

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 13th MAY 2014**

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[9:30]

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

**COMMUNICATIONS BY THE PRESIDING OFFICER**

**1. The Bailiff:**

On behalf of Members, may I welcome His Excellency to this sitting of the Assembly. **[Approbation]** Secondly, I would like, if I may, publicly to thank and pay tribute to all those who helped in the preparation for Liberation Day this year. As Members know, a lot of people put a lot of work into the preparation for Liberation Day, very often doing it in their own time and on a voluntary basis, so I really do appreciate it and I hope that Members felt it went well, and I certainly would like to express my thanks to all those who gave so much time. **[Approbation]** Then finally, under A, as Members know, Lisa-Marie Hart has been appointed as Deputy Greffier of the States to replace Mrs. Anne Harris. Before she can take up the office, it is necessary for her to take the oath in the States, so I would be grateful if Mrs. Hart would step forward. Before she takes the oath, I know that her appointment has been announced to much acclaim in the Assembly on a previous occasion, but I just want to repeat how much all Members value the service you have given as Assistant Greffier; they, I know, have great confidence in your ability to perform the duties of Deputy Greffier, and I am sure they join me in wishing you every success during your term of office. **[Approbation]**

**Senator B.I. Le Marquand:**

Sir, could I just raise a point in terms of the order of the States. The fact the Chief Minister is not here means that, although there are certain items that have been dealt with by one of his Deputy Assistant Ministers, if we were, par impossible, to get to P.33, which of course is major item, it would have to be put back to start tomorrow so that he can, indeed, be there.

**The Bailiff:**

That, of course, is a matter for Members, but I would have thought the prospects of getting to Projet 33 today are not that high. **[Laughter]**

**Senator B.I. Le Marquand:**

I did say “par impossible”, Sir.

**Connétable J.E. Le Maistre of Grouville:**

If it helps, Sir, I will be asking for my debate on Grouville School parking to be delayed until after a planning application is dealt with.

**The Bailiff:**

Very well. Sorry, deferred how long, Connétable?

**The Connétable of Grouville:**

Until that planning application is decided upon, Sir.

**The Bailiff:**

Very well, so you are deferring it for the moment.

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

Sir, may I do the “possible” and raise the défaut on the Connétable of St. Saviour?

**The Bailiff:**

Does the Assembly agree to raise the défaut on the Connétable of St. Saviour? The défaut is raised.

## QUESTIONS

### 2. Written Questions

#### 2.1 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING TAXATION RECEIVED FOR 2012 AND 2013:

##### Question

Would the Minister Provide figures for the amount of taxation received from each area of the economy for the years 2012 and 2013?

##### Answer

Figures are provided below for (i) Income Tax and (ii) GST.

##### (i) Company Income Tax

<b>Sector</b>	<b>2012</b>	<b>2013</b>
Financial Sector	59,275,000	69,778,000
Real Estate	12,238,000	11,644,000
Transport and Communications	2,421,000	2,041,000
Other Business Services	2,575,000	1,775,000
Construction and Quarrying	1,092,000	1,152,000
Agriculture and Horticulture	358,000	739,000
Hotels and Restaurants	714,000	675,000
Wholesale and Retail Distribution	538,000	553,000
Other Community, Social and Personal Services	59,000	146,000
Health and Social	45,000	65,000
Manufacturing	17,000	21,000
<b>Total</b>	<b>79,332,000</b>	<b>88,589,000</b>
Adjustment for accruals and year of assessment basis	157,000	9,893,000
<b>Corporate Income Tax</b>	<b>79,489,000</b>	<b>98,482,000</b>

Notes to Income Tax figures:

The above analysis is only for corporate entities, It does not include partnerships or self-employed.



The industry classification is on a Taxes Office basis. This classification is in the process of being revised to bring it into line with the classification used by GST and other States Departments, in order to provide more consistent reporting.

The classification above is based on the primary activity of the business, which may not be the main source of tax income (for example, many businesses receive rental income, which is taxed at 20%, whilst their primary income from a trade is taxed at 0%)

In order to be able to report on tax revenues by industry, information is only available based on year of assessment, rather than financial year. Year of Assessment 2012 is almost exclusively recorded in financial year 2013, and Year of Assessment 2011 is almost exclusively recorded in financial year 2012.

There are two primary reasons for differences between Year of Assessment basis and Financial Year basis - accrual adjustments and amendments to assessments relating to other years. The net impact of these is shown separately. The main reason for the £9.9m 2013 figure is exceptional one-off revenue of £10.2m, representing UK source property-related profits from a previous Year of Assessment.

#### (i) Personal Income Tax

It is not possible to analyse Personal Income Tax by area of the economy as a significant element of personal income is unearned, and cannot therefore be allocated to an industry. The comparable figures to the company tax data above are:

Financial Year 2012 £353,993,000

Financial Year 2013 £356,666,000

Amounts are as at 31 December 2013 and are as shown in The States of Jersey Financial Report and Accounts 2013, Revenue Note (9.5).

#### (ii) GST

<b>Sector</b>	<b>2011 (Previous Basis)</b>	<b>2012 (Previous Basis)</b>	<b>2012 (New Basis)</b>	<b>2013 (New Basis)</b>
Retail trade excluding trade & repair of vehicles and motorcycles	18,469,000	23,284,000	23,518,000	23,160,000
Wholesale trade, excluding trade and repair of vehicles and motorcycles	7,192,000	8,500,000	8,625,000	8,443,000
Accommodation and food service activities	6,320,000	8,194,000	7,890,000	8,301,000
Construction	5,138,000	5,295,000	7,209,000	5,067,000
Electricity, gas, steam and air conditioning supply	3,544,000	4,542,000	4,426,000	4,388,000
Information and Communication	3,639,000	4,478,000	4,405,000	4,036,000
Trade and repair of vehicles and motorcycles	3,083,000	3,774,000	3,601,000	3,819,000
Professional, scientific and technical activities	3,067,000	3,548,000	3,252,000	3,316,000
Administrative and support service activities	2,005,000	2,362,000	2,375,000	2,285,000
Real Estate activities	694,000	1,766,000	1,083,000	2,114,000
Manufacturing	1,774,000	1,901,000	2,056,000	1,709,000
Financial and Insurance activities	405,000	545,000	443,000	1,102,000
Agriculture, forestry and fishing	533,000	888,000	824,000	1,100,000
Arts, entertainment and recreation	889,000	1,114,000	1,125,000	1,092,000
Transport and Storage	600,000	841,000	757,000	821,000
Water supply, sewerage, waste management and remediation activities	540,000	739,000	667,000	720,000
Mining and Quarrying	657,000	540,000	595,000	535,000
Other service activities	221,000	285,000	283,000	297,000
Education	7,000	84,000	81,000	104,000
Human health and social work activities	6,000	13,000	5,000	44,000
Activities of households as employers; undifferentiated goods and services	(3,000)	(47,000)	44,000	(1,000)
ISE Status	(37,000)	(36,000)	(20,000)	(22,000)
DIY House builders	4,000	(129,000)	(80,000)	(82,000)
Charity	(797,000)	(1,032,000)	(1,082,000)	(1,332,000)
Public administration and defence; compulsory social security	(3,680,000)	(4,100,000)	(4,178,000)	(4,214,000)
Adjustment for accruals and return basis	691,000	555,000	-	-
<b>Total Domestic GST</b>	<b>54,961,000</b>	<b>67,904,000</b>	<b>67,904,000</b>	<b>66,802,000</b>
<b>Import GST</b>	<b>2,393,000</b>	<b>2,901,000</b>	<b>2,901,000</b>	<b>3,161,000</b>
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<b>International Service Entity (ISE) Fees - Finance Sector</b>	<b>8,904,000</b>	<b>9,255,000</b>	<b>9,255,000</b>	<b>9,363,000</b>
<b>Total GST</b>	<b>66,258,000</b>	<b>80,060,000</b>	<b>80,060,000</b>	<b>79,326,000</b>

Notes to GST figures:

The table reflects the accrued revenue position that reconciles directly to the States of Jersey accounts (New Basis). Previously it has only been possible to produce industry information based on the period end of returns- a single return can span two years - with a separate adjustment to account for accruals. The written answer to States Question reference 1240/5(7867) by Deputy Vallois, tabled on Tuesday 8<sup>th</sup> October 2013, presented figures on this previous basis. These figures are reproduced in this answer.

Negative values are repayments (i.e. the business has paid more GST on its expenditure than it has on its sales, normally because it is making some zero-rated sales and is therefore entitled to a GST refund).

It is important to note that these figures are not directly comparable to other measures such as retail sales figures, for the following main reasons:

- GST includes both revenue and capital spend, so major capital projects can distort return values.
- Not all businesses are GST registered (turnover below threshold).
- Some sales will not have GST applied (e.g. zero rated/exempt sales such as domestic house building and export of goods)

The industry analysis is a modified version of the UK 2007 Standard Industry Classification.

## **2.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING SUPPORT FOR LOCAL FISHERMEN:**

### **Question**

Would the Minister advise whether he intends giving support to fishermen who have suffered as a result of this winter's weather and, if so, would he describe the means by which he will achieve that?

Is he considering interest-free loans or grants and, if so, would he explain how that will be administered and how he will achieve fairness?

Furthermore, should the support be, for example, funding to replace lost or damaged pots etc, how will he ensure claims are genuine?

### **Answer**

My Assistant Minister, the Deputy of Grouville, wrote to commercial fishermen on 14th April 2014 outlining a package of measures designed to support them following the recent sustained period of bad weather.

The package comprises:

- The Economic Development Department (ED) covering the remaining Harbour Dues and / or commercial moorings (Ports of Jersey already discount Harbour Dues by 50%) of commercial fishermen for 2014 (ED will pay Ports of Jersey who will reimburse dues already paid).
- ED, supported by the Chief Minister, are working with Treasury & Resources to secure funding to be able to provide grants to commercial fishermen covering up to 80% of the cost of replacement or 20% of the cost of repairing, pots lost in the recent bad weather. If funding is secured from Treasury & Resources, grants will be awarded based on information provided to the Department that warrants that the losses have been incurred and that any grant monies awarded have been used for the purpose for which they were intended. All grants will be subject to published criteria.
- ED covering the Jersey Fishermen's Association's contribution in 2014 and 2015 to the annual Marine Stewardship Council (MSC) audit for the accreditation of the lobster fisheries and providing the minimum order quantity of bands carrying the MSC logo.
- ED have arranged for fishermen to discuss with Social Security means to be exempted from contributions liability during times when businesses are suffering from reduced incomes with the previously supplied dedicated points of contact.
- ED will arrange for officers from Social Security to meet the JFA and other commercial fishermen to explain Income Support and/or discuss any problems fishermen may be experiencing in accessing the scheme. The Income Support scheme is available to self-employed people on low incomes, subject to their other family circumstances and can adjust to variations in earnings.
- The structure of contributions, particularly for the self-employed, including share fishermen, will form a significant part of the fundamental review of the Social Security contribution scheme from 2015 and officers of ED will be involved in proposing new structures and schemes.
- ED will arrange individual and collective business support as appropriate, in particular for marketing and export activity, by Jersey Business Limited.
- ED will facilitate discussions between the JFA and the Genuine Jersey Products Association with a view to promoting the consumption of local fish and shellfish.
- ED working with the JFA, and other industry representatives, to commission and deliver a long term business development strategy for the fishing industry in Jersey.
- Strenuous efforts being continued by Government at political level, to assist fishermen with the territorial challenges they currently face with Guernsey.

Officers are working with the JFA to establish a set of criteria in addition to Financial Directions for the proposed grants which will ensure any grants made are equitable, proportionate, and made to genuine claims only. This will involve the establishment of a panel comprising members of the JFA to review all submitted claims.

**2.3 DEPUTY S.Y. MÉZEC OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING LEGISLATION REGARDING ENTRY TO RESTAURANTS AND PUBS FOR A PERSON ACCOMPANIED BY A GUIDE DOG:**

**Question**

What current legislation, if any, exists to prevent restaurants and pubs refusing entry to a person accompanied by a guide dog?

**Answer**

There is no legislation in Jersey to prevent restaurants and pubs refusing entry to a person accompanied by a guide dog

**2.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING STATISTICS OF THOSE FAILING TO ACTIVELY SEEK WORK:**

**Question**

Will the Minister provide members with a breakdown of the reasons behind the 500 warnings issued to jobseekers for failing to actively seek work?

Would the Minister also provide a breakdown of those who were subject to sanctions (withdrawal of personal component) for a second or third breach along with the intervals between such breaches?

How many of these cases were appealed and found to be incorrectly applied?

How many have been subject to complete withdrawal of benefits?

Will he also supply a suitably anonymised list of the 71 “insufficiently good reasons” for leaving work which were also sanctioned and the length of employment in that job?

Will he further give details of those 10 cases where the application of sanctions was found to be invalid?

Does he believe that a 15% failure rate on these cases is satisfactory?

Do his departmental rules categorise the turning down of a zero-hours contract as reasonable for a jobseeker?

**Answer**

The Back to Work programme provides significant support to locally qualified jobseekers to both help them find and then stay in work. In 2013 Back to Work supported jobseekers to secure 1818 paid jobs.

It is simply not right that people should be able to rely on the taxpayer to fund their living costs when they are unwilling to uphold their end of the bargain and take reasonable steps to find work. This is why in October 2013 I introduced changes to Income Support legislation to strengthen the

department's ability to sanction people who fail to look for work and a sanction to deter people from giving up work.

The Departments Determining Officers will issue a Warning Notice in accordance with Income Support legislation and internal guidance when a jobseeker has not actively sought work. Between 15th October 2013 and 30th March 2014 506 warnings were issued. The most common reasons for Warning Notices to be issued is as detailed below;

- a. Failure to attend a prearranged appointment with the department.
- b. Failure to attend a prearranged training event organised by the department.
- c. Not producing enough evidence of Actively Seeking Work (ASW).

All of our employment support remains available throughout every stage of the process

Since the Income Support legislation was amended in October 2013 the following breach one, two and three ASW sanctions have been applied.

- a. Confirmation of ASW breaches by breach type

Breach 1 (2 weeks adult component removed)	203
Breach 2 (4 weeks adult component removed)	93
Breach 3 (all income support benefit removed)	30

- b. Intervals of the breaches listed by breach, the 3 columns being independent and therefore do not reflect the history of any claim in the proceeding column:

	Warning to Breach 1
0 – 4 weeks	147
5 – 8 weeks	37
9 – 12 weeks	9
13 – 16 weeks	5
17 – 20 weeks	4

21 – 24 weeks	1
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	Breach 1 to Breach 2
0 – 4 weeks	74
5 – 8 weeks	8
9 – 12 weeks	7
13 – 16 weeks	4
17 – 20 weeks	0
21 – 24 weeks	0

	Breach 2 to Breach 3
0 – 4 weeks	25
5 – 8 weeks	3
9 – 12 weeks	2
13 – 16 weeks	0
17 – 20 weeks	0
21 – 24 weeks	0

To date no ASW sanctions have been appealed and found to be incorrectly applied.

The total number of claimants who have not complied with Actively Seeking Work and have progressed to a breach 3 is 30. Under the previous sanctions regime we would have expected to see in the same period approximately 50 claims closed (average of 9 per month).

I am firmly of the view that people should not believe that they can give up paid employment without good reason and rely on public funds to support them. In October last year I introduced a new sanction for people who leave work without good reason. This sanction removes the Income Support adult component for 13 weeks, although payments for rent and children are still available.

From mid-October 2013 to the end of March this year, 71 people have been subject to the new sanction. The reasons and lengths of employment prior to the giving up work sanction being imposed is as follows;

Scenario	Less than 6 months employment	Over 6 months employment
Dismissed by employer	20	8
Left work voluntarily	30	13
Totals	50	21

Not all of the individuals leaving work without good cause will have been placed into positions by Back to Work. However, to put these figures in context, over the same period between mid-October 2013 and March 2014, Back to Work supported jobseekers into nearly 1000 paid positions.

In 10 cases where this new sanction has been applied, claimants have subsequently provided further evidence (from the employer and/or the claimant) that was sufficient to change the outcome of the sanction decision. I do not see this as a failure rate – officers can only make decisions on the evidence presented before them at the time. This sanction only applies to the adult component and therefore other parts of the claim can still be paid once the claim is active.

I can advise that the Department does not apply different rules in relation to turning down an offer of suitable employment if that employment is based on a zero hour's contract. Employment enhances and develops skill sets, increases socialisation and is good for the individual and economy. Any employment opportunity is therefore encouraged and claimants are always better off financially in work.

**2.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING RESULTS OF OFFICE FOR NATIONAL STATISTICS (O.N.S.) DATA ON ZERO HOURS IN THE UNITED KINGDOM:**

**Question**

Has the Chief Minister considered the latest Office for National Statistics data which estimates that there are 1.4m zero-hours (or no guaranteed hours) contracts in existence in the UK, up from 200,000 in 2011, along with the Resolution Foundation research which shows that zero-hours contracted workers are paid a lower hourly rate than other equivalent workers and that younger workers are disproportionately affected by these contracts?

In the light of these factors is he prepared to accelerate his own efforts to deliver his report on the local situation before the end of the year?



## **Answer**

Reporting on zero hour contracts in Jersey requires statistics from the Manpower Survey and Jersey Annual Social Survey, which will be available at the end of 2014, as planned. The Social Security Minister will then be in a position to consider and react, as necessary, to the use of zero hour contracts.

This timescale is in line with P.100/2013, as amended, and with the Social Security Minister's responses to previous questions (in particular, 8194 on 18th March 2014).

The results of these two surveys will provide a range of information, for example on the age profile of people on zero hour contracts, the industries in which they work, their household incomes and their views on zero hours contracts.

