senator P.F.C. Ozouf:**

Is it not appropriate, Sir, for Deputy Le Hérissier to ask for a later consideration of this proposal on the basis that we have not got a report from P.P.C. and, while Members may be in general favour of it, we do need to understand what P.P.C.'s position is.

### **Deputy R.G. Le Hérissier:**

I would like to propose it and then we may, indeed, consider that point.

### **The Greffier of the States (in the Chair):**

Do you wish to formally propose ...?

### **Senator P.F.C. Ozouf:**

I think that is an odd way of doing it, if I may say so. I think it would be more appropriate and more orderly ... hopefully we are not going to have a general election for 3 years, and so a month's delay or so ... and I would formally propose, just for good order and to allow P.P.C. to properly consider it, that the matter is deferred to a later date. I know the Deputy is smiling broadly, but I think that is the most orderly way to proceed.

### **The Greffier of the States (in the Chair):**

You are entitled to propose that, Senator. Are you formally proposing the matter is deferred until January?

**Senator P.F.C. Ozouf:**

I am sure P.P.C. can get their act together by then, Sir.

**The Greffier of the States (in the Chair):**

Is that proposition seconded? [**Seconded**] Does anyone wish to speak briefly on that proposition?

**Deputy J.A. Martin:**

Yes. I was going to say great minds think alike. I have literally written this down, because when we meet next week, this is literally at the top of my list, what was good in it, what was bad in it, and I really do not want it to be proscriptive, as far as we need a lot more research, but pre-poll opening times could be added to that, there is lots more. When we meet ... and I am on P.P.C., thank you very much, and I was last time, and we knew this was a new way of doing things. I really would urge that ... we have discussed and discussed, we know there is a problem and when he sees, or he comes to maybe see the committee and we go through the ... but not today, please.

**Deputy R.G. Le Hérissier:**

I got a lot of feedback, particularly from the grannies of the Island, about this issue and I just wanted it noted. I have no problem with it being deferred but I know there was an awful lot of public feeling about these issues and many more; as Deputy Martin said, the old Assembly debating old propositions, all these issues were coming up. I have no problem with P.P.C. taking a good, hard look, but doing it quickly.

**The Greffier of the States (in the Chair):**

So you are content to defer till January, Deputy? Very well, that is your prerogative at this stage. That matter is deferred until January.

## **PUBLIC BUSINESS - RESUMED**

### **11. St. Helier Waterfront: development (P.175/2011)**

**The Greffier of the States (in the Chair):**

We come, therefore, to P.175, St. Helier Waterfront: development in the name of the Connétable of St. Helier. I will ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Treasury and Resources not to allow any commitment to be made by the States of Jersey Development Company (S.o.J.D.C.) formerly known as the Waterfront Development Board, in respect of; (a) the development or sale of any part of the Esplanade Quarter; and (b) the development or sale of any part of the areas known as La Folie, Les Galots and the sites occupied by the Jersey Rowing Club until the future of these sites has been determined by the new States Assembly in 2012.

#### **11.1 The Connétable of St. Helier:**

I thought I would begin by asking Members a question to think about: what is the most important building in the public mind, or in the minds of individual constituents? Is it this Chamber and the States Building and the Royal Court? Probably not. Is it one of the churches? Possibly, for some. Or the castles or a school? Perhaps the biggest contender for their most important building is their own home, if they are lucky enough to own one; at an outside chance, possibly the Parish Hall. But

I would contend that the most important building for everyone when they really sit down and think about it in this Island is the General Hospital and: “I will be coming back to that later” as some speakers say, often inducing a sense of weariness in their listeners. But I want to start by talking about how I came to write this particular projet because the comments presented by the Council of Ministers at the end request: “The Connétable of St. Helier to engage in due process.” That is a phrase they have lifted from my proposition; that is just probably cocking a snook at me, possibly. They cannot criticise me for not having been at the meetings of the Regeneration Steering Group because I was at them; they do criticise me for bringing a proposition which, effectively, undercuts the work of that steering group. I do admit, it does undercut it and if it is successful, as I hope it is, the next meeting of the Regeneration Steering Group will be very interesting indeed. I came to write this project because I attended a meeting of this steering group at which I heard for the first time of proposals to develop luxury housing on the site of La Folie with moorings for those lucky enough to buy these houses. I wanted to point out that possibly that was not such a good idea, given the tidal range, but we have so many people from the mainland working for us now, perhaps they had not noticed the tidal drop. But I was really concerned about it and I did, contrary to the comments, express my concern at that meeting and I asked for them to be minuted: that I was not happy with the idea of this part of St. Helier being turned into luxury housing. In due course, I communicated my disquiet with the media and Members will have seen, particularly in the paper, a great deal of concern at every level: from the public, from the editor, from writers into the paper. What I did next - and this may surprise some Members - I consulted the marine industry. I wrote to every person I could think of connected with the marine industry and I said to them: “Look, I may be wrong, luxury housing may be the best use of La Folie site, what do you think?” I have had an enormous post bag. I am not going to read all of the comments but every person that you associate with the marine industry - possibly except now the Deputy of St. Martin, but everybody else you associate with the marine industry - has come back to me and said: “Please, no, not luxury housing at La Folie.” The first one, I am just going to refer to suggests, or refers to, way back in the 19th century when we had somewhere in St. Helier an aquarium and he quotes from a guidebook of 1894 about how lucky St. Helier is to have this wonderful aquarium and he goes on to conclude: “We fully support the Constable’s effort to put La Folie site to cultural use. It is hard to imagine an area within the Port of St. Helier with greater heritage, sitting as it does between the original English and French harbours.” Save Our Shoreline corresponded on this particular matter saying that: “It would be great to keep La Folie alive with a cultural focus as opposed to any other. It is a great pity that, despite our heritage in the subject, we have no true marine science headquarters on the Island.” Another person in the industry said: “My views on the proposal are that any development should take into account the fact that area is situated in and among a commercial and leisure marine services industry. Residential premises will be wholly inappropriate. They would certainly enable the States to maximise the value of the site but, once built, would not generate any jobs for workers in the marine industry. If the States are to be serious in their attempts to lower unemployment and create more jobs in existing local industries, such as the commercial and leisure marine industry, then a development in an area where marine services would be suitably located might be a good place to begin.” A lady who has done a lot of work in promoting Jersey’s maritime heritage with her wonderful films shot under water and so on, again wrote to me and said that: “La Folie deserves to be kept in some kind of cultural use to support allied marine activities” and she says she would welcome discussion - open discussion - about possible plans. A former Deputy, always associated with the fishing industry - you might expect him perhaps to be a bit more outspoken than some of the non ex-States Members - said: “Personally, I feel it would make an outstanding site for a dedicated fish restaurant with al fresco eating, looking out over the harbour, and this could rapidly become very well known, but I realise the States want to squeeze every penny out of land that they own.” Finally, the President of the Jersey Fishermen’s Association says: “My honest feeling is we do not need luxury apartments all that desperately even

if, from a developer's perspective, that is the best option. The Island has a vibrant marine leisure and commercial industry, this is indisputable, and it is part of what makes Jersey what it is, beyond the image of a finance centre which, of course, does not attract visitors. It is my view that we seem to be able to conceive great ideas for marinas, *et cetera*, on the Waterfront but frequently forget that a flourishing or growing marine industry requires a land-based sector to service and support the boats and people afloat. I think La Folie with its existing façade would make a grand retail café or restaurant centre that will benefit the Island and be well-supported way beyond the value associated with flats or apartments." That was not the final one, sorry, the final one is from another local person who has made a career in the marine industry and he writes: "The glaring, obvious issue is that of diversification of the economy. If the inhabitants of this luxury housing want to buy and run boats, for instance, who will service them and from where? Are we going to see small industrial units popping up in residential areas? The diversification card from Economic Development is shallow and token." I apologise to the Minister, I should not have read that bit: I need his support for this. He goes on: "If La Folie site is lost to luxury housing, all is effectively lost, no diversification is really expected, the finance industry and associated requirements are all that the States wish to promote, despite other protestations." I begin with La Folie because it seems to me the less contentious of the 2 parts of my proposition. What I am asking the States to agree, in view of that unanimous response I have had, I literally have not had anybody approach me and say they want to see La Folie turned into housing, and what I am asking the States to agree is that we should not allow S.o.J.D.C. to sign any contracts until this Assembly has debated the future of the marine services industry and particularly the future of this area which we used to call East of Albert around the harbour. I think that is a very reasonable proposal, it does not have any lost income associated with it, we have not had presentations from S.o.J.D.C. about this particular aspect of the proposal, and I hope that that will be passed with a good majority. Now, I come on to what might be seen by many as the main part of this proposition, which is asking the States not to pass any contracts on the Esplanade Quarter site, similarly, until the new Assembly has had a chance to debate the future of the site, and that is part (a) of the proposition. Now, at first sight, Members will be wondering what on earth leads me, the Constable of this Parish, to object to a scheme which delivers an enormous amount of rates for the Parish, which delivers a significant proportion of open space, which I am always going on about that we need; 60 per cent of the site, we are told in the comments will be devoted to public realm. You have got to take out of that the roads, of course, but still there is a sizeable amount of open space being offered back to St. Helier on the car park.