This information will enable us to compare Jersey data with that available in the United Kingdom. That includes data from the Resolution Foundation and the Office for National Statistics, the results of which have been noted.

## **2.6 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE MONITORING OF TRAWLING:**

### **Question**

Would the Minister describe whether his department monitors the night time trawling that takes place to the south and east of the Island, to ensure all relevant Laws and Regulations are being complied with and, if so, how and by what means?

### **Answer**

By using modern technology, we monitor all trawling activity around Jersey to ensure that access arrangements are being adhered to. This is now done in more detail than ever before.

The primary form of monitoring involves officers using the European-wide Vessel Monitoring System (VMS). All trawlers over 12 metres in length are fitted with tamper proof satellite monitoring devices and officers monitor the information from this system on a daily basis.

Officers also utilise Automatic Identification System (AIS) to monitor trawler activity and have discrete access to a locally based version of the system showing all the access zones. Unlike VMS, this system is not mandatory, so is of less benefit.

Jersey Coastguard radar also gives coverage of areas to the south east of the Island and Fisheries Officers work closely with Jersey Coastguard to utilise this facility, which coupled with VMS, creates a very useful surveillance system.

Through agreements with other jurisdictions, Fisheries Officers are able to access electronic and paper logbook sheets from foreign vessels to check catch composition and gear type. Trawlers are routinely inspected at sea to ensure that fish sizes, trawl equipment etc. are compliant with local regulations.

### **3. Oral Questions**

#### **3.1 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding the number of parking spaces provided at Cyril Le Marquand House:**

How many parking spaces are provided at Cyril Le Marquand House and, if they are used by States Members, would the Chief Minister specify who is permitted to use them?

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

There are 24 such parking spaces: 4 are allocated to Ministers, that is the Chief Minister, the Minister for Treasury and Resources, the Minister for Economic Development and the Minister for External Relations. Two are allocated to staff fleet cars and 18 are used by senior staff from the Chief Minister's Department, the Treasury and Economic Development.

##### **Deputy G.C.L. Baudains:**

I have no further questions and I thank him for the answer.

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

How many parking spaces are available for use by Ministers, Assistant Ministers, Chief Officers or other civil servants within the St. Helier Ring Road, and are they provided free of charge?

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

I do not think that relates to the question; it is far too far removed. I think you need to ask the question in advance on that, Senator, if you wish to.

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

Would the Minister consider publishing not just for his department but also liaising with the Chief Minister so that a list of all public parking spaces for public sector employees can be made available, so that we know exactly which staff benefit from free parking as part of their terms and conditions, *et cetera*, and that we know that those who do not? So if a comparison could be made between all the different departments.

##### **Senator B.I. Le Marquand:**

I am loath to commit the Chief Minister on that, but I will pass on that request for information to him.

#### **3.2 Deputy M. Tadier of the Minister for Health and Social Services regarding Le Geyt Centre Day services:**

Will the Minister advise whether new referrals to Le Geyt Centre Day Services have been stopped and, if so, can she explain why and state how the department proposes to meet the future needs of people requiring access to day services?

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

The simple answer is no. I can assure the Assembly that new referrals to Le Geyt Centre have not been stopped and no referrals have been refused.

[9:45]

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

Will the Minister respond to concerns of a constituent who states that: "I have had problems getting support for my daughter over the summer months, and this is due to staffing problems at Le Geyt

basically struggling to cope with the amount of people requiring their service.” Can she confirm whether or not there are staffing issues, resourcing issues and, over the summer period, whether parents and other carers have been told that the normal allocation has been reduced for that period?

**The Deputy of Trinity:**

As I understand it, there is no particular change. It would be totally inappropriate for me to go into details of the specific client and family issues. All I can say is that the family are very welcome to come and talk to the staff, as happens very regularly. These are very challenging adults and the service will continue to raise demands because of their needs. These people, like everybody else, are living longer with their complex needs.

**3.2.2 Deputy J.H. Young of St. Brelade:**

Would the Minister inform the Assembly what priority this particular service carries within her budget and whether she has plans for the future to expand it to meet the needs?

**The Deputy of Trinity:**

Every service that we provide within Health and Social Services is a priority, because you are talking about health needs; whether it is an acute hospital or a community setting, it is all top priority. The budget within the Le Geyt Centre is just over £1 million, and there are 62 adults and their families that we look after. We regularly talk to the service users, because there is a special needs advisory panel, of which service users act as a voice for that body, and obviously officers are on that panel, as well as a service user forum, which comes under the auspices of the Assistant Chief Minister.

**3.2.3 Deputy J.H. Young:**

Would the Minister accept that resources for support services is, in fact, an action for which giving priority is very cost effective because, if there is any failure in this area, it would ultimately result in long-term costs falling upon the public? Would she accept that the support services, particularly day care for all adult groups, is very important in the long run?

**The Deputy of Trinity:**

Indeed. As I said, all services within Health and Social Services are our top priority; that is the whole emphasis of the White Paper: more care in the community. When you think back, 5, 10 years ago, most of these clients were perhaps in institutional care. Was that right? No, that was not right; it is important that they are part of the community and continue to be part of the community.

**3.2.4 Deputy J.G. Reed of St. Ouen:**

Would the Minister confirm that the Le Geyt Centre Day Service is able to provide the necessary support to all those in need?

**The Deputy of Trinity:**

As I said, we have not refused any new referrals, and that demand will increase because we are an ageing population and, as with everyone else, their needs are there for the rest of their lives.

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

The Minister has twice now said that all services supplied by her department are top priority. Surely at budget time there is some prioritisation and there are some bids for funding which do not succeed. You cannot have all services at top priority, surely. Would she reconsider that statement?

**The Deputy of Trinity:**

Because we provide the health and social care for all Islanders, be it an old lady waiting for eye cataract treatment, be it in the community, like the Le Geyt Centre, and the good work that they do there, as well as services for young children, regarding the business plan, all requests for further involvement are sorted out as a business plan, and there is a business plan to do that.

**Deputy G.P. Southern:**

Can the Minister then account for the lack of prioritisation given to community dental services by her department?

**The Bailiff:**

No, that is drifting rather too far off the Le Geyt Day Centre, I think.

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

The Minister has just said in answer to a question that no referrals have been refused, but can she confirm that referrals to day services are turning into care for service users?

**The Deputy of Trinity:**

It is difficult to say that no new referrals have been refused. Each package of care is a bespoke package of care for that individual. We are talking about high-level young adults and older adults with complex needs, so therefore each package is a bespoke package of care and it does come at a price, too.

**3.2.7 Deputy J.A. Hilton:**

Can the Minister confirm in writing to Members the service-users who have been refused care in day services because of lack of resources, please?

**The Deputy of Trinity:**

I have just said that we have not refused anyone, so I cannot understand why a letter ... because it is a bespoke package of care and every client has got their own specific needs.

**3.2.8 Senator S.C. Ferguson:**

If there is a question of shortage of funds for the Le Geyt Day Centre, why is the Minister wasting resources on projects which cannot be policed, such as smoking in cars or energy reviews in private houses?

**The Deputy of Trinity:**

The budget for Le Geyt is just over £1 million plus, if there is anyone with a particular bespoke package of care, that will have to be put in place. As I said, each bespoke package of care, including Le Geyt, can cost well over £100,000 per client. As I said before, if they were in institutional care, obviously that cost is lower because being in institutional care comes at a cheaper price. That is not the way to go forward because they are part of the community and need to be treated as such.

**3.2.9 Deputy M. Tadier:**

It seems that the message coming from clients I have spoken to is that there are issues going on with respite, to do with reduction in services, difficulty in getting referrals. This issue about respite care, particularly as children move into adulthood, is an issue that comes up time and time again, and has done during this Minister's tenure. Will she take decisive steps so that these constituents, who are not by nature prone to complaining and who deal, as the Minister has said, with very challenging circumstances, can have security going forward to know that respite will be invested in? If new funds are needed to provide these services, will she approach the Minister for Treasury

and Resources and the Chief Minister and make sure that a long-term package for respite is put forward which can be workable?

**The Deputy of Trinity:**

There was some investment within respite within the White Paper for Respite Care, and that is being worked through and about to be delivered. As I said it is important that there is a users' forum and it is talking about those specific issues that the Deputy raises, within that forum, because the voices of the people that need the care is important, so together we can plan the future needs.

**3.3 Deputy S. Power of St. Brelade of the Minister for Treasury and Resources regarding the serving of disconnection notices by Jersey Water following non-payment of utility bills:**

The context of this question is that I am a committee member of the J.S.P.C.A. (Jersey Society for the Prevention of Cruelty to Animals). In light of the receipt by the J.S.P.C.A. of a disconnection notice from Jersey Water dated 28th April 2014, which was sent in relation to an invoice dated 27th March 2014, would the Minister, as representative of the shareholders, state whether all States-owned or controlled utilities send disconnection notices after 30 days and, if so, is this appropriate when certain consultations have to take place before any disconnection is allowed?

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

Sir, I am asking my Assistant Minister to answer this question; he is in charge of credit control.

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

We are unable to comment specifically with regards to utilities' individual client situations. Jersey Water would be unable to share this information with us for data protection reasons, however, I am advised that Jersey Water have attempted to make contact on a number of occasions since the 30-day notice with the J.S.P.C.A., and indeed with Deputy Power, and have not been successful to date. I am further advised that at Jersey Water there is a robust procedure in place for debt recovery; further, that in no circumstances would an account be disconnected when just 30 days overdue without further efforts by Jersey Water to contact the account holder and establish the reasons for the late payment. With regards to the other utilities, none of them disconnect after 30 days and they all have varying terms of credit control.

**3.3.1 Deputy S. Power:**

The Assistant Minister may not be aware of it, but the Chief Executive of the J.S.P.C.A. and myself have spoken to Jersey Water briefly. Would the Minister agree that there is an element of aggression now creeping into payment collection within States utilities and that that is not appropriate in the case of certain bills served on people who are not on the same scale of operation as the J.S.P.C.A.? Does he not think that the serving of a disconnection notice within 30 days is utterly inappropriate?

**Deputy E.J. Noel:**

With all due respect to the good Deputy, if people paid their bills on time then 30-day notices would not be issued, but I must reiterate the utilities do not disconnect ... for example with Jersey Water, their policy is very successful in the sense that the amount of actual disconnections out of the 120,000 users on their database is a mere 170 per annum, which is 0.01 per cent. So their systems are robust, they have been like this for some time, and it really is up to their customers to

ensure that, if they have difficulties in making payments, they contact the various utilities to discuss effective ways of paying their account.

**The Bailiff:**

I will come back to you, Deputy. Deputy Baudains?

**3.3.2 Deputy G.C.L. Baudains:**

The Assistant Minister spoke about people paying their bills on time, but if I look at these dates, I notice the invoice was dated 27th March, so the organisation would not have received it possibly until the end of the month. As a businessman, I am used to paying my accounts at the end of each month, so that would have rolled over; in fact, it would probably only have just been paid by the time that the utility was sending the disconnection notice out. Does the Assistant Minister think that is reasonable?

**Deputy E.J. Noel:**

As I have explained, the system is a robust system, it allows an adequate notice, and therefore customers can pay in a timely fashion.

**Deputy G.C.L. Baudains:**

Is the Assistant Minister familiar with business?

**Deputy E.J. Noel:**

Probably more so than the Deputy.

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

Given we are talking about a quango, call it what you will, it being one of our responsibilities, do the States themselves - their departments - pay their accounts within the 28-day period?

**Deputy E.J. Noel:**

All States departments operate within the terms and conditions they have with the utility suppliers.

**3.3.4 Deputy M. Tadier:**

When somebody has their water cut off because they do not have enough money to pay the bill and then they are asked to pay an additional sum in order to get reconnected, how does that help the individual get out of their debt and also be able to drink, wash and feed their children with water?

**Deputy E.J. Noel:**

The Deputy makes a good point but, in reality, that circumstance is highly unlikely to happen because the utilities, and particularly Jersey Water in this case - providing there is a willingness to pay, on even on a structured payment system - would not cut-off those individuals. There is protection there, they are not going to see Islanders, with families or without families, cut-off for the inability to pay. There is a safety net there.

**3.3.5 Deputy M. Tadier:**

A supplementary: I certainly know of cases, as I am sure we all do, where that has happened and families have called us up and had to borrow water off neighbours, *et cetera*. Will the Minister answer a more fundamental question as to whether he thinks access to clean water, drinkable water, is a basic human right?

[10:00]

**Deputy E.J. Noel:**

Of course I agree it is a basic human right, no one would say otherwise, but what the Deputy is neglecting to mention is that we have an income support system and part of those income support payments are to cover people's utility bills. There is a safety net there; Islanders should be encouraged to use it.

### **3.3.6 Deputy S. Power:**

The Assistant Minister should have told Deputy Tadier that Jersey Water cannot disconnect without the consultation of local Constables and the Health Department. My final question is this: the Assistant Minister stated that if people paid their bills on time they would not be served final notices or disconnection notices. As Deputy Baudains pointed out, this was served on Thursday, 28th March, which was at a weekend, and we did not receive it until later. Does the Minister not agree that serving a disconnection notice within the 30 days of a month-end is inappropriate? Would he not agree that this aggression in States utilities is utterly inappropriate? Answer the question, please, Assistant Minister.

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

I do not believe it is aggressive, it is good business and perhaps, if the body that the Deputy is a trustee of would care to switch to a direct debit basis, then they would not have this problem.

### **3.4 The Connétable of St. John of the Minister for Treasury and Resources regarding the impact of the recent Royal Court decision in the action between the Minister, the States of Jersey Development Company and Harcourt and others on the development of the Esplanade Quarter:**

#### **The Bailiff:**

Very well. Now, the next question arises out of a Royal Court decision which I personally gave, so I think it would be easier for everyone if the Greffier would just preside for that question, so I will ask the Greffier to take over briefly.

#### **The Connétable of St. John:**

In light of the recent Royal Court decision in the action between the Minister, the States of Jersey Development Company and Harcourt and others, would the Minister state whether this creates a conflict for the States when dealing with potential clients for the Esplanade Quarter and, if so, who is now representing the States interests and will this decision prevent the development from moving forward before the case is settled?

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

Standing Orders say that matters ought not to be raised when there is an issue of an ongoing court case, so I have obviously taken advice in the answer, but you will direct me or stop me where I am going too far in answering, if this is appropriate. But I have got to, of course, attempt to answer the Connétable's question.

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

You did pre-empt what I might have needed to have said, Minister, which is clearly the questions about the manner in which the States will be represented. Now, it is not about the merits of the court case; you cannot go into matters that are before the court.

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

Indeed, Sir, but what I will say is the Royal Court's recent decision was, effectively, a preliminary decision on the degree of weakness of the case and, therefore, it does not create any problems for

the continued development of the Esplanade Quarter, as I am sure the Connétable has read from the judgment, and the court's decision is clear. In his summing up, the judge said that he saw the plaintiffs having considerable difficulty, so I do not say anything else apart from repeating what is in the judgment. As the Royal Court's decision is referred to and we are appealing that, I should not be commenting on the case any further than that. Suffice it to say that it is not an impediment for the Esplanade Quarter in continuing the good work that it is carrying on.

#### **3.4.1 The Connétable of St. John:**

Will the Minister consider asking the J.D.C. (Jersey Development Company) to sit around the table with himself and Harcourt and try and resolve the issue and see if they could not move forward? Possibly that way the taxpayers' money and time might be saved as, in these types of scenarios, the only people who generally win are the lawyers.

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

This is an interesting question because I do not feel that I can discuss ongoing court cases and the merits, but I can say it is curious that the plaintiffs, perhaps through the Connétable in his asking of questions, feel they need to raise this issue in the States Assembly prior to an appeal, prior to hearing of the case, and suggesting that they are worried about what might happen in the actual claim in the further courts. These issues are best dealt with by the courts. The Treasury's position is clear: we have a strong case and it has no particular concern personally for me, but I do not think it is appropriate to be having discussions with counterparties, and that is certainly the advice that I have received.

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

The Minister in his answer criticises the question, suggesting almost that there is some motive. That troubles me. I know nothing about this case, but will the Minister not accept that this judgment is now in the public domain and these questions have been raised? He says it is not an impediment; surely will the Minister not reflect that if there is now going to be a full-blown court case, that carries costs, that must impact on the development? Surely he accepts there is an issue there to be dealt with that has potential consequences?

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

I would encourage the Deputy ... I am more than happy to answer questions on these issues, and Deputy Maçon sent the judgment round for Members to read. If Deputy Young has not had an opportunity of reading it, perhaps he should. The Royal Court described the plaintiffs' case as weak, but not sufficiently weak that it could be struck-out at an early stage of proceedings. As I have said, the decision is subject to an appeal and the Court of Appeal will be invited to reconsider whether this claim should survive an application to strike it out. That is the position. I would say that, notwithstanding the likelihood or otherwise of the success of the litigation, frankly, that has got nothing to do with S.o.J.D.C. (States of Jersey Development Company) continuing to ... and I think I have got other questions from the Deputy on the exciting possibilities of delivering S.o.J.D.C.'s aspirations: delivering quality office space to increasing demand to secure Jersey's economic future. That is the job they have been given, let them get on with it. This case will run its course through the courts.

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

I take the Minister's advice that I have not had the opportunity to go through the judgment, but he says he relies on it and that the judgment says that the plaintiffs' case is weak. Having had some background in working for law firms, I know that, notwithstanding whether a case is strong or weak, legal costs mount up and potentially that may result in some cost to the taxpayer. Surely that is a matter which the public are entitled to know about?



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

Yes, and I wish the court case was not being brought and, clearly, that the Minister for Treasury and Resources was not in a position to have to defend what is a weak case. There would be a situation that there would be an attempt, if it were a strong case, for one to settle it, but that is not in the interests ... we are not bringing the litigation, the other party is. It is interesting that they want discussions before the matters go forward; Members can read into that for themselves. I just do not think it is appropriate to deal with a litigious entity that is trying to take a matter to court, we have to defend ourselves and I have to do what is in the public interest, and the public interest is to defend robustly. If I may say, the Minister for Treasury and Resources is being given legal advice by the Solicitor General, and I have full confidence in the Solicitor General's abilities to be able to defend the States interests and the interests of the Minister for Treasury and Resources.

**3.4.4 The Connétable of St. John:**

It has been publically reported that the amended Order of Justice submitted by Harcourt goes on to plea that W.E.B.'s (Waterfront Enterprise Board) breach of contract was induced by the Minister. Clearly, this is a serious allegation that the developer would not make lightly, and it is surely of great concern to the Assembly that one of its Ministers has been put in this position. What is the Minister's response to this?

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

This is extraordinary. The Connétable is reading from a script, he is not a lawyer; presumably he is getting this information from somewhere, so perhaps it is up to him to reflect ... clearly he has got some typed notes, but it is a matter for him. This issue is a legal issue being raised in the courts. I have properly been advised, S.o.J.D.C. has been properly advised; let the courts decide on the merits of the case. This should not be an issue of politics and me having to, effectively, try to get politics involved in settling what is, for me, a strong position that the States has. Moreover, the suggestions of discussions of getting around the table; I have been asked to get around the table with the plaintiffs on a number of occasions and, clearly, the advice that I have had is that would not be appropriate and to leave it to the experts. The Connétable of St. John is not an expert; I do not know where he is getting his information from. Leave the courts to decide.

**Senator L.J. Farnham:**

Sorry, Sir. May I just say I could not help but feel rather uncomfortable during that exchange. I am not sure if the Minister for Treasury and Resources is suggesting that the Constable was getting his information ... or acting on behalf of another party. Would the Constable be prepared to confirm that he is not acting directly on behalf of Harcourt? I am sure he is not, but I think that needs to be quite clear.

**The Connétable of St. John:**

I am not acting on behalf of anybody other than the public of Jersey. I have read the court findings ...

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

Very well, you have clarified that.

**3.5 Deputy J.A.N. Le Fondré of St. Lawrence of the Chief Minister regarding the publication of the Dame Heather Steel report:**

Further to his response of 4th March 2014, does the Chief Minister have any further information as to when the Dame Heather Steel report is likely to be released into the public domain, in relation, obviously, to the Dean.

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

The Bishop of Winchester has very recently received the finalised form of Dame Heather Steel's report and should now, in accordance with paragraph 10 of the terms of reference, supply a copy of the report to anyone against whom disciplinary action is recommended and to the Bailiff, the Dean, and the Ministry of Justice. He should also provide a report fairly shortly to Bishop John Gladwin, who is conducting an inquiry in relation to the adequacy of safeguarding arrangements in the Church of England in Jersey. I have to say, it is understood that the Bishop is not intending to bring any disciplinary action against any clergy in Jersey. Under paragraph 13 of the terms of reference: "After the conclusion of any recommended disciplinary proceedings, the Bishop of Winchester is obliged to publish the report or a summary of its findings and conclusions although, where necessary the report may be summarised and/or redacted for legal reasons or to protect the identity of any person who features in the report who has provided relevant information to the investigation." That is a quote from paragraph 13 of the terms of reference. I am unable to say how soon the Bishop of Winchester will fulfil that obligation or in what precise form the information will be provided.

**3.5.1 Deputy J.A.N. Le Fondré:**

Thank you to the Minister for his response, and I think my question is in the event that things do not progress swiftly. Very recently, the Archbishop of Canterbury publicly stated that: "Any time the Church does not serve people in the way it should have done, it has to be very open about that." He also stated: "In order to understand the details surrounding the position of the Dean, one would have to look at the legal reports that have been made." I think, on that basis, one might express some concern that one might only ever see a summary of the findings. Given those statements, and this commitment of the Archbishop of Canterbury to open this, on behalf of the Chief Minister, will the Minister commit that he will write to the Archbishop of Canterbury if we do not see a summary or the report soon that, as the worldwide head of the Anglican Church, he will seek an undertaking from the Archbishop of Canterbury that he will adhere to those commitments and therefore will ensure that the Dame Heather Steel report is placed into the public domain soon?

**Senator B.I. Le Marquand:**

Again, I am always loath to commit the Chief Minister in his absence; I am sure Members will understand that. I know that the Chief Minister is of the opinion that it is important that the details of the report are made public; that is my own view also. I have in detail quoted paragraph 13 of the terms of reference, which do enable a certain amount of redaction and the production of a résumé. If, of course, that, when produced, was unsatisfactory, then I have no doubt that the Chief Minister will be urging the appropriate authorities to ensure that the essential information is made public.

**3.5.2 Deputy S.Y. Mézec of St. Helier:**

Connected to some of the same issues as the Dame Heather Steel report is the Glenys Johnston report. Does the Minister know if that will be released into the public domain at any point soon?

**Senator B.I. Le Marquand:**

No, I am afraid I do not. Obviously, I have been briefed specially in relation to such matters and my briefing did not go into the date as to when that is anticipated.

[10:15]

**3.5.3 Deputy S.Y. Mézec:**

Will the Minister acknowledge that the woman known as H.G. was not interviewed for either the Dame Heather Steel report or the Glenys Johnston report and, given that fact and how central she is to the story behind these reports, would he agree with me that the reports cannot be worth the paper they are written on if she was not interviewed?

**Senator B.I. Le Marquand:**

Frankly, I do not know whether or not she was interviewed; I have not been intimately involved in relation to the preparation of either of these. It is, I think, a matter for those who are producing the reports to determine whether it is necessary to interview a particular person or whether they have sufficient information from other sources.

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

In addition to the request of Deputy Le Fondré that the Chief Minister try and get the reports published, will the Chief Minister also be asked to press for Dame Heather Steel to honour her commitment that she would provide a transcript to former Deputy Bob Hill, who met with her regarding her investigations and also which she has reneged on, and therefore the suspicion is that her report cannot be independent if she will not give the information that she promised to give. So in other words, the transcript of her meeting with former Deputy Bob Hill; would he press for that to be released as well?

**Senator B.I. Le Marquand:**

Well, I can give no such assurance because that is entirely a matter for the Chief Minister, but I think we are going into difficult areas here because the Dame Heather Steel report was not a report that was commissioned by the Chief Minister, it was commissioned by the Disciplinary Board on behalf of the Bishop of Winchester. So it is a little bit difficult to see how the Chief Minister has control of such matters.

**3.5.5 Deputy M.R. Higgins:**

Would the Minister also agree that the conduct of all parties so far, with regard to reports and information and transparency, reflects very badly on the Church of England and the whole process of the investigation?

**Senator B.I. Le Marquand:**

I am personally highly critical of the approach which has been taken by the Bishop of Winchester in relation to this matter, I think he is very seriously at fault in relation to the way he initially dealt with the matter, but I do not think I am prepared to criticise the Church of England as a whole in relation to the matter.

**3.5.6 Deputy M. Tadier:**

There is an issue in that Deputy Higgins asked the Deputy Chief Minister simply if he would seek to contact Dame Heather Steel to see if she could give the information that she said she would give. Simply because the Chief Minister is not here does not mean that the Deputy Chief Minister is not acting for him. So will he acquiesce to that very simple request to send an email, either himself or via one of the officers or the Chief Minister, to ask what is going on and whether there is any truth in this suggestion that the information has not been released?

**Senator B.I. Le Marquand:**

The Chief Minister is, of course, back tomorrow. I do not think it is appropriate for me to start blundering around in the midst of this, but I will ...

**Deputy M. Tadier:**

The Minister is doing very well already blundering around during this question time.

**Senator B.I. Le Marquand:**

I am doing my best to achieve some information and some light, but I will happily ensure that the requests of Deputy Higgins and others are passed on to the Chief Minister for his consideration.

**3.5.7 The Connétable of Grouville:**

There seems to be a lot of secrecy over this issue, for example, the agreement that transfers the ecclesiastical oversight of the Deanery of Jersey from the Bishop of Winchester to the Bishop of Dover clearly has constitutional implications for the people of Jersey. Would the Assistant Minister ask the Chief Minister if he could publish this agreement, or perhaps find some other way of presenting it to the House?

**The Bailiff:**

I think that is straying a little bit outside the question.

**Senator B.I. Le Marquand:**

I am very happy to answer that one, Sir; I did anticipate that one and I think it would be helpful. I can inform Members of the Assembly that on 28th April the Chief Minister wrote to the Bishop of Dover urging him indeed to take a more transparent approach in relation to the terms of that agreement. I have a copy of it before me. The Chief Minister is of the opinion there really is nothing very secret in it and that there is no reason it should not be made public, so he is certainly urging the appropriate authorities to also take the same view.

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

Sir, may I give a point of information, which may help the Assembly?

**The Bailiff:**

Well, it is question time ...

**The Dean of Jersey:**

Well, fine, okay. That is fine. I have the report of the ... not the report, I would love to have the report. I have the agreement, it is not secret. Should any Member wish to come and see me, I will gladly let them read it.

**3.5.8 Deputy J.A.N. Le Fondré:**

That is interesting, given the transparency issue. Given the very rapid release of the Korris Review in full, and on particular online, just to put it in context, versus the perceived delay relating to the Dame Heather Steel report, does the Deputy Chief Minister agree that there may be a perception, if there is further delay or lack of full disclosure of the report, that pressure might have been applied in order to water down the contents of the Dame Heather Steel report?

**Senator B.I. Le Marquand:**

Under the terms of reference, it is quite clear under Article 13 that the Bishop now has a period of time in which to consider the manner in which the information contained in the report should be put out in the public domain. I do not think it is unreasonable that he be given that time. If there were excessive delay, I think it is fair to say that there would be strong suspicion that he had something to hide.

### **3.6 Deputy M.R. Higgins of the Chief Minister regarding the introduction of the Freedom of Information (Jersey) Law 2011 in the Island from January 2015:**

Does the Chief Minister consider that adequate progress is being made by States departments to introduce the Freedom of Information (Jersey) Law 2011 in the Island from January 2015, and is he satisfied that it, together with the proposed amendments to the Data Protection (Jersey) Law 2005, will lead to greater transparency in the public sector?

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

Very good progress is being made and both the Chief Minister's Department and various States departments are treating this as a high priority and are reasonably confident that the January 2015 date will be achievable for most of the bodies set out in the first schedule. However, it is right that I indicate to the Members of the States that it is not going to be possible to achieve that for all the bodies set out in the first schedule and that the Chief Minister will fairly shortly be bringing Regulations to the States to remove certain items from that schedule, for the time being, so that the January 2015 date can be achieved for the vast majority. I am happy to take further questions and go into details on that. I am expecting that there will be greater transparency in accordance with the law, partly because departments are likely in the future to put much more information which they have into the public domain and partly because members of the public are likely to be more aware of their rights to obtain information.

#### **3.6.1 Deputy M.R. Higgins:**

I would like the Minister to give us a bit more detail about what is going to be omitted, or suggest it be omitted in a moment, but is the Minister aware of the fact that some departments are shredding data and that advice is being given: "If you do not want it going out there, get rid of it." Recently, at a meeting of Deputies in St. Helier, we were advised that this is the information that some departments had been advised to do. In other words, go through their information, get rid of it. Is that a way of achieving transparency or is it just hiding some of the problems of the past?

#### **Senator B.I. Le Marquand:**

There is no secret of the fact that the records of many departments are not in very good order and that they are having to get their records into proper order. In so doing, decisions have been made as to what will be kept and what will not be kept. Now, the method that has been adopted has been by means of what are called retention schedules which are agreed with the archivist as to which documents should be retained. That is the process which has been adopted in relation to that. There is nothing wrong with that. My own former department of Judicial Greffe had huge amounts of information going back to the year dot, in the times when I was Greffier, all over the place. I know things have much improved since then but, in reality, you have to concentrate on what you need to keep and what is important to keep. In relation to the first half of the question, schedule 1 deals with the following matters ...

#### **The Bailiff:**

Minister, I am sorry, but how long is this? I think probably it would be better to circulate it in writing. Would you be happy for that?

#### **Senator B.I. Le Marquand:**

I would be very happy to do that, yes, Sir.

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

Would the Minister remind us whether or not there is a responsibility for government departments under the Public Records Law to ensure that records do get safeguarded for the long term, and is he

satisfied that we are fully meeting that obligation and there is no danger of stuff disappearing before it gets there?

**Senator B.I. Le Marquand:**

I am afraid that the Public Records Law is one of those laws which the States passed in a moment of enthusiasm without providing the necessary resources to put it into effect. I think that all Members know that, in fact, it has never effectively been put into effect, but what is now happening as part of the Freedom of Information process, is departments are now determining what it is appropriate for them to keep in consultation, as I say, with the archivist. I think that will be very much of an improvement. There is no point in having masses of information you have no idea where it is, or you cannot access it.

**Deputy J.H. Young:**

Sir, can I clarify: does that answer mean that we can, as it were, kiss goodbye to public records, as what he has said in the future for history purposes?

**Senator B.I. Le Marquand:**

No, that is the whole point of ensuring that that which should be kept, is being kept.

**3.6.3 Deputy M. Tadier:**

Does the Minister accept that, if we are having a judgment call as to what information will be kept and not, then the issue is that we do not know, in the future when we have a full Freedom of Information Act, what information will be requested. Simply for someone to turn up and say: "I am afraid that bit of information was shredded 5 years ago because someone took the decision that it was not relevant" is not really satisfactory, especially if you are being told to shred things by somebody higher up the command chain. So will the Minister really look at the issue and find out... nowadays in the electronic era, we should really be able to put most things in an electronic format; unless, of course, they really are pieces of information which are very unlikely to be called upon in the future.

**Senator B.I. Le Marquand:**

I am perfectly happy with the arrangements which are being proposed but, again, I am very happy to pass on the concerns of the Deputy to the Chief Minister.

**3.6.4 Connétable J. Gallichan of St. Mary:**

The Minister said that the Public Records Law was brought in without being followed up properly. Is he aware that, as long ago as 10 years ago, the Archive Department was working with Parishes and other authorities already building retention schedules and examining carefully, not haphazardly as some Members have said, what needs to be retained and what does not, and that this good guidance has been followed through to this day?

**Senator B.I. Le Marquand:**

No, I was not aware of that and I am very grateful to the Connétable for providing Members with that information.

**3.6.5 Deputy M.R. Higgins:**

Can the Minister tell us what safeguards are in place and what betting there is going on to make sure that inappropriate material is not being shredded? By "inappropriate" I mean things that could be potentially embarrassing for Ministers or departments. Who is safeguarding the process of destruction of documents to make sure that inappropriate documents are not shredded?

**Senator B.I. Le Marquand:**

My understanding is that matters have been agreed with the archivist; it is therefore up to departments to ensure that they are going to deal with matters in accordance with the retention schedules. Obviously, if there was information in any individual department that that was not happening, that information should be passed to senior officers, or indeed to the responsible Minister in order that they may ensure that what is happening is in accordance with the arrangements agreed.

### **3.6.6 Deputy M.R. Higgins:**

Can I follow up to ask if there is any auditing of this process going on to make sure it is not happening, or are you just relying on people to whistleblow?

### **Senator B.I. Le Marquand:**

I am afraid I do not know the answer to that question. As I say, I was unaware of the process in detail until I was briefed in relation to this. What I can say is that a number of members of staff have been engaged in this process centrally, including a former Deputy Greffier of the States, to work specifically on the project.

[10:30]

In addition to that, there have been a number of posts advertised in different departments, altogether my understanding is 22 posts offering 18 months fixed term contracts, in various different departments to ensure the process is completed properly. But if the Deputy is asking, because I think he is, what is the central process for checking that departments are acting in accordance with that, I have no issue, and it is indeed the officers who are appointed within the Chief Minister's Department to oversee the programme.

### **3.7 Deputy J.H. Young of the Minister for Treasury and Resources regarding the consequences of the loss of the proposed anchor tenant of the Jersey International finance Centre:**

Will the Minister inform the Assembly of the consequences for the States of Jersey Development Company's development plan of the loss of the proposed anchor tenant of the Jersey International Finance Centre; of the number and extent of remaining expressions of interest from prospective tenants, whether they are new or relocations and whether he will now be ensuring the economic and financial viability of this development is independently assessed and reported to Members?

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

The recent announcement by R.B.C. (Royal Bank of Canada) not to take a tenancy at the Jersey International Financial Centre has, of course, been well publicised. The most important news of course is that R.B.C. has made such an important statement of confidence in Jersey. R.B.C. represents 20 per cent of the total estimated demand for new accommodation from existing on Island businesses over the next 7 to 10 years and there remains a significant shortage of available Grade A accommodation. While R.B.C. was an important letting, it was not the only tenant that S.o.J.D.C. was in discussion with. Such discussions, of course, are commercially sensitive and will remain a confidential matter for the company with their discussions with tenants until leases have passed through the Royal Court and into the public domain. I can confirm that the Jersey International Finance Centre remains a viable proposition as previously reported. The scheme is estimated to deliver an estimated £50 million in return to taxpayers, being £40 million in net cash receipts and a financially unencumbered car park with a value of £10 million. The delivery phase of the project has been reassessed by the S.o.J.D.C. and will now be delivered from east to west, starting with Building Number 4. The economic and financial viability of the scheme has been the

subject of an extensive independent assessment and mostly importantly, of course, by the N.E.D.s (Non-Executive Directors) on the board and there is no reason to undertake, in my view, any further review.