[16:00]

Not a single parking space will be lost, they are going to be relocated during the construction and then put back underneath the site when it is finished. So why do I have a problem with it? Well, first of all, and I began with the hospital, I do have a problem because since we last debated the Masterplan something new has happened: the States Assembly have been told from a number of different quarters that we may need a new hospital and we have not been told that for sure, but we might need one, and my question very simply to the States is: is it right to give up the best strategically-located site in St. Helier for a hospital before we know whether we need one or not? We will know the answer to that question - perhaps the Minister for Health and Social Services will speak later - in due course, I would have thought within 6 months possibly a year, we will know whether we are going to refurbish or rebuild on site in some way or whether we are going to be looking for an alternative site. But while there is any doubt about it, surely it behoves the Government to keep in its portfolio the: "Only virgin site", to use a phrase that was used this morning in question time, that could really fit the hospital with the infrastructure that is required for it, the roads and so on, and what better position, the gateway to the town, to have the hospital. Indeed, of course, if it was to go there - and I am not saying I have decided one way or the other -

but it would be placing the hospital close to the port, which again makes sense if we are going to possibly at some stage be able, because of our wonderful facilities, to attract visitors to Jersey to pay to go to our hospital. So I think there is a good possibility that this site will be looked at in that process and that is why I began with it. There are, of course, other problems implicit in what S.o.J.D.C. is doing. Members will have benefited from a presentation. I was out of the Island when the presentation took place and I do not suggest for a minute that was a conspiracy; the Minister for Treasury and Resources has already apologised to me that I was not consulted before that was fixed and so, of course, I did not know about it until it was too late and, in any case, I benefited from a personal visit from the new managing director who took me through the presentation in my office, so I am not concerned that I was not at the presentation. But I do have the glossy booklet here which says on the front (and it has been nicely rebranded): “J.I.F.C. (Jersey International Finance Centre), The Esplanade, St. Helier.” I look at that just as a booklet and I look at the new branding and I just say to myself: “Let us think about this. Is it credible, Jersey where it is, the 50th year we are now celebrating the development of our financial services industries, and suddenly there lands on my desk a rebranded, new acronym, Jersey International Finance Centre, and where is it? It is on the Esplanade car park, it is not in St. Helier, it does not encompass the many parts now of this fair town that have been given over to financial services, it is just on the Esplanade car park.” I find that slightly silly, I am afraid. Is this going to be the International Finance Centre? No, the International Finance Centre is in St. Helier or even further afield; I know there are some offices outside the Parish. So I must say I did a bit of a double take when I saw that because we are only talking about a relatively small piece of land and if any Members have not parked in the Esplanade car park recently, they will not appreciate quite how small it is, it is a bit like the Town Park in that respect, it is much smaller than people think. So is it credible, I mean, is this really the best thing we can do for the financial services industry? Well, as Members will know, there has been quite an argument going on in the papers, in the media, about whether this is the only site for the financial services industry. When we debated the Masterplan, we were talking about a much bigger piece of land, of course, we were going to sink a road, it was a seriously large piece of real estate in St. Helier. I must say, I was persuaded by the then Minister for Planning and Environment to support the Masterplan on that basis, that here we were going to have a large part of St. Helier devoted to the financial services industry and associated facilities. But I must say, given what we have now, which is very much a truncated or trimmed-down version, I find that rather harder to believe in. We also know that there are, as I say, these other sites which are being brought forward for development to provide offices for the financial services industry, and a common question that I have been asked is why, if the private sector is willing to provide these facilities, is the public sector getting involved? People can understand Government building facilities that the private sector is not really interested in: schools for example, prisons, hospitals, but surely the things that we have got people queuing-up to provide in St. Helier are things that we do not need to provide ourselves, particularly on our precious land. As Mark Twain said: “Buy it, they ain’t making land any more.” As I say, there have been arguments about whether the 2 schemes I refer to in my report are ready to go and I did not really want to get involved in specific plans; I certainly did not want to mention specific developers because I do not think that is appropriate for this debate. But the trouble is that the comments to P.175 are specifically... or very close to being specific; they say the thing that is not, and so I have really got to tackle that. For example, the comments say that: “The largest of the schemes” we know which one they are referring to, it is in Broad Street: “if approved cannot be commenced within at least 5 years due to existing leases.” The managing director of the firm involved has written to me, he wrote to me a couple of days ago, his company, and I quote: “Has vacant possession of nearly 60 per cent of the entire site and can deliver over 100,000 square feet immediately with construction beginning at the end of 2012 and delivery at the end of 2014 or 2015. In addition” he writes: “we intend to accelerate vacant purchase discussions with the 2 remaining tenants. The other tactic employed by

the outgoing managing director was to question our ownership of the site.” And he says: “I can categorically assure you we do have freehold title to the entire site.” He finishes by saying: “I wanted to make it perfectly clear ahead of your proposition being heard tomorrow that we own the entire J1 site and have secured vacant possession in order to be ready to go with the development ahead of the Esplanade Quarter Scheme Phase 1A.” So if we are talking about racing, and I refer in my report to the previous managing director who seemed to see it as a race to see who could get there first, then the chances are the private sector scheme will be ready before S.o.J.D.C.’s scheme. But I am not really interested in that, nor am I interested in the fact that there is another plot fairly close by which could also provide the same amount of office space that we are proposing to provide on the Esplanade Quarter. What these schemes tell me ... and we are very lucky to be living in a place in the current climate, that there is tremendous interest out there in the private sector to provide offices for our financial services industry. As I say, I think we are lucky, we should be pleased about that. There is another email, and I have had permission to quote from it, this email was supplied to the then Deputy of St. John, now Constable of St. John, when he brought a proposition back in March to the States about the phasing of the Esplanade Quarter scheme. This local expert lists a number of sites which are becoming available; over 900,000 square feet of office space is already in planning or has been approved or is being drawn up and submitted in the next 6 months. That was back in March, over 900,000 square feet. Some of the scheme’s Members will be aware of: there are several schemes on the Esplanade - there are 8 schemes on the Esplanade - almost every single building on the Esplanade has had planning or is in the process of it. Lime Grove House is mentioned, of course; we all know what happened to Lime Grove House. But, as an aside, is that not good and does it not demonstrate the ability of the private sector to take on office space for the financial services industry? Seaton Place, the Parade, and what about the whole area around the Town Park in the ownership of a local company which, with the regeneration of the town park, is bound to be developed in the next few years, possibly for residential but also equally possibly for offices? I think what I am trying to explain to Members is that I am not ungrateful that S.o.J.D.C. want to put offices on the Esplanade, it would bring in revenue, it would replace the parking, it would provide useful public space, but it would effectively take out of consideration a very important site if we are going to be looking for a new hospital. It would essentially, even if it does stack-up financially, even if there are not any risks associated with it, be unnecessary. I refer to risks and I am not an expert but I have had an email from Save Our Shoreline, which I think has been copied to States Members, and they are really concerned about the underground parking aspect because they point out that there is a lot of toxic ash under the Esplanade scheme and that will have to be put into extremely expensive ash pits at La Collette - along with the ash from the Guernsey waste, I suppose - and, simply, that will use up the ash pits very quickly. Has that cost been taken into account with the S.o.J.D.C. proposal? Another thing I remember, and I am having to struggle to remember exactly what was said, but I am sure when the Esplanade scheme was first talked about, there was concern expressed by some of the potential property holders about having public parking under financial services buildings. I seem to remember there was a security issue. I put this to the new managing director when he came to see me in my office and, in his words: “It is not ideal” it is not ideal to put public parking under a major bank headquarters, for example. Well, of course, it is not, but it has got to go there, of course, because the parking has to be maintained. So that seems to me to hint at, at least - and that is from a local man himself - a potential problem if we are going to put all that parking underneath the Jersey International Finance Centre, as we are now to call it. I am not going to say much more, I think I have explained the problem I have with this scheme. I am not inherently against the Esplanade Masterplan, it has of course changed; whatever the comments say, we are looking at a different scheme than the one that former Senator Cohen so successfully sold to me and to many Members. I have to say, one of the things that persuaded me 2 years ago was the prospect of £70 million for urban regeneration which, I am afraid, I have not been offered this time round, not one penny has been offered. But maybe there

will be a few pounds in the kitty for that, but I will wait to hear from the Minister for Treasury and Resources about how much is going to go into regeneration. The fact is what I am asking the States to do is not to rule out the development of J.I.F.C. but to rule it out now, to rule it out until we have debated, as a new Assembly, what we want to do with the Esplanade site and what we want to do with La Folie. I make the proposition.

**The Bailiff:**

Is the proposition seconded? **[Seconded]**. Do you wish to speak on the proposition, Senator Ozouf?

**11.1.1 Senator P.F.C. Ozouf:**

You could say that this is almost the first major debate of this new Assembly and new Members are, no doubt, finding their feet or finding their seats and they are learning how to contribute to the debate. The Constable of St. Helier is a really good speaker; he spoke eloquently in his proposal of this proposition, as he also clearly electrified a number of Members when he stood for P.P.C. The thing, if I may say, about speaking in this Assembly is that it is important not to be propelled along by necessarily a powerful speaker during just the debate, one has to deconstruct the arguments that the speaker has put forward and really test those arguments, and I would urge those new Members who may have been conveyed along **[Laughter]** by a persuasive Constable of St. Helier to bear with other Members who may have a different and an important point of view and, no doubt, Deputy Le Hérissier will be listening attentively to these deconstructing arguments. I want to, if I may, concentrate primarily on the issue of Esplanade Square. I could speak about La Folie, I could point out that La Folie, as far as I originally understood it to be, was a housing site which only was 20 per cent of that site, originally it was commercial, there are all sorts of issues, but I am going to leave it to the harbour authorities in order to discuss La Folie and explain why they should be allowed to continue with La Folie without the Constable's proposal.

[16:15]

My principal concern is that of Esplanade Square. The previous Assembly set up S.o.J.D.C. or, as I think it is now more commonly being known as J.D.C. (Jersey Development Company, as a wholly-owned States of Jersey development company. That was a delivery vehicle for developing States surplus property and it was in line with a proposition which set out the responsibility of the Regeneration Steering Group of which, as he rightly said, the Constable of St. Helier sits, although I have to also confess to Members there may be an issue of the Constable sitting because we have been reminded that, in fact, it is not automatically *ex officio* the Constable of St. Helier that sits on that group, it is a St. Helier representative, either a Senator or a Deputy or the Constable that has been elected to this. Perhaps he has been sitting on the Regeneration Steering Group, I must say *ultra vires* perhaps, of this Assembly **[Members: Oh!]** and the Chief Minister is going to no doubt be correcting that. But the fact is he was there, whether or not he was there with the full authority that he should have been, and I have to say that all Members of the Regeneration Steering Group have expressed a little concern about the fact that we did not have the frank discussion which he has now sought to bring here when we met. There is a disconnect between what I heard him say and heard him debate at the Regeneration Steering Group; I do not think that is absolutely ideal. The Esplanade Quarter has a long history, it was first approved by the Assembly in 2008 and J.D.C. who now own the site, have a 150-year lease on the site. The Esplanade Quarter is a key part of the strategy of developing financial services accommodation, vital to our economy. Members will be aware that there is also an outline planning application after the States approval, which has been passed by the former Minister in July of 2010, and Members will also have listened to question times earlier in relation to the planning obligation agreement which was agreed by Treasury, T.T.S. (Transport and Technical Services) and Planning in July of 2010. As a result of all these



permissions, since May 2011, J.D.C. has appointed a professional design team and has been progressing the development that this Assembly approved in the Masterplan and, in fact, there has been almost £1 million spent on progressing the plans since the Assembly approved the Masterplan. In recognition, and this is where the Constable is right to point out, of the discussions about the sinking of the road, of which there is the default position that it will be sunk, there was a proposition from the then Deputy, but now Constable of St. John, which would mean that any final decision in relation to the lowering of the road would come back to this Assembly. While the Masterplan has the default position of burying the road, that is subject to this Assembly's reservation and determination as a result of the former Deputy, now Constable of St. John. It should be pointed out that the first phase - and I will come back to the name of it in a second - of the plan does envisage that the road could be lowered or it might not be lowered. That is decision-neutral in terms of the road. The first phase of the Esplanade Quarter is designed to provide needed office accommodation, demanded office accommodation, in a phased way. The Constable has referred to other sites, this site has no buildings on it, it can deliver, uniquely in St. Helier, regular uncluttered floor plates in a way that other sites cannot. Combined with the amount of office accommodation that can be provided on the site, it is unique in St. Helier and it allows the industry to develop. If there is demand and if there are tenants that demand that that is where they would like to do ... it allows the industry to develop and for this area to have a cluster of financial services industries. Yes, it has been branded the Jersey International Financial Centre, and I do not think there is anything that we should be ashamed about in relation to that, that is a statement for outside consumption in terms of this site and it is something which cities around the world are celebrating, and the fact that they are saying that that is where they are going to be focusing new economic activity. Dubai has the Dubai International Financial Centre; I am not saying that this is any way of the same scale, and it is absolutely of no detriment to the rest of the St. Helier in terms of financial services. It is what it is; which is a development of financial services accommodation in a cluster, providing unique accommodation which could not be provided elsewhere. There are a number of very important benefits of this first phase to the public: it does not require any public funding - there has been some discussion that it does, it does not. It would create, if it is built, just the first phase, £100 million worth of economic stimulus to the economy over a very short period of time within the next 3 to 4 years. In terms of the return of which other schemes do not provide a return, this provides a return of north of £20 million net receipt just for Phase 1. I think that that is a very important aspect. I should also say that it does not result in the reduction of any of the public parking; all of the public parking will be provided on the site and I have to say that there has been a number of elements of almost scaremongering that the Constable engaged in in his remarks. It is established, it is accepted that the public parking space will be on the lower ground floor of the development, and I think that if Members realistically think of the way that office accommodation, of the way that other towns and cities have developed, there is no issue and certainly the tenants would not have issue, or would appear not to have any issue in terms of the fact that the public parking is under one of the sites. Clearly, there is an access issue in relation to that. I am sorry that the Constable engaged in some scaremongering of matters that have already been settled a long time ago and are no concern to any of the prospective tenants. It is a reality that this site could commence construction early. Construction could start, subject to the Minister for Planning and Environment or the Planning Applications Panel's determination, on this site by January 2013 and the offices could be ready for occupation in December 2015. I am able to say to the Assembly, because the Council of Ministers has discussed this, that the site is the subject of discussions with tenants that would be looking to take a significant proportion of the first 200,000 square feet of offices. This Esplanade Square development does fall within the timetable of what the tenants are looking for. I do not particularly want to have a discussion, and I do not think it is appropriate that we have a discussion of the relative merits of other schemes, the other schemes are what they are, this is the scheme that we are debating, and this scheme does meet the tenant requirements of some