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

Why will the Minister not be following the excellent example of Senator Le Sueur who insisted on an independent review of the scheme when the Minister ... he may be the shareholder but he is representing the taxpayer, not the S.o.J.D.C.? Why will he not follow the excellent example of Senator Le Sueur who got an independent review of the project?

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

I have the greatest admiration for my predecessor but, of course, it was a rather different situation then. A single developer taking on the whole of the scheme with significant other risk associated with a handing over of that whole development to one single developer. An entirely different situation. We have restructured S.o.J.D.C., we have N.E.D.s ... Members who have been going to the briefings by S.o.J.D.C. including the Chairman of the Scrutiny Panel who was briefed in advance on P.14, and who said that such was the information that they received they did not think that they needed any more information on the subject and would not raise any further questions. I think we have lots of levels of independence; we have got a good functioning issue. I have the Treasury to advise me. It is a completely different situation. There are lots of independent eyes looking at this issue and I have confidence in the board and the advice of my Treasury.

### **3.7.2 Deputy M.R. Higgins:**

Could the Minister just elaborate on his answer? He mentioned that the project is going ahead from west to east. This is obviously the Castle Street end of the plot. That is one that is dependent upon the car park spaces. Can the Minister confirm that no development will take place again unless pre-lets are in place? So there will be no development whatsoever until they have pre-let that particular building?

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

First of all, the car park issue: one downside of R.B.C. not going ahead is that the car park will not be delivered earlier because the car park is on the other side. I am happy to send the details if the Deputy did not attend the S.o.J.D.C. plans. I am happy to send the Deputy the information as to where the public car park is, but it is not contingent on - as he rightly says - the Castle Quay side. Of course pre-lets are important and that is what we are looking for. There is a return and a viability issue. There is a level of pre-lets that are required before any of the buildings can go ahead. We have received briefings from S.o.J.D.C. The exciting news is that there is lots of interest in Jersey with existing firms wanting to consolidate and expand and invest in Jersey. The interest in S.o.J.D.C.'s plan is growing and that is good, no doubt for other private developer schemes. Competition, investment is on the way up and that is good for Jersey. I hope the Deputy would recognise that.

### **3.7.3 Deputy M.R. Higgins:**

Just for the avoidance of doubt, though, no development will take place until a sufficient number of pre-lets for that site have been received?

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

Sufficient, but not necessarily 100 per cent. One of the important things, I think, on which I am taking advice from Economic Development and other people, is that we get some space available for the expected upturn. There is no Grade A office space available that people could come into today. Of course pre-lets must be dealing with all of the costs but there may well be some



additional capacity that could be made available if a sufficient number of pre-lets could, for example, kick-start 2 buildings. But no risks will be taken and we will continue to keep Members, including the Deputy, informed, but some of those will be in private briefings because having public debates about private tenants clearly is inappropriate, as I think we have realised.

#### **3.7.4 The Deputy of St. Ouen:**

Deputy Young asked for the Minister to inform this Assembly of the number of remaining expressions of interest from prospective tenants and whether they are new or relocations. Could he answer that question?

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

There are a number but what I think I have learnt from the R.B.C. issue... and I have to say congratulations to the successful bidder, but what I think is inappropriate and what my experience... and as Members will know I spend a lot of time talking to local financial institutions and their chief executives in London and other worldwide centres. What these institutions do not want is to be political footballs and I understand the reasons why the Deputy would make ... and I know he is not asking me to name them but when I get into a situation where we are naming institutions and they become politicised, that is wrong. What I can say to the Deputy is, I have been told of - I think from memory - between 6 and 7 prospective tenants are looking for real space, expansion space, investing in Jersey and that is fantastic.

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

I do join the Minister in welcoming the potential growth and investment in the Island, no one in this Assembly, I do not think, would question it. Just for clarification, the issue for me has always been the private sector versus the public sector and competing with the private sector. However, the question I wanted to ask the Minister is how does he demonstrate to the Assembly that there is appropriate oversight of the activities of S.o.J.D.C., and I am not calling into question the capabilities of the non-executive directors, but, because of this issue of commercial confidentiality and the ability to hide behind it, 8 weeks ago we were told that any delay was going to push S.o.J.D.C. back to square one. The loss of a key tenant, which has happened, was going to cause a significant problem to that scheme. In my view, to date, that means the taxpayer is down about £4 million. So how do we demonstrate, given the circumstances, that there is appropriate oversight of the realism of the assumptions being made in moving the scheme forward?

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

There are lots of questions in there. I will do my best to very quickly run through. The issue of the private sector versus the States, S.o.J.D.C. is operating at arm's length and they are not putting any issues ... as far as the office development is concerned, they are at arm's length. So that is the issue. S.o.J.D.C. is operating in no different situation than other state corporations in other places; the Crown Estate in the United Kingdom, the City of London Corporation in London and other places. It is normal. My responsibility is in the interests of taxpayers there. The issue of governance and oversight of S.o.J.D.C., the Assistant Minister ... Deputy Le Fondré was a former Assistant Minister and I agree with him on many of the issues of governance and the importance of oversight. Those issues exist with S.o.J.D.C. in spades with non-execs and Treasury oversight. I am very confident that all that exists. So I think I answered that question but I am not sure I answered everything that he wanted to know.

#### **3.7.6 Deputy R.G. Le Hérissier of St. Saviour:**

Despite the disavows from the Minister, would he not agree that having a government quango department leading development has muddied the waters and that is why the whole thing has become so politicised?

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

S.o.J.D.C. is not a quango. Quangos are these other entities that are kind of agencies. I do not regard S.o.J.D.C. as a quango. S.o.J.D.C. is set up to give taxpayers the best return for their land and that is my job and most importantly. If that is conducive with economic growth, then good. I just say to the Deputy, even though S.o.J.D.C. did not win the R.B.C. contract, the fact is that if S.o.J.D.C. had not existed then R.B.C. would have had no other competitor in order to choose from. They chose the other developer, fine, but competition is good, competition is always good and the fact is that S.o.J.D.C. is providing competition which is helpful ultimately to the Jersey economy and ultimately taxpayers. I did not answer the previous thing. What has changed is the interest in Jersey, the up-level of interest in Jersey, and that is why we are seeing more investment and more prospective tenants. That is a really good thing.

**3.7.7 Deputy R.G. Le Hérissier:**

Just a supplementary? Does the Minister not think it goes against all his free market principles that he has to have state competition in order to provide competition to the private sector?

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

No, because I think that this is the aim, providing that it is at arm's length, and this is operating properly, and ultimately my job - as has previously been requested - is to act in the interests of taxpayers. What are taxpayers going to get the best return from? Rather than just selling land cheap with no planning applications, as we have done so many times before, we are getting real return for taxpayers' land. Is that not a good thing?

**Deputy M. Tadier:**

I have a point of order I did not want to raise earlier. I suspect the Minister might have inadvertently misled people and I would like to give him the opportunity to clarify when he said that no risks would be taken. Does he accept that there are inherent risks in all investments? I think he told us as much only a few weeks ago, and to say that there are no risks and no risks will be taken is not the correct message for this Assembly or for the public.

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

Of course the Deputy is right. I am answering political questions under cross-fire from Members and no inappropriate risks will be taken in terms of pre-lets, which was effectively what Deputy Higgins was asking. We are not going to be starting buildings which have not got pre-lets. In other words, no risk. Are there no risks? Of course there are absolutely no risks completely but it is an independent limited liability company.

**3.7.8 Deputy J.H. Young:**

I do understand the Minister's contention that I am sure prospective tenants do not want to be the political football but of course, unless I am mistaken, it was mentioned or brought R.B.C. into the public arena, upping the ante as it were. Now, I think the Minister has told us that the consequences are that there is going to be a change in the phased development; it is going to start from the Castle Street end, only one block. He has not told us whether or not there are any losses, as of the £4 million already spent in response to Deputy Le Fondré's question. He has not told us the percentage of the number of prospective interests; he has not told us the percentage of pre-lets that will be required to go ahead. I will give him one more chance to give us those pieces of information which I think are important in the public record.

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

I do not understand the question. Could he rephrase the question? I just simply do not understand what he is asking.

**Deputy J.H. Young:**

I suppose it was a very long-winded question which really got to the end that he has not told us the information, is there a £4 million loss or not as a result of the rephrasing of the scheme, the fact that the car park will not happen? What will be the proportion of pre-lets required on Block 4 to go ahead? Are they new or existing replacements? Those are questions that came out of my question and the supplementaries and we do not have the ...

[10:45]

**The Bailiff:**

There are 3 questions there.

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

Of course if the S.o.J.D.C. had won R.B.C. then there would have been a return, so to the extent that there is a foregone... and here is where I am going to be criticised, not succeeding with S.o.J.D.C. means that S.o.J.D.C. has not got a return for £4 million for taxpayers. They lost the contract, fine. That building will be available hopefully to a future tenant. Costs: if the scheme goes ahead, and I was briefed again yesterday with the Chief Minister by the Chief Executive of S.o.J.D.C. about the latest plans with all the tenant details, *et cetera*, and it is extremely exciting. Again, the company operates at an arm's length basis, if they win against private sector schemes then they will win and taxpayers will benefit. If they do not, tenants will choose. But ultimately we want to ensure that there is Grade A office space available for States Members ... sorry, Freudian slip... for inward investors and as I have just seen in Saudi and Qatar and the Chief Minister in U.A.E. (United Arab Emirates), finance centres and clusters are where finance centres are growing, and I am excited with private sector and S.o.J.D.C. working together to deliver that cluster for Jersey's economic future.

**3.8 Deputy G.P. Southern of the Minister for Social Security regarding the potential adoption of the United Kingdom's approach to zero-hours contracts for those job seekers on universal credit:**

Is the Minister aware that the U.K. (United Kingdom) benefit authorities have adopted a sanction regime similar to the Minister's by including certain zero-hours contracts as jobs suitable only for those job seekers on universal credit which can be rapidly adjusted to accommodate fluctuating hours and earnings, and if so, does the Minister intend to implement a version of this in Jersey with sufficient flexibility to protect job seekers from potential hardship?

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

The universal credit is the new online benefit system administered centrally by the Department of Work and Pensions. It replaces 6 other benefits, including Job Seekers Allowance, with a single benefit paid monthly and in arrears. Under universal credit, changes to earnings are reflected in the following month's payment. So taking on some short-term work can result in a reduction in benefit for the entire month, rather than a specific number of days and weeks. Income support is currently paid in advance to claimants based on their expected earnings. Payments to those of working age are made weekly and can be quickly adjusted to accommodate any fluctuations in income which particularly help those on zero-hour contracts. Income support is designed so that job seekers will always be better off in work, irrespective of how many hours they work, the type of contract they

are employed under or the duration of that contract. Job seekers are expected to actively seek work, to secure paid employment of up to ...

**The Bailiff:**

I am sorry, Minister, I am not sure we are quorate. Greffier, can you just confirm my maths. Right, now we are. No need to repeat yourself. **[Laughter]**

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

This is such stimulating stuff that Members have left the Chamber. Job seekers are expected to actively seek work, to secure paid employment of up to 35 hours per week and there is significant support available from my department under the Back to Work programme to help them achieve this.

**3.8.1 Deputy G.P. Southern:**

The Minister referred to adjusting the particular payments in the U.K., every 4 weeks. Is it not the case that his suggestion for adjusting zero-hours changes in earning in Jersey is once every 5 weeks, as what you suggested previously?

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

The Deputy is partially correct in what he is saying. We do ask people who are working who are still in receipt of income support to provide us with evidence of 5 weeks of payslips in order to assess the average earnings to be used on their claim. However, we now have a process in the department whereby any change of circumstances can be dealt with on the same day in order to adjust somebody's claim. So if somebody has had a drop of income, which is lower than the average that we have allowed, they can come into the department and we can immediately adjust the claim based on evidence.

**3.8.2 Deputy G.P. Southern:**

How many cases so far has the department managed to deal with on a same day basis for changes of circumstances? In particular, with regard to zero-hours contracts.

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

I am informed by the department that over 60 per cent of change of circumstances are now dealt with on a same day basis.

**Deputy G.P. Southern:**

If I may, Sir, a final supplementary?

**The Bailiff:**

Is it supplementary?

**3.8.3 Deputy G.P. Southern:**

I believe it is. In how many cases over this period where this new regime is in place has a job seeker been sanctioned for leaving a zero-hours job saying: "I cannot cope with this variation in earnings"?

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

I cannot really be expected to know the minutiae of every claim going through the department but my understanding is that nobody has been sanctioned in relation to zero-hour contracts.

### **3.9 Deputy M.R. Higgins of the Minister for Treasury and Resources regarding the amount of tax paid by non-finance and utility companies:**

Will the Minister advise Members of the amount of tax paid by non-finance and utility companies in the last available figures and explain what progress, if any, he has made in increasing revenue from the corporate sector and in reducing the tax burden on personal income taxpayers?

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

Consistent with the information provided today in response to the written question of the Connétable of St. John, the total income tax payable by non-finance companies and utilities for the 2012 financial year is approximately £20 million and for the 2013 financial years I am prepared to say is approximately £29 million. Members will be getting the excellent States accounts on Thursday and they will get the breakdown of it as some prior information. For the benefit of the Assembly I can say that the primary reason for the large difference between the 2 years is the agreement of a £10.2 million liability - I do not know the identity of that - in respect of a U.K.-sourced property income from a previous year of assessment. On the issue of raising revenue from corporate taxpayers, first the figures just mentioned understate the overall contribution made by companies because they, of course, do not include employer social security contributions, rates, stamp duties and other similar payments. On the issue of what I have done since the matter has been raised previously, the Deputy will recall I produced a substantial report in response to the Deputy of Grouville's request last summer. I have got nothing further to add in relation to that matter. That matter I know has been already explained. However, what I can say is that a consultation paper on property tax will be issued alongside this year's budget, which I have already announced. Part of it will specifically look at how property taxes could be used to raise revenues of companies trading in the Island. On personal tax income, a number of specific measures have already been taken to reduce the burden. In the 2014 Budget the marginal rate of tax was cut by 1 per cent and the exemption thresholds were increased by 1.5 per cent. These 2 measures benefited 84 per cent of personal income taxpayers at a cost to the Treasury of £10.3 million. In addition a higher child allowance was introduced to help parents against the cost of sending their children to higher education, all of which I know have been well received.

#### **3.9.1 Deputy M.R. Higgins:**

Supplementary? Can the Minister tell us what the percentage of the overall tax take comes from the corporate sector and the percentage that comes from the personal sector?

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

Those issues are already in the public domain, I am not going to do the maths, my mental arithmetic is not fast enough, but he does know the issues, he has the answer for the Connétable of St. John. From memory, the total income tax is approximately £350 million out of our total revenue of about £700 million. I will give him the percentages if he really wants but all that information is in the public domain and will be, of course, in the new accounts published later next week, which are a model of clarity.

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

In his Budget for 2012 he clearly said that specific areas of focus in the next 2 to 3 years will include continuing to review ways in which additional revenues can be obtained from non-financial companies. Will his property tax therefore effectively bring those into revenue generating for the Jersey taxpayer?

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

I know that it is easy for the Deputy and other Members to chastise the Minister for Treasury and Resources in relation to this issue on corporate tax. We have been here for a number of years and he quotes the ... I think I am on my feet. He quotes the 2012 Budget. Since then I have done what this Assembly has asked and provided substantial information about the difficulties of corporate tax. At the end of the day, companies do not pay tax, people do. That is the reality, which is an inconvenient truth for a number of Members. The property tax issue is being looked at but of course raising the cost of doing business in Jersey, which any increases in property tax may well do, needs to be judged against the competitiveness of Jersey in the longer term.

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

Does that just not pass on the problem, because surely it is not properties that pay tax, it is people. Has the Minister thought about that issue?

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

Yes, people always pay tax; that is the reality. He can come in and talk to any economic adviser and it is not companies that pay tax, people do. Consumers, shareholders or staff. That is an inconvenient thing for politicians. Politicians love to effectively say that it is the companies that should be paying tax and all the rest of it, and we have had lots of debates about this. I do not want to rehearse what we have already explained and done on numerous occasions about the reality we find ourselves in on Zero/Ten, the consequences and the thoughtful support, and no doubt the intelligent support, that I have had from the majority of States Members on the issue of Jersey competitiveness and corporate tax. We have been here many times before and I really have nothing further to add from those statements I made last summer.

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

A supplementary? The underlying issue of course is that while the Minister lists what he says are measures to try and relieve and alleviate tax for middle Jersey, he forgets, and singly forgets, to mention other steps which have been taken to put the burden back on to middle Jersey, such as the social security long-term care. That specifically targets middle Jersey and lets the most wealthy get away with paying much less than middle and lower earners. Does the Minister accept that coming up to an election year your average person in the street knows that under his tenure and that of his predecessor they are paying more tax while the wealthy in the Island and the companies who actually make the money are paying less and less tax. That is the issue that he needs to grapple with.

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

I was in the United Kingdom on my way back from the Middle East and I read with interest a number of the party manifestos. I offer no comment but this issue ... and this is a new theme clearly, that we are going to have claims that Jersey people are worse off. It sounds very much like the Ed Miliband 'cost of living crisis.' We are going to have the cost of a living tax crisis for people in Jersey. Our public finances in Jersey are strong, as will be seen from the States accounts. This Assembly has dealt with, responsibly, problems that are real issues and not put them in for another day. Have we increased G.S.T. (Goods and Services Tax)? Yes. Have we also put very significant investment in income support, transfer payments for lower workers? Yes. Have we increased income support, '20 means 20' for higher earners? Yes. It would be wrong for him to say, if I may say, that the long-term care charge is hurting middle Jersey. Middle Jersey is the elderly population who get a benefit on day one for their cost of care, 0.5 per cent going up to 1 per cent, Treasury is paying the first year, that would be a benefit for middle Jersey and he should be putting it in his manifesto saying: "Well done, States Assembly, we are helping the people that have worked to get this Island to its position today and they are not paying for it to any great extent."