of the seekers of new consolidated office accommodation. I understand that this meets better and meets earlier than some other of the schemes. I am not sure that it is appropriate really to be engaging in terms of the relative merits, but the merits of this scheme for the public are we get a land receipt and it can certainly be delivered for their requirements earlier than some other schemes. I also would say that it is a good thing that there are other sites which should be also available to other tenants over the next few years. The stage of the discussions with the tenants with S.o.J.D.C. are that it would only proceed if there are agreed pre-let agreements with tenants. S.o.J.D.C. is not going to take any risk in terms of going ahead with any speculative build, this would only happen if the tenants want it. I can also say that in term of stages of the decision-making, the next stage of the scheme would be for a legally-binding pre-let agreement to be signed with a tenant and development would only start once a pre-let has been agreed for a significant part of the first phase. It is important, I think, for this Assembly to send out a message that it should be the tenants that decide which scheme they move forward with, and I do not think that this Assembly should be in the position of imposing a restriction on the options for the tenants. If the tenants wish to go to another site, then they should go to another site. If they want to go to Esplanade Square, then they should be allowed to go to Esplanade Square and this Assembly, I do not think, should be putting an unfair disadvantage in relation to a States-owned company which is owned by the public compared to other private developers. I should also say that if this development does proceed then it will be an enhancement to the Parish of St. Helier. It is worth perhaps recalling that the hard-surfaced public square and avenues that are going to be created in relation to the Phase 1 would mean that there is approximately 50 per cent of the space that would be given over to usable open space; in other words, it delivers an alternative use for the car parking and it provides 50 per cent of urban space. I would have thought from the Constable of St. Helier's point of view, that that is a significant advantage to his Parish. I think that there are substantial advantages to the Esplanade Square development moving ahead and I am not sure just how far the Constable of St. Helier wants to go in terms of preventing this opportunity. He referred to almost one of the main planks of his argument in not proceeding or agreeing with a delay of this proposition, and I will deal with whether or not this is a delay or simply a removal of the opportunity of Esplanade Quarter to be developed, in a second. I think that it is important to say that we should not be making a decision in relation to part (a) of the proposition on the possibility of the hospital moving to this site. The first issue is that I do not believe, from our cursory review of this site, that Esplanade Square Phase 1 could even house the hospital, and I think that it is a huge speculative leap for Members to make a decision today to stop the Esplanade Square development in the potential optimistic scenario of us moving the entire general hospital to Esplanade Square. I have to say that I think that it is unrealistic. There is a proper debate that needs to happen as to whether or not the general hospital needs to be refurbished or moved to a new site but the only way I think that the economics of a new site are going to work is if it is a much more affordable site in terms of its construction and its location. The Constable spoke about the digging up of the ash and the cost about that; well, I mean, that is going to be exactly a neutral option as to whether or not it is an office space or whether or not it is a hospital. I have to say that all the indications that we have at Treasury which we have asked, the options of rebuilding or refurbishing the hospital, point towards more economic and realistic rebuilding of the hospital on the site as opposed to a greenfield site. I do not think that I am in a position to definitively say yes or no whether or not the hospital should be on a new site but, in any event, I doubt that it is going to be on probably the most expensive site. I would respectfully say to Members that if we are going to find solutions to our capital programme, of which potentially the hospital rebuild or refurbishment is going to be north of £200 million, then we are going to need resources to pay for it. We are planning a 25-year capital programme and, as the Treasurer explained to Members at the briefing on Monday, there is a funding gap in the capital programme and where are we going to find the resources for the capital programme? One option of the capital programme is to release

assets and to raise revenue off sites that the States own. Indeed, I have to say, as Minister for Treasury and Resources - and I hope that Members do not mind me saying this but - of course, the possibility of getting revenue from Esplanade Square is going to be a potential solution in terms of funding the capital programme, and that is an important consideration to us. We are going to have to find that and, if it is possible over the next 5 or 6 years in order to get a capital receipt of maybe £20 million, £30 million, £40 million, £50 million from the Esplanade Quarter site, then that is going to assist. I have to say, the opposite is not the case in terms of the hospital. At the heart of this proposal, I think, are a number of important principles in terms of planning, and I hope the Minister for Planning and Environment is going to speak during this debate about the ability of this Assembly to become a substitute Minister for Planning and Environment. We have avoided at all times this Assembly, or we have tried to avoid at all times this Assembly becoming a Minister for Planning and Environment or a Planning Applications Panel. This proposition moves us into the decision-making of being a planning panel, and I do not think that that is a sensible position to put the Assembly in.

[16:30]

Secondly, there are advantages for the public of progressing Esplanade Square in terms of an office development. I am not saying that we should be saying to the tenant today they must go to Esplanade Square, I would ask the Assembly to keep the option open of Esplanade Square being an option for the tenants that are looking for space, and I think it is important that we allow a level playing field in terms of that. I want to be quite clear with Members, I believe that, while seductive as the arguments are in terms of this is just a delay, I believe that if this proposition is successful then any prospect of moving ahead with the principal potential occupiers of financial services space will be lost. I think it is well known that the key potential occupiers of Esplanade Square have timelines which must be dealt with in terms of alternative offers that they have to deal with, a decision has to be made in the earliest possible course; it has already been delayed, as we understand it, because of the election process and other uncertainties. If this Assembly passes the Constable's proposal, the development opportunity of Esplanade Square will be lost in terms of one of the principal uses. So this Assembly has a very serious decision to make. I would suggest that we should allow the market to decide who works and who wants to be the potential tenants on Esplanade Square; we should not, today, extinguish the possibility of a capital receipt from Esplanade Square; and we should not be seduced into the arguments of saying that we should put this off because we do not know what is happening with the hospital. We know enough about what is happening with the hospital, and the other arguments in favour of development of this site outweigh that. This is an important debate, there is a lot at stake on it, and I ask Members to read the comments that have been sent around by the Council of Ministers in relation to this and I urge Members to reject the proposition and to allow the market to decide which office developments proceed, not this Assembly at being a surrogate Planning committee.

#### **11.1.2 Deputy R.C. Duhamel:**

Members will know that I as Minister for Planning and Environment am tasked under the 2002 Planning and Building Law to undertake the preparation of the Island Plan and any other policies and guidelines that I deem to be appropriate, and this includes preparation of masterplans and development briefs. While under the law it is not the responsibility of the States to prepare or be asked to approve masterplans, in the case of the Esplanade Quarter, the former Minister for Planning and Environment asked the States to endorse his masterplan in 2008 as he considered it was a project of some significance to the Island. The masterplan continues to be the document to guide and assist development in the Esplanade Quarter and, though subject to some minor changes, was endorsed again by the States when it approved the new Island Plan in June 2011. A similar

approach was taken to the Masterplan for the North of Town area in 2011. In bringing forward his proposition, the Constable of St. Helier has got 2 different issues which might require 2 different responses, and I am hoping that perhaps he will consider splitting the proposition. From a Planning perspective, part (a) is considering the development or sale of any part of the Esplanade Quarter. While with my Planning hat on I am not entitled to enter, and will not do so, into the planning merits of demerits of particular schemes which I might be called upon to decide, what I can say is that this House has a current masterplan which lays out the development programme for that particular area, the Esplanade Quarter, and until such a time as States Members consider or the Minister for Planning and Environment considers that the conditions whereby that masterplan were brought to the House for agreement have changed so much as to radically dismiss that masterplan as being infeasible or totally unrealisable, then it seems to me clear that the way forward on (a) is that we must not support (a) because we do still have a masterplan. Had the Constable come forward to challenge that assumption then we would be having a different debate. Part (b), though, is a different kettle of fish, as you would expect down at the harbour, perhaps. Although a development brief is presently being prepared by my department officers for La Folie, what has not happened - and I think this is perhaps at the root of the Constable's proposition - is that certainty has not been brought to the House through the planning process as a wholesale masterplan for that particular area being established and endorsed in the way that the previous Minister for Planning and Environment did so with the masterplan and the North of Town Masterplan. I think, until it does, the jury must still be out. In fact, comments that were made in another place suggested that 2 masterplans, probably diametrically opposed, had been prepared by 2 other bodies who were interested in the development of this particular area. We do have in the comments of the Council of Ministers the suggestion that the Economic Development Department in looking at their own ideas for this particular area, suggested that perhaps the area should be set aside for marine leisure whereas the W.E.B. (Waterfront Enterprise Board) body, or their successor body, the States of Jersey Development Company, have suggested something different in that perhaps it should better be used for fancy housing. In both instances, I am not at all convinced or confident that the Minister for Planning and Environment's point of view has been discussed at all. Where does that leave me as the Minister for Planning and Environment? I think that I must, in a short period of time, come forward to this House with a masterplan for this particular area and I will offer the House that perhaps as a suggestion and perhaps as a justification as to why perhaps part (b) should be supported. It is quite clear that (a), I think, falls because we do have a masterplan until it is overturned and (b), on the basis that we do not have a masterplan, probably should be supported to allow the Minister for Planning and Development the luxury of time to put in the missing piece of the jigsaw to everybody's satisfaction.

### **11.1.3 Deputy J.H. Young:**

I rise to support the proposition which I do not see as, as it were, a wrecking proposition seeking to push the project into the long grass, nor do I see it as a choice between private and public sector schemes. I think there are important issues of principle about the planning vision of that site and the masterplan ... which I would seek the Assembly's tolerance for me to just cover one or 2 key points, if I may. It was 20 years ago that the Assembly agreed the vision for the St. Helier Waterfront, and Members will be relieved that I am not going to go through 20 years but, of course, we all know that the Waterfront history has been marked by controversy - large public concern - but everybody wants the same thing: they want to achieve the best result for the Island and the best development for St. Helier. The vision has been subject to many revisions. The Waterfront 2000 public consultation process came out with some very important principles, which survived into the 2006 supplementary planning guidance, and I think what is very important is that those principles were determined after public inquiry. The Supplementary Planning Guidance includes Mr. Shipley's planning report of that application, obviously that site being of such importance. Some of

those points are so crucial of the vision for the future development of the Waterfront area that I think we should just remind ourselves. It says a: “Lively modern maritime quarter which extends the best qualities of St. Helier into the 21st century, a new sea frontage which integrates and complements the heart of the old town, St. Helier, of course, being fractured from its sea front for 2 or 3 decades. A place for everyone, diversity of usage to bring interest, a mixture of landscape open spaces with different characters and scale for meeting, strolling, sitting and playing. Priority access for non-car users, a safe, relaxing environment, a variety of urban spaces with durable high-quality contemporary buildings and a mix of large and small developments. A sustainable manageable and robust development.” Now, those principles were not set aside in the adoption of the Planning Masterplan, the Supplementary Planning Guidance says that it was to build upon those principles. There were 3 points of concern that the guidance seeks to put right: concern about the relationship between the Waterfront and St. Helier and the strong feeling that the 2 had to be complementary; a particular concern about retail, but I do not think that is an issue at the moment; but this is really important, a strong desire to see links between the town and Waterfront, especially pedestrian links significantly improved. So that was the vision, but where we have ended up now is... I share the public view we have had piecemeal development and we have had some marginal uses, overall disappointment and, despite the financial numbers in the DTZ report, what we still have is an urban motorway from the Tunnel to The Grand Hotel, and I still do not understand why we have an open motorway there. The West of Albert area is completely isolated and we have seen that and the difficulty of getting uses into that area, and we still have no links across the road and people are having to face at-grade crossings which, at certain times of the day, are potentially problematic, if not dangerous. We have an Island site which at the moment does not link anywhere and there is no footfall through the site to draw it through the Waterfront. The States approved the Hopkins Masterplan as a solution, and a glance at that shows that the Esplanade site was going to be developed as an integral whole with the West of Albert. That coherent whole is absolutely important, so much so that that was the basis of which the agreement that was given by the States to the current Masterplan in P.60 of 2008 on 4th June, which endorsed all those Minister for Planning and Environment’s recommendations and the Masterplan. A glance through this document shows the drawings of how that site could be laid out to achieve all of the objectives of the Masterplan. I know that we then have after that an outline planning consent being given, and I took the trouble to dig it out, and that is it: a document there, 30th July 2010, with a planning obligation agreement. The problem I have is that when one reads the description of the consent, it says: “Mixed use development of 16 separate building blocks, ranges 5 to 9 storeys, comprises office retail, restaurants, 388 residential apartments, 65 self-catering units, winter gardens”, *et cetera*. What worries me is that when I went ... and having been not involved in these matters for many years, the first I knew of the current plan from the Jersey Development Company, was at the presentation last week when we saw this document, and there is no drawing in this document to show what Phase 1A is and what it is not. I went on the Development Company’s website to have a look to see if I could get any clarification; there is a pretty picture, but it does not show the site boundaries. But one was put on the screen in that presentation and there were no links shown between the site that was proposed for development and the remainder of the Waterfront area or, indeed, the area for which the Masterplan has been approved. I asked the question: “What was the situation regarding the links which we expected to see within the scheme?” and I was told: “Well, it did not preclude it, it did not preclude the creation of those links.” I think my fear is that that does mean that there is a change, in my view, between a partial development of the site which is now proposed and the whole, which has been subject to this Assembly in the Masterplan with all the various permissions and agreements, and so I do not think we are dealing with the same thing.

[16:45]

My fear is that if we do not have a pause to check this out, because I am not advocating: “Do not do this at all”, but I do see the sense in having a pause to check out to see: “Right, how will Phase 1A link into the remainder of the Masterplan?” I particularly asked that because I know that we all have doubts about whether the Masterplan is still feasible in terms of money. Can that road really be covered up? Is there enough money in the development to pay for it? I think most people doubt it. Well, if that is the case, surely we should be looking to say to our Minister for Planning and Environment: “Can you have a look at this Masterplan and can you please check out how these links will work?” I think that is what I am asking: a pause for a period of time to just see how that will be. So I think that where that finishes, that is where we should ask our Minister for Planning and Environment to have another look at the Masterplan and then, if the Minister is then satisfied, bring it back to the Assembly. Because I accept what the Minister for Treasury and Resources says: this is not the place for planning debates, but I do think the Minister for Planning and Environment has that responsibility to look at those aspects that I have spoken of, to make sure all the documents that his predecessor signed, all of the planning framework that his predecessor brought to the House, is still valid in the context of what is now an amended scheme and a much more cut-down scheme. I think, from my point of view he did not like the original scheme that the House agreed but I saw the benefits. Okay, if we have to have wall-to-wall offices of that scale, of that intensity of large buildings, as least we are getting the road covered up, at least we are getting St. Helier reunited back with the town and a completion of the Waterfront. My fear now is we will not get that. Unless we think through these links, how we can link the whole side up and make sense of it all, to have an integrated development I fear we will end up with piecemeal development; development of the Esplanade as a kind of a fortress Jersey with a motorway around the outside and the western outlook being a no man’s land. So I just ask for a pause to do that and that is my purpose in supporting the proposition. On La Folie I bow to other views. My principal concern is about the Esplanade because it is that site that links St. Helier with the Waterfront and it has to make sense in the context of the overall scheme. **[Approbation]**

#### **11.1.4 Deputy J.A. Martin:**

It is a pleasure to follow on from the last speaker and his knowledge of plans and masterplans. Just to remind what the Minister for Treasury and Resources says: “You should always listen to a good argument and then deconstruct it.” I am going to, hopefully, deconstruct the Minister for Treasury and Resources’ argument for not supporting this and the Minister for Planning and Environment because I have been with this right from the year dot it feels like. The Minister for Planning and Environment tells me we have not moved from the original plan. The original plan for sinking the road was to dig out and what was dug out would be the landfill over the top, which would give extra square metres of office space and residential space and the winter gardens. Now, we all asked questions on Monday: “Is this still feasible?” and we never got a good enough answer. It is not feasible because I can tell you for why, I did keep asking: “What is phase A?” Well phase A, (1) is block A, B, C and D but it was very clear that this would go ahead once S.o.J.D.C. had let or got pre-lets, legal agreements for 200,000 square metres of office space. So then I asked the question and I never got a satisfactory answer: “Would the price include some money to be put away when and if we decide to sink the road?” because I did not support the sinking of the road but we have got to connect the Waterfront to the rest of St. Helier. But be under no illusion that this does not provide the money to do it. The £20 million, from what I could not get an answer for, will only come back to the States when the 310,000 square metres are developed but the job will start when they secure 200,000. Now, my question is really what - I think we had the debate earlier - do we, at this time in our economy, speculate this high with taxpayers’ money. It is a pity the A.G. (Attorney General) is not here, because I want to know what a legally binding pre-let and pre-sale contract with tenants is. So no development will start without this, pre-lets will be to ultimately occupy. Because, to me, and I hope it does not happen, we do not know what is happening in Europe, but

what is a pre-let pre-sale agreement with no money up front, and that is what I was told, no money up front, just a legal agreement if your legal agreement is with someone who goes bankrupt or belly up. What does it mean? Well, to me it means years in court of trying to get that money but the States of Jersey sitting here with half a building, half lots of office space on the Waterfront.