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

I wonder if the Minister for Treasury and Resources could help me. He referred to the written question, answer number 1: would I be right that as far as the non-financial sector company income tax is concerned the only shareholders who would not be paying tax would be non-locally resident shareholders? Could he confirm it is only local shareholders of those companies that would be paying tax and non-resident shareholders would not?

[11:00]

Finally, could he also ...

#### **The Bailiff:**

Let us leave it there, there are too many questions sometimes.

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

He knows the rule and that is how they are. He knows what the rules of corporate tax are and that is how they are. These are corporate tax receipts and so I cannot add anything else apart from the facts as he knows the law.

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

I will ask the question again that the Minister failed to answer. Does the commitment to this new property tax fulfil his promise to the Deputy of Grouville to find ways of generating revenue from non-financial, non-locally owned companies? Has he succeeded in doing that with his new property tax or not? Or is he still, for the third year, failing again?

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

I absolutely reject this issue that it is somehow a failure that I have not dealt with the issue of corporate tax. I answered the Deputy of Grouville's question. We had a consultation, we have published the answers and that issue has been drawn to a closure. Frankly, the repeated attempts by the Deputy and others to say that somehow the Minister for Treasury and Resources has failed personally in dealing ... which is a global competitive issue, a European code of conduct issue and the reality of competition is frankly something slightly more than I can bear. But I will answer the issue of property tax. I am, of course, looking at opportunities to raise revenue in the future and to deal with inappropriate avoidance issues, where interest deductibility and all these issue of which we have taken lots of measures against are appropriate to dealing with aggressive avoidance and other issues, and making the economy work. Yes, we are looking at property taxes but I want to send a clear message out that I am not about to start putting in policies which raise the cost of business in Jersey, which means that Jersey becomes uncompetitive. But I will say property taxes are low in Jersey for corporate property ownership and I am having a very close look at it with my department. More about that in the Budget later on.

### **3.9.7 Deputy M.R. Higgins:**

I think what the Minister is doing is hiding from the fact that companies that are owned in Jersey by foreign entities are paying no tax whatsoever. When you say people pay taxes, the people who own those companies are not paying any taxes in Jersey whatsoever so you are misleading ...

#### **The Bailiff:**

Sorry, first of all you do not say "you" and secondly you do not accuse people of misleading.

#### **Deputy M.R. Higgins:**

Yes, the Minister is ... I cannot even say inadvertently, I will just withdraw the word "misleading". I will let people take the inference from it. The truth of the matter is that they are not paying any

taxes whatsoever. Will the Minister accept that the policies that he has pursued has led to the ordinary personal taxpayer in Jersey paying substantially more and suffering as a consequence of the policies that he has brought in?

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

It is not about me. It is about my predecessors and this Assembly making well-judged, informed decisions and I do not set tax policy; I invite the States to approve policies. My predecessors, we have been involved in 'Zero/Ten' and other matters on a number of occasions and it is this Assembly which has supported the initiatives of the past. I am proud of the record of this Assembly and myself in bringing them forward, of being a jurisdiction at the end of a financial crisis that has no debt in terms of revenue expenditure, no problems of the past. All of the exciting economic growth that we can deliver in this Island can be enjoyed by everybody in Jersey in terms of improving public services like Health and others rather than as other countries have done and the avoidance strategy of other countries, which basically puts the problem off until later. A mountain of debt means that their economic growth is going to have to pay their interest and their debt and we are not in that position. I think that is substantially a good legacy for this Assembly to leave the next administration and I am jolly proud it.

### **3.10 Deputy G.P. Southern of the Minister for Housing regarding the transfer of £1 billion housing stock from the States to Andium Homes**

By jove, the Minister for Treasury and Resources is on form today. Let us test out the Minister for Housing. Following the transfer of £1 billion housing stock from the States to Andium Homes will the required return to the Treasury effectively reduce the company's rental income of £240 million for the first 5 years (which is 4.8 per cent return per year) by almost two-thirds and, if so, how does this relate to the figures of £20 million finance costs, £64 million maintenance and £175 million spend on new build/refurbishment given in his answer on 1st April?

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

This is all explained in a very clear and robust manner in the 118 pages of our R.15 last year which supported P.33, the Housing Transformation Programme, which we debated on 16th May last year. On the projected rental income of £240 million in years 2014 to 2018, £64 million - as I said before - will be spent on maintenance, £30 million on net overhead expenditure, £20 million on finance costs and £153 million will be returned to the Treasury. This results in a projected net loss of £27 million which will be recovered by Year 10 of that very robust business plan that I was talking about. In the same period Andium Homes will undertake a programme of major refurbishment and new build projecting costs of about £175 million which will be funded by borrowing, by that bond that the States is taking out and repaying from future rental income. After delivering the commitments laid out in the Medium-Term Financial Plan, the return made by Andium Homes to the Treasury will be maintained in real terms. The Treasury rely on this annual return from Housing and, as I have said, the Deputy when he has questioned me before, I live in the real world; I do live in the real world - if we do not make that return as has been made for many, many years, where are we going to get that money from? Are we going to take it from Health? Are we going to take it from Education? Are we going to take it from Social Security or are we going to put G.S.T. up? I think it is quite a legitimate thing to have £1 billion worth of assets and make a return.

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

Does the £20 million which he allocated for financing costs cover all the borrowing for Andium Homes involved in this 5 year period or not?



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

The borrowing will be paid back over 20 years, not over 5 years. That again is very clearly laid out in R.15, the business plan that I have referred to.

**3.10.2 Deputy G.P. Southern:**

Does £20 million cover all of the borrowing by Andium Homes or not? That is the question, it is a simple yes or no.

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

It is not as simple as that. Initially in the first 5 years we have the setting-up of the company and we are not going to be drawing-down the £250 million, the Treasury is putting together in a bond £207 million of that which will be used by Andium Homes. It will be drawn down on a project by project basis. So it is not as simple as to say the £20 million will be repaid in 5 years.

**3.10.3 Deputy M. Tadier:**

So we have heard it now from the Minister for Housing that the economic policy of the Minister for Treasury and Resources ... that £153 million, the Treasury relies on that money so can the Minister confirm that we have an economic policy in place which relies effectively on a stealth tax for the most vulnerable and lowest earning people in society to pay £153 million into the Treasury because we have such a broken and unprogressive tax system? Will he answer that question first? I do have a supplementary.

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

Yes, I will answer it and say that those that need support will rightly get it now via social security through the housing component instead of everybody having a subsidised rent whether they need it or not because their circumstances have changed.

**3.10.4 Deputy M. Tadier:**

So the vicious cycle of dependency, state dependency which is underpinned by taxpayers, continues. The question is: that £153 million, would the Minister for Housing and Andium consider not giving that money to Treasury? The Treasury can find another way to raise £153 million, perhaps by taxing those who can afford it, and using that £153 million for housing purposes so that those who pay into housing can get the tangible benefit going forward and not have to continually pay into an unsustainable Ponzi scheme to prop-up unsustainable economic neoliberal policy from this moribund Minister.

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

No. [Laughter]

**3.10.5 Deputy T.A. Vallois of St. Saviour:**

Could the Minister for Housing explain the £240 million income of rent, how the £10 million difference will be made up for this year and the following 4 years due to the change in the rental policy that was agreed by the States Assembly on 16th May last year?

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

I am sorry, I do not have that information to hand but I will let Members have it as soon as possible.

**3.10.6 Deputy T.A. Vallois:**

Is the Minister concerned that we will not be able to make up that extra £10 million due to the change in the rent policy last year?

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

No, I am not concerned about that. As I said, I am working to a robust business plan that has been not only produced by my department and examined by others but examined by experts outside. I am absolutely convinced that we can meet all our obligations otherwise I would not have brought P.33 to the States.

**3.10.7 Deputy G.P. Southern:**

Does the Minister accept that effectively he is increasing the rental in social homes so that rents will go up by R.P.I. (Retail Price Index) plus 0.75 per cent, whereas benefits, which he says are contributing towards the rents, will only go up by R.P.I. thereby increasing rents for the worst off in our society?

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

No, I do not accept that. As I understand it, people are entitled to a full rent component. The rent component will be adjusted to meet that rent. But that is for people that are entitled to the full component. Others who find their situations are improving will find that they will have to contribute more towards their rent than they have done, but that is only right and proper. You cannot have families who are desperately in need of housing that come in and receive the full component, who then get good jobs - and good for them if they go out and get good training and get good jobs - you cannot have continued subsidy on that basis. People must pay their own way. There have to be exit strategies too. People must be able, when their circumstances improve, to say: "I can afford to go out into one of those affordable homes" be it shared equity, be it deferred payment, be it rent to buy. That is what this is about.

**3.10.8 Deputy G.P. Southern:**

Can the Minister inform Members what 30 years of plus 0.75 per cent means in terms of the cost of those rents?

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

What it means is that it brings eventually people who are receiving subsidies inappropriately to paying the correct amount of rent. Over 30 years... 30 years of protection for people that could really be affording to pay the full rent now.

**3.11 Deputy M. Tadier of the Chairman of the Comité des Connétables regarding revised procedures for Senatorial hustings meetings:**

Given the increased number of Senator seats to be contested in this year's elections, has the Comité given any consideration to revised procedures for hustings meetings to make them more effective?

**Connétable J.L.S. of Gallichan of Trinity (Chairman, Comité des Connétables):**

In a word, no. The organisation of hustings meetings are the responsibility of candidates not the Connétables.

**3.11.1 Deputy M. Tadier:**

I anticipated that answer and I put it as a footnote when I sent the question in, because of course that is absolutely true; but we know that also the Comité in advance do meet ahead of the nomination meeting and schedule dates, because it does not happen by magic, and usually a little piece of paper appears out of the Chairman's pocket. Of course it is for candidates to arrange their own meetings, who are there like rabbits in the headlights, some of them, for the first time. But this piece of paper comes out with suggested dates. All I am saying is that clearly the Comité do have

an interest in the smooth running of hustings' meetings, especially for Senatorial hustings where they tend to take place traditionally in each of the Parishes. What I am asking is if, in advance, they would give consideration perhaps this time to revise procedures which may include, for example, not having hustings in each of the Parishes and having a different format whereby the timings, *et cetera*, will be given consideration. I contextualise that because we may have a scenario this time where we have 30-odd candidates contesting for 8 seats. It is the most we have ever had in one go.

**The Bailiff:**

The question is whether the Comité will give consideration to this?

[11:15]

**The Connétable of Trinity:**

It is entirely up to the candidates. I think the Deputy has to realise that there could also be a Connétables' election and a Deputies' election in our Parish so what we do is to see what dates are available if the candidates wish them. If maybe the Deputy is thinking of standing for Senator, maybe he could organise something with those who are candidates to say: "This is what we would like." We will do what the candidates wish, but if we do not agree before the dates available in St. Clement, Trinity, St. Martin, whatever, we then have all the candidates saying on nomination night ... and it is far easier to say: "Look, these are the possible dates. If you wish them they are available." It is entirely up to the candidate. We will help wherever we can but obviously, I totally agree, most probably to have 30 candidates is a nightmare, but it is a nightmare we have to put up with. If the candidates can come up with some well-thought idea of a way to improve it, we will consider it and hopefully do it for you.

**3.11.2 Deputy R.G. Le Hérisssier:**

Would the Constable in his role as a Constable tell the House how he would propose to raise electoral excitement to new levels?

**The Connétable of Trinity:**

I certainly would not employ Deputy Le Hérisssier. [Laughter] [Approbation]

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

I do not normally have the opportunity of asking questions so I will. It is interesting that many of us have worried about the potential chaotic nature of the coming elections. While I absolutely respect the Connétable and the Chairman of the Comité's statement, and he is right to say it is up to candidates, does he really not think that there is something... could he not work with his Comité, could he perhaps not work with P.P.C. (Privileges and Procedures Committee), work with the Greffe, perhaps work with our eminent Jurats who help oversee elections to find at least a proposal that could be put forward rather than turning into a chaotic decision on the night by 30 candidates.

**The Bailiff:**

A precise question if you would, Senator.

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

He has a lot of clever that could probably come up with a proposed alternative.

**The Connétable of Trinity:**

I fully agree with what the Senator is saying. The problem that I foresee is whatever we decided to do there would be some candidates who say: "This is not right for us, it is not right for me. It helps another candidate who may have had previous ... or he attended a husting from previous years." I know it is lovely to talk to everyone but often the more you talk the less decisions get made. If we

could find a format ... the trouble is it is always on the night of the nominations that this is discussed and it is not until we know how many candidates stand ... this is the problem. It could end up you might only have 10, well then that is manageable. If you have 30 it is not manageable. The other thing is how do you organise it? The normal thing is the candidate will say ...

**The Bailiff:**

I think the question, Connétable, is whether the Comité are going to think about this or not?

**The Connétable of Trinity:**

We have thought about it. [Laughter] It is not an easy answer. We will do whatever we can to help.

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

I understand what the Connétable is saying but could he at least consult to do scenario planning? Could he do a scenario of a preferred arrangement, say 15 candidates or 30 candidates, and put that out on the night, publish it, explain it and say: "We are going to put these 2 scenarios, depending on how many candidates, to the candidates to vote on so that they can decide in majority" rather than leaving it until last minute and have a chaotic arrangement, which simply does not work.

**The Connétable of Trinity:**

All I will say is I will put it to the Comité and we will come back and see what they say.

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

Does the Constable agree with the Constable of St. John that it is not for the Comité of Connétables to try and influence the candidates who are standing for election on where they should hold their hustings, whether it is Fort Regent, a hotel or in a Parish Hall? With all the good will in the world we should not be inferring in election procedures.

**The Connétable of Trinity:**

I tend to agree with the Connétable of St. John, surprisingly.

**3.11.6 Deputy S.Y. Mézec:**

If the Chairman's election as Constable is the same as over 70 per cent of Constable elections since 1999 and is uncontested, will he endeavour to have a public hustings anyway where his parishioners will be able to question him, regardless of the fact there will not be another candidate?

**The Bailiff:**

I am not sure that arises out of a question about Senators, Deputy.

**3.11.7 Deputy G.P. Southern:**

Hopefully this one does. Any election is 2-stage process. There is registration and then the ballot. I understand that registration forms are currently going out. What efforts will the Constables, in conjunction with the Greffe and P.P.C., make to ensure this year registration reaches new heights?

**The Connétable of Trinity:**

That is a good question, is it not? We do our best. I would say everyone ... history will tell the Deputy that we have a vast number of the electorate who ... I will praise him now, Deputy Le Hérissier wanted more on the electoral list and we have got them. We do our best. We send to every occupier in each Parish and it is up to them to reply. We can only do what the occupiers of these properties do. Send it back to Parish Hall, they will be on the list.

**3.11.8 Deputy G.P. Southern:**

Are there no fresh initiatives? We will not be talking to P.P.C. about how to maximise the registration or is it otherwise?

**The Connétable of Trinity:**

It is down to P.P.C. to push that and then we will then get the replies back. We send them out now, the form is out, all the Parishes are sending out their electoral forms now - and I am sure you have had one, Deputy - and if you do not send them back you get another reminder.

**The Bailiff:**

Through the Chair, Connétable.

**The Connétable of Trinity:**

We do our best.

**3.11.9 Deputy M. Tadier:**

I do appreciate the thought that the Comité have given this and I think we will, no doubt, be speaking further on this. If I finish by asking the last question, it seems to me that although candidates ultimately organise the hustings, the nomination meeting does fall to the Comité to organise and that is perhaps where the issue lies. When the candidates are assembled by the Chair of the Comité and asked to decide their meetings on the night, that is perhaps not the best way to do it because they are not in a full position to be able to do it on the night. So I think it would be helpful if we could consult further with the Comité, perhaps with P.P.C. and interested Members. Just to clarify, I ask this not from a personal motive but simply from a generic motive because I think we are all interested in the smooth running of elections, whether they be for whichever of the 3 positions.

**The Bailiff:**

Was there a question in there, Deputy?

**Deputy M. Tadier:**

Yes, the question was: do they accept that as the Comité they do organise the nomination meeting and they will have some influence on what the candidates feel is the right way forward for a hustings meeting?

**The Connétable of Trinity:**

We will do what we can, and I am sure the Deputy will understand, but we go to the nomination meeting completely blind. We hear in the media who may be standing but as you well know you can come to a nomination meeting and there may be 3 or 4 that come up with a nomination paper. Do we ignore those people? It is not easy. The only thing I would say is you would have to have a meeting and then meet together on a different day. The problem with that is we try to get the dates on those nights so people can start organising because there is a short time between hustings and the election time. But we will do our best.

**3.12 Deputy J.H. Young of the Minister for Treasury and Resources regarding the introduction of a charge on properties connected to the main drainage system as a means of financing the cost of replacing and updating the public sewer network:**

Will the Minister inform the Assembly whether he is considering introducing a charge on properties connected to main drainage system as a means of financing the cost of replacing and updating the public sewer network?

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

P.39/2014, the Waste Water Strategy, includes full details of the proposed funding arrangements for both the sewage network and the sewage treatment works. The strategy states that the infrastructure investment of £135 million is required for the sewage network over the next 20 years. The report and proposition clearly indicates that the strategy will move forward in accordance with the infrastructure funding limits proposed. Provided this funding is approved by the Assembly there is currently no consideration in the document for a charge on properties to be connected to the main drainage strategy.

**3.12.1 Deputy J. H. Young:**

Would the Minister accept that while he has referred to P.39 there is no certainty or indication of anything which we can rely on as to where that £135 million is going to come from? Is he going to leave this over for future Ministers to sort out?