**The Bailiff:**

Deputy, do you want us to ask the Solicitor General to come across?

**Deputy J.A. Martin:**

Yes please, that would be really helpful. So I mean I ask all these questions and you know we keep the Minister for Treasury and Resources also, you have to listen to semantics, Phase 1, Phase 1A, revenue receipts. Now, we cannot have £100 million development and revenue and capital of £20 million coming back. It is all very, very good. Well, if the tenants are going to put so much money up front and it is going to be £100 million development, I am sure there must be somewhere in this pre-let agreement that they get at least X amount of years rental for free. The Minister for Treasury and Resources has already had his deconstructive argument and I am doing mine. I did ask all these questions on Monday. I cannot be accused of not being there. I have real problems with the comments as well from the ... The first phase tells us it is good for St. Helier because there are no restaurants, there is no retail and so people will use the 3 minutes to walk to Charing Cross. Well, I do not know, if I have got a half hour lunch hour, will I - and it is pouring with rain - run to Charing Cross or will I take my own lunch in. I do not know. It is absolutely ... We are getting a part – piecemeal - we are not getting what we were promised; we had nothing down for the sinking of the road to bring St. Helier in. We do have 2 schemes in St. Helier that do not require any money from the States, do not require any speculation or anything else. In this economic climate I would be really inclined to ... the Ministry for Treasury and Resources made a: “This is it today, if you do not let this go ahead, we might lose this scheme.” Well, I do not know if this is the scheme we need to be involved with. Of course, the States of Jersey Development Company want to be involved with it, so, you know, there are lots of States-owned sites that need to be developed and nothing has happened, nothing has happened. As I say, he said, and it was very, very good how the Minister for Treasury and Resources said: “New States Members must take this very seriously”, because us old States Members do not, you know. We just say: “No, no, this must be wrong.” I asked some very, very pertinent questions on Monday. I did not get the answers. There is no money in, let us say, the sinking fund for the sinking road. There is too much speculation on only letting 200 square feet and then starting. We have other people in the arena and I just feel that at this time that we should not be getting into this but as Deputy Young said: “To me, it is a pause, let us see where we are at. Let us see what we need.” The Minister for Treasury and Resources says we do not need the hospital there. Well, I think that needs to be explored a bit more because if it is not there where else in St. Helier? Will we be forced into just refurbishment? I do not know; I am on Health, I know there is a lot more discussion but he says: “It will not be there.” Well, I can assure you, if this goes for offices it will not be there. There will be no debate about where the hospital can go; it was not good enough for the police station. The police station is going underground, well, in Green Street car park. But why would it be good enough for the hospital? On the other bit: La Folie. I am probably like the Minister for Planning and Environment and Deputy Young. I think it would not hurt there to have a halt and we can see what is best, what is feasible and so I do not think that is too contentious. But, please, as you say ... and I know the Constable of St. Helier was out of the Island when we were given the Jersey International Finance Centre brief by the States of Jersey Development Company, but it was a shame because I have asked for St. Helier Deputies that we see the brief and the development plans for the other. We have seen one and we could see the other, the plans for Broad Street. But I just really want a halt

today and I look forward to hearing how binding is it if really something did go wrong with those tenants in those.

**The Bailiff:**

The Solicitor General is here now, do you want to pose your question to him then.

**Deputy J.A. Martin:**

Yes, I have finished so I will just ... Yes, I have posed my question, if he can answer it and then I am finished, thank you.

**The Bailiff:**

He may not have picked up, entirely, what the question was about, I do not think.

**Deputy J.A. Martin:**

I think it is in the comments as well. Yes, Solicitor General, it is on page 4, fourth paragraph, not the quotes: "The Esplanade Quarter will therefore only proceed once legally binding pre-let and pre-sales agreements are in place in respect of the development of office space." My question was if there is money put up front and something happened to one or 2 of the big tenants who do we fight for our money?

**The Bailiff:**

I think, Solicitor General, the question is that this says that there will be legally binding pre-lets and pre-sale agreement so I think that the Assembly would just be clear if you could explain exactly what that is. I think the second part of the question was if no money has been put up front for these pre-let funds and either the buyer or the proposed tenant goes bankrupt, how useful is the binding pre-sale or pre-let agreement? Is that right, Deputy?

**Deputy J.A. Martin:**

Yes.

**Mr. H. Sharp, H.M. Solicitor General:**

Well, the answer to the first point, I suppose, is that you cannot force somebody to buy a property until they voluntarily stand up in court and put their hand up and the conveyance is given legal effect. In the event that a tenant goes bankrupt, or for whatever reason decides not to go ahead, then clearly if they go bankrupt then that deal is likely to fall through, is it not? Even if there is something in the contract which entitled the States to damages, the reality is that the States will not get its money.

**Senator P.F.C. Ozouf:**

It is always rather uncomfortable when the Solicitor General is put into a position of answering a question which could, effectively, affect Members' views in relation to the political matters. Would the Solicitor General confirm that pre-let agreements are entirely standard agreements with prospective tenants, that they are regularly entered into with a prospective tenant and a developer and that it is possible to put in place guarantees in terms of pre-let agreements in order to cover the position of the person constructing the development? In this case it being J.D.C.

**The Solicitor General:**

You can certainly put in place a pre-let agreement and you can certainly put in place various guarantees that relate to those arrangements. What you cannot do is force the person to go through with the contract. They have to voluntarily come to court to give effect.



**The Bailiff:**

I think the question was; are there consequences if they do not, if they breach the contract.

**The Solicitor General:**

It is open to the parties to agree what will happen if they do not come to court.

**Senator P.F.C. Ozouf:**

And that those agreements can be such that they mean that a guarantee is put in place which is more onerous than having to attend court in order to pass a contract, which means that the situation of the developer is protected and construct agreements so that that is the case.

[17:00]

**The Solicitor General:**

Yes, you can certainly construct agreements which include guarantees to protect the developer.

**Senator B.I. Le Marquand:**

Can I ask an additional question? Whereas, of course, the Solicitor General is quite correct, you cannot force him to pass a contract, is it not standard practice in agreements to impose a very large penalty clause for the failure so to do which effectively put a person in a position where they really must?

**The Solicitor General:**

If someone has agreed a contract whereby there is a penalty clause then plainly that person is going to be motivated to pass the contract they have already agreed.

**The Bailiff:**

Are there further questions?

**Deputy M.R. Higgins:**

Just confirmation: am I right in saying that pre-let agreements are primarily used to give confidence to the people who are providing the finance for the schemes? Would it not be the bankers; that there will be sufficient money coming in once the scheme is completed, therefore to give them assurance to lend the money? So really it is a money lending exercise, in the main, is that correct?

**The Solicitor General:**

The purpose of a pre-let agreement is to provide, as the Deputy has said, a degree of confidence and certainty as to what will happen because often there can be a time gap between a developer agreeing something with a tenant and the building being ready to be let. So it is all about confidence and trying to provide a degree of certainty.

**The Bailiff:**

Deputy Tadier, did you want to ask a question?

**Deputy M. Tadier:**

Just following on from that, could the Solicitor General comment on whether it is fair to say that the enforceability of any company which pulled out from the pre-let agreement is qualified. So even if there was an agreement in place which said they are still liable for 100 per cent of the costs, it would depend on the reasons for them pulling out. If they could make a good case that the reasons were mitigated for them pulling out that it is unlikely the States would get the full

recompense for what they have paid out and so we could be left, in theory, with a white elephant which is what some Members are worried about.

**The Solicitor General:**

If I assume that the company has the means to pay then ordinarily I would expect the States of Jersey to get their money back unless there was some really quite remarkable or unusual circumstance, which I cannot think of off the top of my head, which would somehow obviate the need for the company to meet its contractual obligations that it agreed to. So I would say the starting position is the company would have to pay up.

**Deputy J.A.N. Le Fondré:**

I think it is probably more a matter of process but reference has been made to, for example, getting a guarantee or a bond put in place to ensure that a pre-let agreement becomes effectively contractually enforceable to some third party or another. Would it be fair to assume that any such bond or guarantee that was put up would be subject to some form of viability assessment?

**The Solicitor General:**

I would say that perhaps that was the case.