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

I am just pulling up the proposition P.39. We have been absolutely clear in our funding report, and indeed the proposition which will come to the Assembly to be debated. The Treasury is required to bring forward proposals for the funding of the £75 million. We have set out where we are going to find that, and indeed it is the revenue expenditure going forward that is clear. I have read this morning the panel's report and I know that the chairman of the panel has raised some issues on funding. More than happy to meet with the panel chairman in order to deal with any uncertainties that he has with it. I thought we had been clear but if we can amplify that in advance of the date I am more than happy to receive the Deputy in the Treasury to explain.

**3.12.2 Deputy J.H. Young:**

I welcome the Minister for Treasury and Resources' invitation and will take him up on it. My purpose in my question was to get in the public domain what was in his mind. He has told us earlier on that he is going to produce a consultation report on property, generating property taxes, does it feature as a possibility in his thinking about how we might finance these costs, which are not provided for in P.38 ... that is a network cost of £135 million as opposed to the £75 million for the sewage treatment plant itself. Is that in his mind as a possibility or will he today rule it out completely. That was the point of the question.

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

I think the Deputy raises a really important issue. I am effectively doing what I do as a Minister, which is to assist Ministers in their capital requirements. The Minister for Transport and Technical Services and the Council of Ministers has been clear that there would be no new charges in the course of this administration. The Minister does not wish to bring in a charge. What needs to be accepted is that charges exist for waste water in many other places. Guernsey has a charge. There is controversy on the implementation of a charge in the Isle of Man at the moment. There has been previous talk in Jersey about it. From an environmental point of view, ultimately in the medium and longer term my own personal view is that in the very longer term the user should pay for use of resources. When you pay for something you value it and also it is the right environmental approach. Ideally if one would be starting with a blank piece of paper ... I am going on a little because there is some time for oral questions and this is an important issue which I am answering.

**The Bailiff:**

Well, yes, concise answers.

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

I know but I am giving some concise important information, Sir. The fact is that black bag charging to encourage recycling ... you should have free recycling and black bag waste is the right thing to do environmentally. Jolly difficult from a population point of view and ultimately one should probably think about the charging mechanism for waste water. Not charging for things that you use is not right from an efficiency, from a use point of view, *et cetera*. This Assembly, or the next Assembly, is going to have some big funding challenges in terms of providing money for health and education. So I would never rule anything out but I am giving certainty that taxpayers are not going to have any additional burden while the economic downturn - which we are now coming out of - is there. But we should look at it on an environmental issue on that basis in the future. So I never say never but there are no additional charges for Jersey people at the moment because of the economic situation. But I am 100 per cent behind providing the capital for what the Minister wants. That is the certainty he wants and I understand the panel is right behind him on that.

**The Bailiff:**

Very well, we complete questions on notice. So then we come to questions without notice and the first period is to the Minister for Home Affairs.

**4. Questions to Ministers without notice - The Minister for Home Affairs**

**4.1 Deputy M.R. Higgins:**

Could the Minister advise Members of what measures his department takes in the rehabilitation of offenders and how successful or otherwise does he think these measures are?

**Senator B.I. Le Marquand (The Minister for Home Affairs):**

I am struggling to understand the question. We are about to bring some further amendments to the States in order to bring us in line with the practice in relation to the finance industry in the U.K. but I am not sure that is what the questioner meant.

**Deputy M.R. Higgins:**

If I can repeat it. I am asking the Minister what steps his department takes, including the prison service and other agencies, to stop offenders reoffending? In other words, what he is doing to rehabilitate them back into the community and prevent reoffending?

[11:30]

**Senator B.I. Le Marquand:**

I am grateful to the Deputy. I misread his question completely. The main issue there is the work that is done through the prison in terms of the education programmes and so on, the training programmes there, which are now quite extensive. Also, the drugs rehabilitation work which is done there. Secondly, we have a system that has been set up for some time which allows for early release of prisoners, up to the last 12 months, for work purposes enables them to start to get into a work situation in the community prior to release. Finally, of course, up to the last 4 months they are sometimes released on home curfew. All those provisions are designed towards rehabilitation of offenders.

**4.1.1 Deputy M.R. Higgins:**

In the United Kingdom it said that 60 percent of offenders cannot get employment because of the fact they have got a criminal record. How many of the prisoners who are released from Jersey Prison do get employment and what steps does the Prison Service or the Home Affairs Department

or any other agency under the Minister's remit do to help people secure employment and also help get them accommodation? Do you help prisoners get accommodation when they leave prison?

**Senator B.I. Le Marquand:**

I do not have specific figures in relation to this but in fact the whole process of people being gradually, as it were, released over the last 12 months is designed to help them to get back into a work situation. Indeed the whole process of the last 4 months, home curfew is designed to help them to get back into accommodation. Subsequent to that period, the Probation Service has an after-care service but my understanding is it is not hugely used, but our whole process, which is unique to Jersey, in terms of the latter stages, is designed for these purposes.

**4.2 Deputy J.A. Hilton:**

It was not so many years ago that our prison was, in the main, full of drug traffickers. I think if we had a look at the makeup of prisoners now you would probably find that it was equally split between drug traffickers or people in prison for drug-related offences and sex offenders. The question I would like to ask the Minister for Home Affairs; is he confident that sufficient resources are being made available by the States of Jersey Police to tackle the issue of illegal drugs being trafficked in the Island?

**Senator B.I. Le Marquand:**

Yes, I am. Obviously we will also have resources through the Customs and Immigration Service. There is no doubt that the pattern of usage of drugs is changing. I had signalled that to the States Assembly a number of years ago, when I first saw signs of that, and there is clearly a reduction in the usage of heroin, though there are changing patterns. On the other hand, there are no threats in terms of new psychoactive substances, which, as I say, create new particular difficulties. It is clear that the prison population is continuing to drop. The latest figure I have for that was the lowest figure I have ever seen, which was a figure of 143. The changing patterns particularly signalled the reducing numbers of female prisoners because female prisoners tended to have a particularly high percentage of drugs couriers and we currently, as of 29th April, only had 7.

**4.2.1 Deputy J.A. Hilton:**

Can the Minister inform Members whether the States of Jersey Police Drug Squad is manned by the same number of officers as it was 5 years ago?

**Senator B.I. Le Marquand:**

No, I cannot. I do not know because the police work flexibly and transfer resources between different sections as and when there is a need. So I cannot give an answer to that question. The system is much more flexible. As far as I am aware, there has been no reduction in effort generally in relation to drugs offences.

**4.3 Deputy J.M. Maçon of St. Saviour:**

Following on from Deputy Higgins question: does the Minister have a concern that there may be, despite the good work that is done with partnership with the business community, that there is perhaps a shortage in opportunities of ex-offenders to gain meaningful paid employment upon leaving the prison service?

**Senator B.I. Le Marquand:**

I think this has been slightly harder because I am aware of an adjustment that I made to the leaving scheme within the last 12 months so that up to the last 12-month period when people can go out to work and then return to prison at night, and so on, that was extended to enable people to go out to do charitable type things, unpaid things, if they were unable to find paid things. So I think that is a



reflection that it has been slightly more difficult, as one would expect because the downturn, or hopefully the anticipated now upturn of business will make it easier.

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

Further to the written response at the last sitting regarding the cost of defending appeals made by 4 police officers and civilian staff against their dismissal, will the Minister be searching out ways of reducing the cost of defending future appeals, which appears considerable at the moment, and has he identified any problems within the H.R. (Human Resources) Department of the force?

#### **Senator B.I. Le Marquand:**

I think appeal processes are expensive, particularly if they are taken to the Royal Court. I have been considering... but it will not be in my time as Minister, and it would require detailed discussions with the Police Association. I have been considering whether in fact it would not be better if such appeals in relation to police officers went to the Employment Tribunal because there is no doubt it is a more expensive process for such appeals to go to a group of Jurats in the Royal Court. As I say, this is just preliminary thinking and we would have to talk to the Association and see what they thought about that.

#### **4.4.1 The Connétable of St. Martin:**

Although the £142,000 is just for 4 cases, can the Minister confirm this is likely to rise considerably for the ongoing matter, which I understand is now going to arbitration?

#### **Senator B.I. Le Marquand:**

It is a matter which, in my understanding, has gone to mediation not arbitration and of course there may be an additional cost in relation to compensation in that regard. Obviously if there were further legal proceedings or whatever there could be legal costs as well.

#### **4.5 Deputy R.G. Bryans of St. Helier:**

Year on year we have seen a decrease in youth crime. I would like to ask the Senator if he thinks this is a continuing trend and would he agree that the Jersey Youth Service has played a substantial part in that?

#### **Senator B.I. Le Marquand:**

I do not think it is going to be a continuing trend, in the sense I do not think we can go further down. Mind you I would have said that a year or 2 ago. I think there is a slight up-trend in the first part of this year, although I have not seen figures yet. The major factor here seems to be social because something similar seems to be happening right across the British Isles and indeed it has been seen in Europe, different patterns of behaviour of youngsters. But alongside that I have absolutely no doubt that excellent work is being done by many organisations, including the Youth Service, has very much helped.

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

Given the congestion at the port when ferries arrive - and people are looking for the non-existent café - and immigration officers are processing numerous passports, has the Minister or his department given consideration to electronic scanning as you now find at some U.K. airports?

#### **Senator B.I. Le Marquand:**

I do not think that would help particularly ... the advantage of electronic scanning is that you then have a public record of the passports which have come in but you are still going to have to stop each individual car. This only applies of course to vehicles coming and passengers coming from France, not those coming from the U.K. because we are in a common travel area. I do not think the

process will be particularly speeded up by taking the passport, instead of just looking at it scanning it. I do not think that will help at all.

**4.6.1 Deputy R.G. Le Hérissier:**

Sorry, I meant a system where the individual scans their own passport, there is no intervention by an officer.

**Senator B.I. Le Marquand:**

I think for the cars, practically, that would make it even slower. Perhaps I am wrong on that. [Aside] Yes, but I think the Deputy must understand that there are also other functions rather than immigration. There are also potential functions in relation to watching out for people bringing Customs-prohibited goods or excessive quantities of alcohol or whatever. So one would still need an officer present.

**4.7 Deputy J.A. Hilton:**

There has been a lot of publicity recently around, in the main, young male drivers driving at reckless speeds. Indeed we had the tragic incident where one lost his life, but let us not forget that a female driver involved in the same incident got away with thankfully not losing her life but it could so easily have been different. Can the Minister tell Members whether any action as a result of this becoming public knowledge is going to be taken by the States of Jersey Police to address the issue of reckless driving by young male drivers?

**Senator B.I. Le Marquand:**

I know that the Police Chief considers the current levels of injuries caused by driving accidents to be unacceptable and is committed to seek to do something about that. I think the Deputy is specifically talking about a report of particularly reckless activity by young drivers. I am not sure precisely what, if anything, the police have decided to do in relation to that. Clearly if they received information about specific drivers who are putting photographs and so on of excessive speeding on the internet they would be able to take action in relation to that.

**4.8 Deputy R.G. Le Hérissier:**

The decline in youth crime referred to by a colleague, will that be followed by a *pro rata* decline in staffing to deal with delinquents?

**Senator B.I. Le Marquand:**

This is what I often refer to as the peace dividend in terms of reduction in staffing numbers of the police force as a result of reduced levels of crime. But there will clearly be political pressure in that regard. Having said that, the police are facing new pressures, particularly in areas such as domestic violence where the numbers continue to grow, and also in areas such as internet-based crime. Although I suspect my successor in the next Medium-Term Financial Plan will be under considerable pressure to reduce the costs and the numbers of police officers, that will undoubtedly have certain adverse effects.

**4.9 Connétable S.W. Pallett of St. Brelade:**

Could the Minister inform the House who in general carries out the current home curfew system and whether he considers it has been successful when compared to the previous tagging system?

**Senator B.I. Le Marquand:**

I am sorry I missed a couple of words there.

**The Connétable of St. Brelade:**

I will repeat the question. I wonder if the Minister could inform the House, in general, who carries out the current home curfew system and whether it has been successful when compared with the previous tagging system?

**Senator B.I. Le Marquand:**

Yes, I am very grateful to thank the Honorary Police for doing that because they have taken on that particular function and frankly the previous tagging system was very expensive to run and unnecessarily expensive, and indeed by means of home visits by Honorary Police Officers we have been able to achieve the same end with a very vastly decreased cost.

#### **4.9.1 The Connétable of St. Brelade:**

The Minister says that it is a duty that the Honorary Police have carried out and I think carried out very successfully. Is there any intention to widen further duties from States of Jersey Police to the Honorary Police in the foreseeable future and, if so, what are they likely to be?

**Senator B.I. Le Marquand:**

I am not aware of anything specifically that is in mind. But obviously if there is financial pressure on numbers of police officers due to budget reductions in the next Medium-Term Financial Plan then clearly the Chief Officer will be looking for allies and assistance wherever he can find it.

**The Bailiff:**

Does any other Member wish to ask a question of the Minister for Home Affairs? Then we will bring that to a close, and that period will pass to the questions to the Minister for Treasury and Resources. [Aside] There is none left anyway.

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

**The Bailiff:**

So questions to the Minister for Treasury and Resources will be confined to 15 minutes then.

### **5.1 Deputy S.G. Luce of St. Martin:**

It has recently been announced that Jersey is going to have its own aircraft registry. Could I ask the Minister whether he is satisfied that his department has been properly consulted and fully consulted so that this can move ahead at best speed?

[11:45]

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

I was previously consulted. I have not recently in the last 2 weeks but if there is anything the department is not happy with, I am happy to return to the Chairman of the panel to express any issues, but I understand, yes, we have been consulted and I am fully supportive of this issue, but I will revert to the Chairman if there are any issues.

### **5.2 Deputy S.Y. Mézec:**

Has the Minister read the recent news revelations about the tax affairs of the band Take That? Does he consider it morally legitimate for incredibly wealthy people to avoid paying huge amounts of tax and would he discourage Jersey firms from ever playing a part in facilitating the offshore element of an aggressive avoidance scheme?

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

Yes. I have not read the judgment but I saw the Prime Minister's question yesterday and his language was very clear, that very aggressive tax avoidance schemes should not be acceptable. I do not like the suit of morality because I just do the job in relation to. The Chief Minister and I's position has been very clear. We do not want Jersey companies actively involved in very aggressive tax avoidance schemes which are contrary to the intended will of the U.K. Parliament. That is our position and I believe that we are making that message very clear to our financial players.

#### **5.2.1 Deputy S.Y. Mézec:**

Does the Minister not agree that tax is all about morality? It is about what sort of society we believe in and who should be contributing what to public services? So can he answer the question: does he think it is morally legitimate for incredibly wealthy people to be avoiding paying huge amounts of tax?

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

I am not going to comment about U.K. tax matters and U.K. policies. I am happy to answer it here...

#### **Deputy S.Y. Mézec:**

My question was general, not about the U.K.

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

Sorry, his question about wealthy people in the U.K., that is a matter for the U.K. Prime Minister and the Chancellor of the Exchequer to deal with their tax matters. We deal with issues ...

#### **Deputy S.Y. Mézec:**

It was about wealthy people in general?

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

... and so I have been clear it is a matter for this Assembly to accept or otherwise the proposals that we come forward with, which is higher tax for locally resident people, '20 means 20', *et cetera*. We have a special regime for incoming people ...

#### **The Bailiff:**

I think we are getting off the question now.

### **5.3 The Connétable of St. Mary:**

The Minister was in London recently to hand over the Jersey flag to the U.K. Secretary of State for communities and local government. I am sure that many Islanders like me were proud to see it flying in Whitehall on Liberation Day. Can the Minister advise whether there was a financial implication to this action and whether he envisages it being repeated in future years, especially next year for the 70th anniversary?

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

I happen to know, I think the flag cost was £79, which the Minister for External Affairs' department paid for, and I handed it over. A fantastic symbol of Jersey relations with Britain, and yes, of course, I believe it should happen and the Secretary of State approved my quote which said: "I hope that it was a tradition that would happen" and it is not only the Jersey flag but, for the avoidance of doubt, the Guernsey flag as well. A fantastic statement and in the 70th anniversary let us see them all over Whitehall buildings in London. Fantastic statement.

### **5.4 Deputy C.F. Labey of Grouville:**

Does the Minister support the recent measures put in place to help the fishermen and advance the dairy industry's diversification, and does he consider it money well spent?

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

Diversification is important where there are industries in difficulty this would help. Yes, I have supported the dairy industry issue, that issue will ... either I have signed it or I will shortly sign it. Yes, I support the fishermen's issue but of course there should be a proper process, which I know the Assistant Minister has been putting forward to make sure the money goes to the right places. But, yes, I do absolutely. When difficulties in legacy industries, even though they are low value, we should step in and help, particularly after the difficult winter that they have, subject to controls.

**5.5 Deputy S. Pinel of St. Clement:**

Speaking as Chairman of Brig-y-Don's Children's Charity, we are asking the voluntary and community sector to provide increasing and improved services to our Island. With the imminent debate on the long awaited Charities Law, what will the Minister for Treasury and Resources be able to provide in the form of skills, resources, training or grants to charities to assist with the requirements such as accountancy, safeguarding, governance, business plans and tax advice?

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

I got some criticism when the Treasury announced very quickly that we were providing some additional support for the charities and third sector support, and I believe that there is an individual the Deputy may well know, who is discharging that co-ordinating responsibility. I absolutely support that issue. I think that we should give the third sector and the charitable sector all the support we can to deliver the service that they have, and I stand ready to assist the third sector for their requirements in terms of assisting them, including Treasury support and other issues. A strong message of support and that is, I believe, a message of support that the Chief Minister has made and would equally, I am sure, say.