**Deputy J.A.N. Le Fondré:**

Would it be reasonable to assume that any such bond or guarantee that was put up would be effectively subject to, or the project about which it related, would be subject to some form of viability assessment?

**The Solicitor General:**

When you enter into a pre-contract agreement you will want to secure guarantees, undertakings and relevant securities so that you are confident that if somebody pulls out, for whatever reason, there is sufficient financial cover for the project to continue.

**The Bailiff:**

Very well, so that completes questions to the Solicitor General, does it? Does any other Member wish to speak?

**11.1.5 Deputy J.M. Maçon of St. Saviour:**

If I can just bring Members' attention back to the proposition as worded by the Constable of St. Helier. I am conscious that if the States were to adopt this then they would trump - I will use the word "trump" - the previous proposition brought by the former Deputy of St. John, now the Constable of St. John, P.77/2009. Just for the benefit of new Members and to refresh the minds of existing Members - sorry, not to offend Deputy Martin - the States agreed. Now, the Minister for Treasury and Resources of the day did bring an amendment, so I will read it as it was amended: "To agree that the development of the proposed Esplanade Quarter works by Harcourt Development Limited and other area of the St. Helier Waterfront including the sinking of La Route de la Liberation should be deferred until there is a significant improvement in the economic situation in Jersey with clear indicators of economic growth and to request the Chief Minister, in accordance with Articles 22A of the Articles of Association of the Waterfront Enterprise Board Limited, to give directions to the effect of that company." So I have got to ask myself what the States has already agreed to what has been proposed before us, how different are these 2 proposals in that the Constable of St. Helier is asking us to wait until some point in 2012 in order to reach some decision. Whereas what we have previously agreed is that no decision should go forward until the Island is in a state of economic recovery which, I think we could all agree, could be sometime over 2012. So it brings us to the question about which one is better, which one stands,

which one fits better, which one has greater clout. I would very much be interested in the comments from the Constable of St. Helier when he sums up. The reason why I mentioned this is I think we all agree that we are all very nervous about this potential development and what it could mean to the Island and what it could not mean and whether we have the correct guarantees, *et cetera*. The reason why I am raising this is to ask the question, we are now talking about phased development but when we agreed this, again, we were talking about the overall and the whole plan, not about a phased development. It has now changed into a phased development scheme. My concern is how did we suddenly get here when we have already said: "Right, no, unless we have got an assurance that the whole scheme, in its entirety, has got the financial backing behind it, we should not progress." In fact, this is the point which I raised when the Deputy of St. John brought his second proposition, which was tweaked by the Chief Minister of the day and the Minister for Treasury and Resources of the day, which asked to change the way in which the phasing of the project were to continue and I made the very same point at the time. I said: "Right, we are changing from an overall assurance to a phased development." I did raise this point and at that time the Assembly rejected that proposition to say that: "We do not want a phased development, we want an overall development." Again, I am just wondering how this fits in with what has been proposed here. So I very much look forward to the comments of the Constable of St. Helier to see how his proposal is more - I was going to say more better. That is awful English: is better than what the States has already agreed and has already bound the Chief Minister and the Minister for Treasury and Resources with.

#### **11.1.6 Deputy S. Power:**

I was hoping to be able to speak tomorrow morning but it looks as if I am going to have to speak tonight. A number of speakers have referred to some subtle changes in this masterplan which has evolved in the last 7 to 8 months. When I went to the briefing last week I came away from the briefing with a kind of a nagging something in my head that said: "I cannot quite make this stack. What, exactly am I missing here?" What I am missing has been alluded to by Deputy Maçon, Deputy Martin and Deputy Young and it is the lack of detail. It is the absolute lack of detail here. I think Deputy Young has summed it up and said: "We need a bit of a breathing space here to figure out what exactly is going on." What gelled it for me were the comments of the Council of Ministers and I am going to bring Members through what has been said. If Members look at page 2, there are 3 bullet points in the middle, which is: "Improved transportation links to and from within the Island, improve the necessary infrastructure and encourage sustainable green development." That is the first bit and those boxes are not ticked. On the second part relating to the Esplanade Quarter on page 3, I am going to read the third paragraph down underneath the heading "Esplanade Quarter": "The Minister for Planning and Environment approved an outline planning permission for the development of the entire site subject to entering into a planning obligation agreement in August 2010. Subsequently this was completed by the Minister for Planning and Environment, the Minister for Treasury and Resources, the Minister for Transport and Technical Services and W.E.B." But following this we are now being told that we are going to have a phased development. A phased development, not the entire development and it gets worse. As far as I can see the planning obligation agreement has not been amended. I am not quite sure whether the Minister for Planning and Environment has covered that in his comments but the actual planning obligation agreement that Deputy Young refers to and I went to the trouble of printing it off - I have got one - I printed it off as well. It is not in there, the planning obligation agreement dated 31st July 2010 is not amended. Then you go down to the next paragraph below the Council of Ministers' comments on page 3 and it says: "The Council of Ministers in March 2011 recognised that the underground road agreed as part of the Esplanade Quarter Masterplan was an important issue to Islanders [you bet it is] and assured States Members that any modification of Route de la Liberation will be brought to the States for approval as landowner before being committed." So

what happens next? When we look at the modified scheme that Jersey International Finance Centre has brought forward we look at the original scheme on the Esplanade Quarter and when I look in detail at the lack of detail, what do I find? I find that there is no housing component whatsoever in the first phase of this scheme to be accepted by this august Chamber. There is no housing component of any kind on the scheme. What else have I discovered if you look at the lack of detail? It means that any of the public areas on the ground floor are now offices. So the public amenity in the first phase of this scheme appears to me to have no housing component, it is part of a section of an entire masterplan and there is no public amenity. So for any of you who have walked around Liverpool Street at night or Fenchurch Street or Tabernacle Street or the city at night, what do we find? We find a ghost town. We find a ghost town. What we are being asked to look at here is a Waterfront phased scheme which has not been approved by the planning obligation agreement and a section of this, on the Esplanade car park, which does not have any residential and has no amenity or no public use or no restaurant or bars or gyms or whatever you would like to put down there. So the devil is not in the detail - that is not provided by the J.I.F.C. - the actual problem is in the Council of Ministers' comments and that is where I found my answers to some of this. I am really saying to myself: "Where are the original masterplan schemes? Where are the roof gardens that were supposed to be on top of some of these buildings?" The answer is they have been taken out. So what we are going to have is a series of office blocks - office buildings - which will close at 5.30 p.m. or 6.30 p.m. and we will have amenity space that will be empty of any kind of attraction for the public of the Island or for the residents of St. Helier to go down there. I really do wish to be corrected if I am wrong, but I ask Members of this Assembly to find the detail that I cannot find and I think the detail is in the Council of Ministers' statements. So I think we have, as Apollo 13 said: "Houston, we have a problem." We have a problem in that this is going to be a Tabernacle Street, a Fenchurch Street or the city at night; ironic that the interim chairman has come from the city to guide us into a living Waterfront plan that may not be up to the expectations of the public of the Island. Having said that I then looked at the planning obligation agreement in some detail, and I think Deputy Young will agree, there are a lot of pages in it, it is quite a thick document, but in answer to Deputy Martin's relevant comments on the financial risk factor it is in section 4 on page 10. In my layman's language essentially what this means is if the States have a pre-let client - some bank - and that bank wants to trigger the development of this £50million, £60 million - I do not know what it is going to cost - scheme the financial commitment of the bank will be a very small percentage of the cost of the scheme so therefore yes it will be. I know Deputy Noel is nodding his head, but the pre-let is ... He is shaking. I do not know the difference between nodding and shaking.