**5.6 Senator L.J. Farnham:**

The Minister has recently returned from Qatar and Saudi Arabia, I believe, and these trips obviously involve quite a lot of cost and resource. Can I ask him if he deemed the trip to have been successful? Can I also ask him to state how he thinks it will benefit Jersey?

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

Yes, I think the trip, both the Chief Minister's trip to the U.A.E. and my trip to Saudi and Qatar, were an incredible success. The Chief Minister saw more important significant decision makers than any trip before and I had the opportunity of seeing the Minister for Finance for the third time in Qatar and also for the first time, a brief exchange with the Minister for Finance in Saudi. It is our second most important market. It is absolutely vital that we get our share of those cash resources, which are being invested in economies around the world. That is also the benefit of our use to the U.K., we gather in legitimate money, we invest it here, we benefit with jobs and growth and the U.K. economy benefits. Yes, I think there is going to be significantly more interest in Jersey going forward and Saudi represents two-thirds of the overall G.C.C. (Gulf Co-operation Council) economy.

**5.7 Deputy R.G. Bryans:**

I wonder if the Senator could provide an answer to the question that was given as a written question to the Constable of St. John. I was just interested to see that the tax receipts for the financial sector for last year went up by £10 million. I wonder if he could explain how that happened.

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

Yes, I am advised, and there is more information available later on this week, that this was an increase in revenue from effectively Jersey's large financial sector players and that shows our financial players are more profitable and they are returning to growth and perhaps they are doing better than we thought. That is excellent news. But I am happy to give the Deputy of course ... I do not know any individuals but it is generally the large taxpayers paying more money because they are earning more profit. Great news.

### **5.8 Deputy R.G. Le Hérissier:**

Given the large public sector supported building programme about to start, what steps is the Minister taking to ensure that within the contracts given there will be provision for companies to develop local workforce and local apprenticeship schemes?

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

I cannot answer these ... I am trying to be very precise. A really important issue, which the Deputy raises, it is an F.P.P. (Fiscal Policy Panel) recommendation on looking at the construction industry going forward. It is the Back to Work scheme with the Minister for Social Security, Minister for Economic Development, chaired by the Chief Minister that is looking at capacity. We have got a big capital programme of this Assembly plus a private sector which is now stirring and starting to invest, and we have got to get that capacity and we need to get every opportunity for local people to get those jobs, but also we are going to need to of course look at the capacity issues for the construction industry. A big issue but it is being ably dealt with by the Back to Work scheme.

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

Does that mean that in the right circumstances the Minister will impose conditions without undermining contracts as a whole? He will impose conditions that there must be proper apprenticeship programmes and there must be proper steps taken to ensure that unemployed tradesmen and women are employed?

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

The Population Office and Treasury are absolutely joined on this and, yes, that is what we are doing.

### **5.9 Deputy G.C.L. Baudains:**

In response to an earlier question about taxes the Minister spoke of his opposition to very aggressive tax schemes. Could he explain how he defines that because it does seem to me to be subjective? What we here may think as a scheme which is perfectly satisfactory the U.K. might deem aggressive. Surely that is a problem?

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

I agree there is a real problem in explaining this and the language that H.M.R.C. (Her Majesty Revenue and Customs) are now using is effectively ... the language we are using, I mean other people have used the 'sniff test', and I do not particularly like that expression. You can see it, if it is an artificiality you can tend to sense it. What we are now saying clearly is if it is a scheme which is contrary to the intended will of Parliament that is wrong. But of course the U.K. have imposed their own general anti-avoidance rule and their court system is now resolving issues which is why, as the Prime Minister said yesterday, the Coalition Government is to take action to define what is right and what is not. It is a complicated issue to give a precise answer but happy to engage with the Deputy on this quite difficult area.

### **5.10 Deputy J.A. Hilton:**

Members will be aware of some very lengthy waiting lists and with an ageing population these lists are set to grow and to continue into the future unless significant investment is not forthcoming. Is the Minister confident that these additional services can be delivered without an increase in G.S.T. or personal taxation?

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

Is the question about health services?

**Deputy J.A. Hilton:**

Yes, it is about health services.

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

As I have said previously, the long-term revenue plan, which we are doing much longer, having liberated ourselves from an annual expenditure, we are now looking 4 years out in terms of expenditure. I think it is a real challenge and we are trying to effectively close the gap between what departments want, primarily Health, and what is available in terms of our expected yields. It will be a matter for the Assembly ultimately to decide. What we will do is we will publish a draft M.T.F.P. (Medium-Term Financial Plan) with draft solutions to the problems of revenue expenditure, but it will be an election issue and ultimately a matter for this Assembly to decide. But there were some tough choices and one of those choices will be making savings in the existing States departments which has got to also be delivered.

**5.10.1 Deputy J.A. Hilton:**

Just a quick supplementary. Does the Minister accept that with the over-65s increasing by a third by 2020 that this is going to have an increase in pressure on lists?

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

Yes, but I am also very confident in having had discussions last week in Guernsey that Jersey is tackling and has got a plan to deal with the expected longevity of people and the consequence for that. So having planned, having done proper planning, we are in a better place than the crisis management that we are seeing in health services, not in Guernsey but in other places, and we are better planned and we are going to be even better in a position when I have got the draft M.T.F.P. ready in the summer.

**5.11 Deputy S.C. Ferguson:**

Gross value added per head of population is a measure of productivity and this has been falling for something like the last 20 years. A considerable degree of this is the increased cost of compliance with legislation and regulation. What does the Minister intend to do to reduce the burden of regulation?

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

I understand the Minister for Economic Development has been doing some work on this and I await a report or the commencement of a report on that. I agree with the Senator, productivity improvements are absolutely vital. She should not however read an automatic read-across in our G.V.A. (gross value added) falling. G.V.A. has fallen because of interest rates and the economic issues but I agree with her of the importance of productivity and having policies in place and not having high cost red tape government. But we have been doing a lot to improve that in recent years.

**5.11.1 Senator S.C. Ferguson:**

In that case, why is productivity still falling?

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

I cannot debate that issue easily. Productivity is ... I am not sure that there is proof that productivity across the whole economy is falling. Productivity in financial services has been rising in some areas. I am happy to debate the issues and have a longer debate than literally a one minute answer on a massively important issue. Productivity is vital however and we need more policies to deliver better productivity in our economy.

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

I would just like to return to diversification raised by the Deputy of Grouville. Jersey Telecom are diversifying our digital economy by rolling-out Gigabit and fibre optic. The Minister took a significant cut in dividend pay-out in exchange for a programme to deliver this. Can he assure the House that he continues to scrutinise Jersey Telecom and their efforts to roll-out this programme?

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

Extremely closely, and I will ask J.T. (Jersey Telecom) to provide a further update in relation to Gigabit issue but I remain absolutely committed to having rolled-out fibre as one of the leading jurisdictions in the world to get out fibre. But they have got to do it properly and they have got to deal with it and I understand that they are.

**5.13 Deputy S.Y. Mézec:**

Was the Minister for Treasury and Resources comfortable when he was in Saudi Arabia knowing that it is the country with the worst human rights record on the planet second only to North Korea?

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

Issues of human rights: the Minister for External Affairs has dealt with it. I was very pleased to hear that a woman has been appointed, while I was there, as one of the new chief executives of a new bank and it is by constructive engagement that one improves awareness. It is not by finger-pointing, I think with people, but by engagement. Diplomacy is about talking to people that you do not necessarily agree with.

[12:00]

**5.14 Senator L. J. Farnham:**

The U.K. Treasury has recently announced a plan to allow H.M. Revenue and Customs to remove cash from people's bank accounts who have tax arrears. Are there any plans to introduce such a draconian idea in Jersey?

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

Not that I am aware of.

**5.15 Deputy R.G. Le Hérissier:**

Apropos the question asked by the Deputy of St. Martin: is the Minister happy that Jersey Telecom are providing 3G all over the Island and indeed are they in a position soon to compete with 4G, which is now the norm in many parts of the U.K.?

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

I will confess to having a 4G ... trying a 4G phone in the U.K. when I have been there. It is extremely fast and extremely impressive. I understand it is not J.T.'s problem that 4G has not been rolled-out here. I understand that is a regulatory issue, and I am disappointed by that. But, yes, I am an activist shareholder with J.T. and I want this whole issue of why we are holding J.T. and what the purpose of this investment is and what their role is in terms of economic growth of the



future properly more defined. I am working, as I said previously in this Assembly, and I will deliver that project before the end of my term of office about J.T. and its role in Jersey economic growth, *et cetera*.

**5.15.1 Deputy R.G. Le Hérissier:**

Just to confirm: can the Minister confirm 3G is available consistently all over the Island and indeed around the physical location of this Chamber?

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

I simply do not go round testing ... I look at flagpoles and I go round and take a great deal of interest. But I am afraid I am not a science observer that goes around with my mobile phone testing 3G connection. I do not count their paperclips and I do not test 4G connection. I am sorry.

**PUBLIC BUSINESS**

**6. Draft European Union Legislation (Implementation) (Jersey) Law 201- (P.164/2013)**

**The Bailiff:**

That brings questions to the Minister for Treasury and Resources to an end. I can inform Members of a presentation of a report, R.64 Land Transactions under Standing Order 168(3) - Les Landes Bunker and Model Airfield St. Ouen - lease. There are no matters under J or K, so we come to Public Business. The first matter is the Draft European Union Legislation (Implementation) (Jersey) Law, Projet 164, lodged by the Minister for External Relations. Members may recall the debate on this began but before the principles were adopted it was referred to Scrutiny, so we now begin the debate again. So I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft European Union Legislation (Implementation) (Jersey) Law. A Law to enable the States or the Minister for External Relations to give effect in Jersey to legislation of the European Union and to make supplementary provision in relation to that legislation, to make amendments and other provision in connection with the Treaty of Lisbon, and for related purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

**6.1 Senator P.M. Bailhache (The Minister for External Relations):**

When I proposed this draft law on 4th February I thought that I made a reasonable speech but Members fell upon me like a pack of hungry wolves and the Bill was eventually referred to Scrutiny. This time I am tempted to ask Members to read the excellent report of the Corporate Services Scrutiny Panel and sit down. But perhaps I should say a few words. The purpose of the draft law is to repeal the European Communities Implementation (Jersey) Law 1996 and to improve and to update the powers to give effect in Jersey to E.U. (European Union) legislation, particularly sanctions, whether or not that legislation is directly applicable in Jersey pursuant to Protocol 3 of the U.K.'s Treaty of Accession. The draft law also amends and renames the European Communities (Jersey) Law 1973 so that that will become the European Union (Jersey) Law 1973 and amends other references in our legislation so reflect the Treaty of Lisbon, replacing the European Communities, as I have said, with the European Union, but also updating other terminology as well. The opportunity has also been taken to clarify the circumstances and the extent to which the States made by Regulations and the Minister for External Relations made by Order and introduced legislation to give effect to any E.U. provision. The draft law will also enable ambulatory references, facilitate the speedy and effective implementation of sanctions measures and clarify the interpretation of expressions used in the legislation. The draft law, as you said, was

referred to the Scrutiny Panel on 4th February and I am grateful to that panel for the comprehensive report that is now before Members. There is a specific recommendation in that report which reads: "When signing future Ministerial Decisions for the implementation of sanctions measures the Minister for External Relations should confirm whether or not the measures have their origins in a resolution of the U.N. (United Nations) Security Council and if so, provide the reference for that resolution." That is a sensible recommendation and I accept it and I will ensure that in future Ministerial Decisions, where the sanctions result from a resolution of the Security Council, that is made clear for the information of Members and of the public. Perhaps I could identify for Members 2 important changes that are brought about by the draft law. The first is that Article 3 of the draft law addresses one of the recommendations of the International Monetary Fund in 2009. That the legal framework for implementation of sanctions should include all types of financial services activities, especially, I think, trust administration. Article 3 of the draft law makes it possible for an Order, or Regulations made by the States, to apply to any person carrying on financial services business within the meaning of the Proceeds of Crime (Jersey) Law 1999. Therefore that recommendation of the I.M.F. (International Monetary Fund) is met and it is important that the law should, if possible, come into force before there is a further inspection or examination of our legislative provisions by the I.M.F. in the autumn this year. The second matter to which I draw Members' attention is in Article 2(4), which introduces a power to have what is called an ambulatory reference so that Orders or Regulations can take effect as amended by any change brought about by European Union legislation or indeed a decision of the European Court of Justice. As an example, the European Union might bring in sanctions prohibiting financial dealings with a list of persons in Russia or Ukraine. That list might be amended as a result of international agreement to include others, perhaps another 3 or 4 names. If there were an ambulatory reference in the Order previously made by the Minister for External Relations that would bring into legal effect immediately the revised list without the necessity to make a new Order. This would obviously have to be carefully considered before any ambulatory reference was included on a case by case basis. But it could save a considerable amount of officer and law drafting time and expense. I move the principles of the Regulations and will be happy to answer any questions.

#### **The Bailiff:**

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

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

As all Members know, we have an excellent team in the Scrutiny offices and any compliment about any report is as much due to them as to the members of the panel. We are very grateful to the support we get. I am also indebted to the members of my panel for their participation in this review, which has been extremely valuable as always. Yes, according to the evidence we received, obviously the law ... there is nothing to be particularly worried about with this particular law. The Minister can implement sanctions and give further effect to provisions under Protocol 3. But what did come out very much in our review was the fact that other Ministers ... there is no safeguard to prevent other Ministers using their Order-making powers under other legislation to bring other European Directives into Jersey legislation. I am sorry, I think this is something - and I am speaking personally here as opposed to the panel - I feel that we do need to watch this carefully because if we are not careful we shall have to cope with the plethora of European bureaucracy without any of the benefits, if there are any. We have made a recommendation, which the Minister has not quite said he has going to accept yet, but again personally, we felt that it was necessary as a panel that we should at least know that it arises from a United Nations sanction. I have this worry that we are bringing in a considerable amount of legislation which is, in effect, coming from all areas of the globe and we do not always know where it is coming from. 75 per cent of the U.K. legislation, I understand, comes from the E.U. and in fact I think they were saying in the media that

the U.K. Parliament is finishing a week or 10 days early because they have run out of work. I am concerned that we are going to be sitting here just passing law which is coming from other people and is not our own law. The Ukrainian sanctions are purely an E.U. measure. They are not a resolution of the United Nations. I understand that resolutions of the United Nations are in fact legally binding but E.U. sanctions are not binding to the same extent. We are just holding up our hands and saying: “Yes, Sir, no, Sir, three bags full, Sir”. I worry about this. If the Russian sanctions are agreed, again these are not a United Nations sanction but an E.U. proposal and this affects, I understand, some of our main industry, the finance industry. No doubt we will follow Russian sanctions but suppose they were E.U. sanctions against Guernsey. Would we follow them then? **[Laughter]** Probably. We can laugh, but when you bring these problems down to our neighbours you have to think carefully about them. I have spoken before in the Assembly about fishing quotas and the fact that we trundle through the U.K., through the E.U. and on to the North East Atlantic Fishing Commission, and the Faroe Islands which are, I suppose the equivalent of Jersey and Guernsey of the Kingdom of Denmark, they have a seat on the North East Atlantic Fishing Commission because they are not in the E.U. So why are we sitting there going all the way through this plethora of E.U. bureaucracy to get our fishing rules given to us from on high?

[12:15]

It really sounds quite ridiculous to me. But anyway, I still believe we need to be extremely wary of just implementing E.U. legislation willy-nilly. We are not in the E.U. and it is for this reason, as I have said, that I think we must provide Members with the provenance of legislation. The U.K. has, to all intents and purposes, all but surrendered its sovereignty and I think we must guard ours more carefully. It may be a topic for another day but I can assure the Assembly that it will not go away. Despite this, our conclusion is that based on the advice that we have been given, based on the work we have done, the evidence we have heard, that we should ascent to this legislation.

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

I thank Senator Farage, I mean Senator Ferguson **[Laughter]** for those points. We are all going in that direction. I must say, having read the explanatory note, I am still totally confused. I wonder if the rapporteur or the Minister could define in clear terms how the Common Foreign and Security Policy applies to this Island? How does it apply to this Island? There seem to be all sorts of references to it and it is very hard to get the thread.

### **6.1.3 The Deputy of St. Ouen:**

I too would commend all States Members and hope have had an opportunity to read the Scrutiny Report. Also, I would like to send my thanks to the Minister for External Relations and his department for the support that they gave us and the information provided, which enabled us to do the review in a timely fashion. There is one area that I would like to bring Members attention to and that is part of the rationale behind introducing this piece of legislation. It is in part supporting the agreed common policy of the Council of Ministers. For some, who may wish to recollect our last States sitting and a debate around population, we had Ministers standing up asking legal advice and stating how important it was for States Members to agree policy, which would then help direct departments to implement that particular policy. With regards to External Relations, we are not allowed or offered the opportunity to do exactly that. Indeed, it is simply a report produced by the Council of Ministers on external relations and it is a policy document but it produces a report with no debate, no requirement for the States to show their approval or even debate some of the matters that are contained within it. I find that extremely confusing and rather worrying. I would say to Ministers, and perhaps even the Chief Minister who was here; you cannot have your cake and eat it. You either have or support the view that the States should agree and approve significant policies, which gives clear direction to the departments then to implement them, or indeed you just go your

own way and do not seek the approval of the States, as they did in the case of the Common Policy for External Relations. The Council of Ministers just came to an agreement themselves and issued a report. I know that the Minister for External Relations has been made aware of this view but I equally think that although I accept that in the current Standing Orders it requires only the Council of Ministers to agree Common Policy, I think it should be reviewed and great importance attached to it, especially now that we have a Minister for External Relations.