[17:15]

What I am trying to get at is ... I had better not watch Deputy Noel's head because it upsets my concentration. **[Laughter]** What it means is that for a relatively small outlay, such as one year's rent or maybe 20 per cent of the capital value of the building, we are going to go ahead and compromise the biggest single valuable scarce resource that we have got on the Waterfront, whether it is going to be used for a hospital or not, that is a decision for this Assembly at some time in the future. So, what are we faced with? Lack of detail, lack of time, we seem to be faced with a situation that we have a Jersey development company who want to promote the J1 development which is very close to an approval. Suddenly we have the Jersey Government, the Jersey States-owned development company, rushing to the firing line and saying: "Hang on, we have got one as well. Let us have a look at our one because our one is as good as the J1 development." I am not quite sure that is the way we are going to do business. I am not quite sure that is the way we should be doing business. I looked back at the debate and at Hansard on the debate of the Deputy of St. John's, now the Constable of St. John, proposition to defer any decision and I have to say that I

made the wrong decision that day. I voted against the Deputy of St. John and I should have supported him. I should have supported the Deputy, now Constable of St. John, because I think he was on the money. I think he brought that report and proposition to the Assembly for the right reasons, that we defer a decision on this. Interestingly, on one of the quotes on Hansard, if I can find it quickly, Senator Ozouf said to us, on a long speech but most of what he said was relevant, but this particular bit was very relevant and it is on page 83. Senator Ozouf said: "Since the original masterplan of course optimism levels in the world financial economy have gone down and now they have risen and indeed confidence in Jersey is rising." That was May of this year. Well, of course, Senator Ozouf did not know that the euro was going into some spasm of financial anguish and we still do not know what is going to happen there. Both Senator Ozouf and Senator Cohen convinced us that the temporary blip in the world financial markets was over and therefore we should drive ahead and go for developing this wonderful site that we have got down there for our finance industry. How times have changed. The Constable of St. Helier referred to a number of statistics that are available with regard to those sites with development potential on the existing Esplanade. We know J1. We know J1 is a local company. It is a local family. We know that they are prepared to put their money where their mouth is and that they are prepared to develop that big site in Broad Street. We know that there are at least 3 other schemes on the Esplanade that have come before the Planning Department and that are able to yield another 500,000 to 600,000 square feet, maybe 4 schemes. So if you take J1 plus the 4 schemes on the Esplanade that the Constable of St. Helier has referred to, we are looking at an existing yield of at least 900,000 square feet before we touch the Esplanade car park, before we move on to the Esplanade. So, in my view, where we are this afternoon is that there is a final push, shove and clamber or clawing sort of an exercise in desperate clawing to get this Assembly to agree a phased development under a planning obligation agreement that has not been amended. I think that is not the way we should be doing business. I have to say to Members that having said that we should innovate 2 hours ago or 3 hours ago **[Laughter]** I have to put my hand up and say there is a difference between 46 Homebuyer houses and 600,000 square feet of Waterfront development property. I will say that I am positive in saying that the 900,000 square feet that we may or may not need can come from the Esplanade before we push on to this site. This site is a really scarce resource. It is an enormously scarce resource. I would say to anyone - Deputy Noel you can turn the other way please - I can say to Members that we have not done particularly well on the existing buildings on the Waterfront. The Constable of St. Helier started his speech by saying: "What would you pick in Jersey to say that that is the building of merit, or the size of merit?" Well I have said it in the Constable of St. John's debate in May, I said: "The one that I like is the Esplanade car park because I think it is the best feature of the Waterfront at the moment", because there is not a lot else that you would say gives you or fills you with pride. We have to live with that. What else do I want to say before I run out of adrenaline? One of the issues that I, again, looked at last night on public car parking on this phased part of the planning obligation agreement that is not amended is if we have public parking under some of these buildings on the Esplanade, and I am not a lawyer, and I do not know whether the Solicitor General would wish to comment on this, but if T.T.S. are leasing or if a public body is leasing an underground car park which is an integral part of a large building, and for whatever reason that financial institution in that building goes down and the banks repossess that building, can they repossess the building without the car park which is under States control or how is that done? My worry is the covenant that the public would have on the underground portions of these buildings, how clear would the covenant be. I do not know whether the Solicitor General could ... is that a major concern or how can we ... My concern is if a building goes into administration, if it is repossessed, can the public interest in the underground car parks be compromised?

**The Solicitor General:**

I may not have understood that question entirely but assuming the public is the ultimate owner of the car park then the car park, at some point, will return to the public.

**Deputy S. Power:**

Okay, there is another question but I will think about it. To summarise I have concerns about this. I have concerns about the way it has been presented. I have concerns about the lack of detail. I have tried to express my concerns about the phrasing, about the fact that the planning obligation agreement has not been amended and there are issues in the planning obligation agreement that I have identified. In some cases the devil is in the lack of detail. There are 3 or 4 schemes within the St. Helier Esplanade Quarter that can easily cope with this particular client or tenant that J.I.F.C. is chasing. What else did I want to say? I do not know if I need to say anything else. I have probably irritated the Minister for Treasury and Resources, the Minister for Planning and Environment and the Assistant Minister for Treasury and Resources now and I think the best thing I could probably do is gracefully sit down and let somebody else speak. But it is clear that I will be supporting the Constable on both counts and particularly I do not want another apartment complex or development on La Folie. There are potential uses for that old area of St. Helier which should be preserved in its present form. It should be restored sympathetically, sensitively and it should be knitted-in with Waterfront activity at a cost that is reasonable to those who go down to the sea in boats. I find it ironic that the only States-owned public house on the Island that as soon as the States put a new roof on it, 9 years ago, they closed it.

**11.1.7 Connétable D.J. Murphy of Grouville:**

Well, this is hotting up, is it not? I have to declare an interest here that I was a director of W.E.B. on behalf of the States and I must say that that was well after the present buildings were erected down there. Nothing to do with me, okay? However, I just want to say to start with, part (b), I also have an interest in this. The Sea Cadets are ensconced in buildings in Fort Regent which are not only dilapidated, they are dangerous and the sooner they can get Les Galots sorted out where they have been promised this for years and years and years, they have money in the bank ready to pay for part of it and I would like to leave Les Galots out of this. I would like the Minister for Planning and Environment to take on board that we are watching this and that Les Galots should be certainly looked after and passed on to the rowing club and the Sea Cadets who have a proper use for it and a proper maritime use for it and I hope that he is going to bear that in mind when he is considering the development. As for the Esplanade Quarter: now, you have heard some emotive speeches about this, that and the other. I want to make it perfectly clear, day one; I was in the property business for many years so I do know a little bit about it. The development financing which I think Deputy Martin was very worried about indeed; it is a normal commercial transaction that you find a tenant for a building, or for a non building, or for a site. You agree with the tenant what he wants to build or what he wants to inhabit. You then agree with him a fair rental for that. At the same time you get your surveyors to come up with a figure which will build that out. At the end of the day you are hopefully going to build it for your tenant, exactly what he wants, at a price which will leave you a margin of profit. That is exactly how it works. It is very simple. You are building something to order and taking it out at the end. At the end of the day the normal situation, certainly in the City of London and certainly everywhere else I have ever dealt in in the U.K., is that you will get a big pension fund or insurance company coming along and taking it off your hands in order to achieve say 6 per cent or 7 per cent with various uplifts over the years. It is just normal. It is so normal that it is accepted as just an ordinary way of doing business and there is nothing underhand about it or anything secretive about it. It is perfectly straightforward. The Constable of St. Helier made a big deal about the hospital, if it needs to be moved. Well, he mentioned the land around the Town Park. Now sure that is owned by the same people that own J1. So what are you going to do, call it J2? We have then got the College for Girls' site. We have also got St. Saviour's where the hospital

is now, which can be built on. There is no shortage of sites for the hospital if it needs to be rebuilt to go somewhere else. I think that he is, perhaps, not telling us the whole ... There is plenty of space for the hospital to go to and better sites. I would have thought that the College for Girls' site would be absolutely fantastic for the hospital. It is right in the middle of town. It is easy access, north, south, east and west. So what is wrong with that? I mean I had been involved with the College for Girls' site years ago when we stopped them selling it to a developer. I do not really want to go on much more because a lot has already been said and I do not think I can add more and more to it. So I will leave it at that. So I will be opposing part (a) but I will also be opposing part (b) because I think that should be left to the Minister for Planning and Environment to sort out in his own wisdom.

**The Connétable of St. John:**

Can I move the adjournment?

**The Bailiff:**

Yes, there is great enthusiasm to move the adjournment. **[Laughter]** There is one matter that I can inform Members, it is in R.147/2000 - Land Transactions under Standing Order 168(3): La Mondine, Grève D'Azette, St. Clement, presented by the Minister for Treasury and Resources. Very well, so that concludes today's sitting and the Assembly will adjourn until 9.30 a.m. tomorrow morning.

**ADJOURNMENT**

[17:28]