#### **6.1.4 Deputy S.Y. Mézec:**

My perspective on the European Union and the idea of an ever-close union of the peoples of Europe is completely different to that of Senator Ferguson, as I know that she knows as we have sparred on Twitter over the issue before. I think she raises some points that I think are quite important to the context of this, which is that the relationship between Jersey and the European Union is completely unclear. I am a States Member and I do not even really know what the relationship is, where the lines are, what applies to us, what does not apply to us and I think if you ask people, members of the public, what they thought the E.U. was to Jersey, I suspect the vast majority of them probably would not have a clue. It is a little bit different in the U.K. because they do know what the relationship is. The U.K. is a member, although it has a few exemptions. In a couple of weeks' time in the U.K., they will all be going to the polls to elect members of the European Parliament, whereas here, we do not know. Laws from Europe obviously do affect us, that is why we are having to debate this piece of legislation. I do not think it is good for democracy for this relationship to not be completely defined and understood. We are not a member of the European Union, we do not have a seat at the table, but some of the rules apply to us so that is legislation without representation, which cannot be good for democracy. Since Protocol 3 of the European Communities Act, the nature of the European Union has completely changed. For a start, back then the European Parliament was an appointed Chamber. It was not a directly elected one like it is now and we, in Jersey, do not get a vote in that. Some people in Jersey will have a vote in those elections if they wanted to because as British citizens who may have lived in the U.K. before, they will still be entitled to a vote as if they still lived in the U.K. I am still entitled to a vote in the E.U. elections if I choose to but most Jersey people who lived in the U.K. probably do not know that. So the nature has completely changed. Gibraltar is quite an interesting place that I mention all the time in some of my speeches. Residents of Gibraltar do have a vote in European Union elections. They will be going to the polls on the same day as everybody else. Our relationship with the E.U. is not defined and it really needs a proper look at some point and I think there should be a public debate about what we want our relationship with Europe to be like in the future. In the meantime, it does seem reasonable to back this. If Senator Ferguson can back it, I am sure I can back it as well given how different our views are otherwise, but I just wanted to rise to make that point that the whole relationship between Jersey and the E.U. needs a good look at after this, I think.

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

As a point of information, Sir, may I recommend that the Deputy read the report? He might understand the relationship a bit better.

#### **6.1.5 Senator B.I. Le Marquand:**

In the absence of the Chief Minister just to explain the situation in relation to the External Policy point which was raised by my friend, Deputy Reed. The fact is that it is a matter of law. It is part of the law in relation to the definition of the role of the Chief Minister that he conducts foreign policy - this has now been amended, of course, by having a Minister for External Relations - but he conducts foreign policy in accordance with the policy set by the Council of Ministers. So it is not just the policy of the Chief Minister himself or the Minister for External Relations but the policy of

the Council of Ministers. Now, the previous Council of Ministers did not have any written express policy and that needed to be rectified. I was instrumental in that because I kept on raising it at meetings of the Council of Ministers and eventually such a policy was agreed by the Council of Ministers. My point is this, because the law says it is the policy of the Council of Ministers, I do not think the Council of Ministers can be criticised for having a policy. However, if individual Members were unhappy with the nature of that policy, then of course there are one or 2 things they could do. They could either seek to amend the law so it became the States policy - I am not recommending that, in fact - or alternatively they could seek to bring a proposition requesting the Chief Minister and the Council of Ministers to amend that policy. So I merely explained that so that Members can understand that nothing nefarious or secretive has been taking place here, merely carrying out the existing law.

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

I was certainly a strong supporter of referring this piece of legislation to Scrutiny. I think we have an excellent report here and the conclusions of which have been very well summarised by Senator Ferguson. I regret that I have not personally had the time to go through it in great detail but certainly I get the gist of it, having scanned through it. I think what we have heard is there is a logical rationale for the proposal but I do not think that is where the matter stops. For me, it is much more about gut feelings, about the importance of political power and our dependence, and to the extent to which it is right, on legislation and policies that are coming from other jurisdictions and elsewhere. Clearly, if one could feel confident that passing this measure would not lead us into any problems in the future, I would be wholly sold for it but I do have real reservations. For example, it said: "Well, do not worry, we can pass this law because it gives powers to Ministers to make Orders which will speed things up and avoid any difficulties with external authorities" and so on, or with, let us say, administration. Of course, do not worry, it says we will know about those orders because they will turn up on Part B of our Order Paper and we will be told whether this is to do with the E.U. or whether it is the U.N. sanction, which obviously have different statuses, we will be told that. There is the opportunity for a Member to seek to bring a proposition through to annul the Order. I do not think that is real. I do not think there is the slightest chance that any Back-Bencher could exercise that degree of scrutiny effectively. My unanswered question still, and I cannot see it in the Scrutiny Report and I have not heard it from the proposer, is: "Why can we not do this by Regulations where the States make a decision positively to improve these things?" If we need to change the rules through Standing Orders and speed up the route of Regulations, okay, but at least with Regulations, we get a proposal that explains to us why we want to do it, what the rationale is and this House exercises its legal and democratic responsibility on behalf of the Island to adopt these pieces of externally driven legislation, which we may know, frankly, very little about. It may not be relevant to our circumstances but may have local impact, sometimes unknown. Of course, there is also the other argument that I think, from what I have heard, although this is principally intended really for financial services legislation and to facilitate that line of business, the law that we are about to approve would effectively work on other Ministers with other Order-making powers in their own legislation. So I have real concerns about this and I am going to listen to see what the proposer says in summing up as to whether I vote for this or not.

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

For information, Sir. I hate to keep popping up and down like a Jack in the Box. I may have confused Members with my reference to other Ministers and their Order-making powers under other legislation. This particular piece of legislation, when we were doing our review, it highlighted the fact that other Ministers have powers under their legislation, other legislation, in order to bring in parts of the E.U. or parts of E.U. directives. This particular legislation neither

permits it nor forbids it. It is the other legislation that Ministers may have and it is that that we need to watch for.

[12:30]

**The Bailiff:**

Does any other Member wish to speak? I now invite the Minister to reply.

**6.1.7 Senator P.M. Bailhache:**

I am grateful for those contributions. First of all, the points made by Senator Ferguson, I think in her personal capacity rather than as Chairman of the Scrutiny Panel. She expressed some concern about whether this would open the door to numbers of directives of the European Union being implemented in Jersey by Order. I do not think the Regulations do have that effect but I do agree with her that the implementation of European rules, which fall outside Protocol 3 is something that has to be carefully considered. On the whole, it seems to be that any such changes would be brought about by the Assembly rather than by the Minister. The Senator suggested that I had not expressly accepted the recommendation of the panel. I thought I had done but for the avoidance of doubt, I will repeat that I certainly accept that recommendation and will make sure that any sanction emanating from the United Nations is declared as such in the Ministerial Decision that accompanies the Order. The Senator gave an example of the Ukrainian sanction measures and said they were not the result of a resolution of the United Nations and of course she is right. They were not the result of a United Nations resolution because the Security Council would never be able to pass such a resolution because it would be vetoed by Russia. For that reason, the European Union took it upon itself, in co-operation with the United States, to bring about the sanctions that we have in fact applied. Deputy Le Hérisier was confused by the references in the explanatory note to the Common Foreign and Security Policy of the European Union. I agree that on the face of it, it might be confusing. The schedule to the Regulations makes it clear that the Common Foreign and Security Policy of the European Union is not one of the applicable European instruments that applies to Jersey as one of the community instruments. But the sanctions measures are made by the European Union under the provisions of the Common Foreign and Security Policy and because it is necessary for Jersey to be able to implement sanctions measures, there has to be a reference to the Common Foreign and Security Policy to that extent. So although the policy does not apply in toto to Jersey, it is not an instrument to which reference is made under the 1973 law. It is a community instrument or piece of legislation. I am sorry; I should use the correct terminology. It is an E.U. provision to which we are entitled to have regard in deciding whether or not to make an Order or to make Regulations under Article 2(1)(b) of the Regulations that are now before the Assembly. I hope the Deputy can now see the light but if I have not clarified matters, I should be glad to discuss the matter with him perhaps outside the parameters of this debate. The Deputy of St. Ouen spoke about the Common Policy of the Council of Ministers and I think the Deputy Chief Minister has answered that point. Deputy Mézec told us that he had the right to vote in the European elections. I was delighted to hear that and wish him well in the elections. **[Laughter]** He pointed out that the residents of Gibraltar have a vote in the European elections and of course he is right, because Gibraltar is basically inside the European Union, whereas we are basically outside the European Union. In fact, the position of Gibraltar in relation to the European Union is the exact mirror opposite of the position of Jersey and Guernsey. Three of the freedoms apply to Gibraltar and only one of the remaining freedoms applies to Jersey. So Deputy Young accepted the logic, I think, the rationale of these Regulations but still had some gut reservations. He said that it was not right to allow a Minister to make Orders merely to speed things up and I hopefully will reassure him by saying that the powers of the Minister to make Orders are extremely limited. They are limited to the giving effect to sanctions, which has been agreed by the international community and to making Orders supplementing the provisions of European rules, which apply to us pursuant to Protocol 3.

So it is not open to the Minister to go off on a frolic of his own and to introduce European legislation into Jersey except in that very limited extent. Why not Regulations rather than Orders? Well, this was a matter that was examined at great length before the Scrutiny Panel and the simple answer is that it takes too long. In order to implement a sanctions measure, it has to be done immediately because otherwise the sanctions would be enforced in the rest of Europe but not in Jersey. If it were done by Regulations, the Regulations have to be lodged for 6 weeks. During the summer period, it would be considerably longer and that is not practical. I think Senator Ferguson kindly dealt with the other point made by the Deputy in relation to other laws where Ministers are entitled to give effect to European provisions. So I maintain the principles of the Regulations.

**The Bailiff:**

Very well. All those in favour of adopting the principles, kindly show. Those against? The principles are adopted. The matter has already been referred to the Scrutiny Panel, therefore that does not arise. Do you wish to propose the Articles together?

**6.2 Senator P.M. Bailhache:**

If I may, I would ask to propose the Regulations *en bloc*.

**The Bailiff:**

I think they are Articles, are they not? This is a law.

**Senator P.M. Bailhache:**

I propose the Articles of the law *en bloc* together with the 2 schedules attached.

**The Bailiff:**

Very well. Are they seconded? [Seconded] Does any Member wish to speak on any of the Articles or Schedules? All those in favour of adopting Articles 1 to 8 and the schedules, kindly show? The appel is called for in relation to the Articles. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 37</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Senator F.du H. Le Gresley				
Senator L.J. Farnham				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				

Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				
Deputy N.B. Le Cornu (H)				
Deputy S.Y. Mézec (H)				

**The Bailiff:**

Do you propose the Bill in Third Reading? Is the proposition seconded? [Seconded] Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading, please show? Those against? The Bill is adopted in Third Reading.

**7. Health and Safety Appeal Tribunal: re-appointment of Chairman (P.25/2014)**

**The Bailiff:**

Now, the next matter is the Draft Passports Law but, given the time, would Projet 25 be a convenient one to take, Minister for Social Security? The appointment of a Chairman, would you be happy to take that? Would Members agree to take that as an item before the adjournment? Very well. We will take next Projet 25, Health and Safety Appeal Tribunal: re-appointment of Chairman, lodged by the Minister for Social Security. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked whether they are of opinion to reappoint Mr. Philip William Syvret, LL.B. Hons. (Lond.), Solicitor, as Chairman of the Health and Safety Appeal Tribunal, in pursuance of Article 17 of the Health and Safety at Work (Jersey) Law 1989 and the Health and Safety at Work (Appeal Tribunal) (Jersey) Regulations 1989, for a period of 3 years commencing 1st May 2014.

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

The Health and Safety at Work (Jersey) Law 1989 provides for the establishment of an Appeal Tribunal to hear appeals against the serving of administrative sanctions, prohibition and improvement notices, served by Health and Safety Inspectors and decisions by the Minister for Social Security in relation to licencing provisions. At present, the only licencing provisions that are in place relate to work with asbestos. The Health and Safety at Work (Jersey) Regulations set out the arrangements for the Tribunal, including the appointment of members for a 3-year period. Regulation 2 provides for the Tribunal to consist of 4 members, a Chairman and Deputy Chairman, who must both be advocates or solicitors of the Royal Court of at least 7 years standing, and 2 other members. Mr. Philip Syvret, the current Chairman, was elected by the States in 2011 to serve a 3-year term of office, which expired on 30th April 2014. Mr. Syvret, who is a solicitor of the Royal



Court and works in the legal practice of Benest and Syvret, has agreed to continue in the role of Chairman for a further term of office of 3 years and I would like to take this opportunity to thank him for his service to date. I therefore propose that Mr. Philip Syvret be re-appointed to serve as Chairman of the Tribunal for a further 3-year term of office.

**The Bailiff:**

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

**7.1.1 Deputy R.G. Le Hérissier:**

Just a quick question, Sir. How many times did the Tribunal meet last year in its last year?

**The Bailiff:**

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

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

The Tribunal has met once in the last 5 years.

**The Bailiff:**

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

## **LUNCHEON ADJOURNMENT PROPOSED**

**Deputy K.C. Lewis of St. Saviour:**

Sir, can I remind Members before we adjourn, there is a lunchtime briefing at T.T.S. (Transport and Technical Services.)

**The Bailiff:**

A lunchtime briefing by T.T.S. Very well. Yes, we stand adjourned until 2.15 pm.

[12:42]

## **LUNCHEON ADJOURNMENT**

[14:15]

### **8. Draft Passports (False Statements and Forgery) (Jersey) Law 201- (P.14/2014)**

**The Bailiff:**

We come next to the Draft Passports (False Statements and Forgery) (Jersey) Law 201-, Projet 14, lodged by the Minister for Home Affairs. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Passports (False Statements and Forgery) (Jersey) Law. A Law to create offences relating to false applications for passports, and for connected purposes. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

#### **8.1 Senator B.I. Le Marquand (The Minister for Home Affairs):**

There is also an amendment in my name and I hope by your leave I can take the 2 together effectively.

**The Bailiff:**

Well, of course, you are going to speak to the principles first.

**Senator B.I. Le Marquand:**

I am going to speak to the principles, yes.

**The Bailiff:**

But, by all means, assuming Members agree, I am sure you will propose the Articles in their amended form.

**Senator B.I. Le Marquand:**

Yes, indeed, Sir. Although there is currently no legislation in Jersey in relation to offences relating to passport applications or the fraudulent possession or use of passports, that does not mean that there has in the past been a complete gap in the law in this area. Jersey common law has long recognised the offences of forgery, that is making a false document to appear to be a real one; uttering, that is using a forged document; and obtaining by false pretences, which would include obtaining something by means of a forged document. Nevertheless, significant gaps have existed, particularly in relation to the making of false statements on application forms, either by the appellant or by the witness who countersigns the photograph and the form. Furthermore, it is not currently an offence to purchase, receive or possess a forged passport. Also, the current common law does not give any powers to the officers of the Customs and Immigration Department, both when dealing with applications for passports and in the event of them encountering a forged passport at the points of entry. These are the issues that this new law, as amended, sets out to address. I would comment that the law in relation to the issuing of passports is governed by the British Nationality Act 1981 and in particular, schedule 4, section 7. If Jersey had had its own statute in relation to the issuing of passports, rather than, as it were, buying-in to the British Nationality Act, then we would undoubtedly have included in such a statute, the kind of provisions which are now included in this law. I move the new law in principle.

**The Bailiff:**

Is the new law seconded? **[Seconded]** Does any Member wish to speak on the principles? Very well, all those in favour of adopting the principles, please show? All those against? They are adopted. The Connétable of St. Brelade, do you wish this matter to be referred to your Scrutiny Panel?

**The Connétable of St. Brelade (Chairman, Education and Home Affairs Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Yes, then Minister, you have an amendment to Article 1. You would like to propose Article 1 presumably in its amended form?

**Senator B.I. Le Marquand:**

Yes, Sir, and if I may also, Article 2 in its amended form.

**The Bailiff:**

Shall we ask the Greffier, just for the sake of good order, to read the 2 amendments and then if Members agree, you can propose them in that order.

**Senator B.I. Le Marquand:**

Thank you very much, Sir.

**The Greffier of the States:**

1. Page 11, Article 1(1), omit the definition “police officer.” 2. Page 12, Article 2 - (a) for the heading to Article 2, substitute: “Offences of dishonesty in relation to applications for passports”; (b) for paragraph (1), substitute: “(1) This Article applies where an application is made or is purported to be made for the purpose of obtaining or renewing a United Kingdom passport”; (c) in paragraph (2) for the words “if the person” substitute the words “if any person”; (d) in subparagraphs (2)(a) and (2)(c) omit the words “or recklessly”.

**The Bailiff:**

I think perhaps the best thing is to propose Articles 1 and 2 at this stage.

**Senator B.I. Le Marquand:**

Well, I was going to attempt to propose them all together, so if I may?

**The Bailiff:**

All together. Very well.

**8.2 Senator B.I. Le Marquand:**

I am going to try and take things at a very high level. I should have and intended to, in my opening speech, expressed my appreciation to the Scrutiny Panel for their assistance. By scrutinising this particular law, it forced me to look at it again and I then, to my embarrassment, discovered it did not do what I thought it did and also discovered some drafting errors. So I am afraid that my initial work on this was not up to my usual standards, may I put it that way. I am going to tackle this at a high level and invite questions because otherwise I am afraid I have to go into it in great detail. Article 1 contains various different definitions. The important issue is that the powers here will be exercisable by a police officer, which will include an ordinary police officer, or by an immigration officer. There was a definition, which is quite important, of United Kingdom passports and I need to explain that. This is the definition in fact taken from the 1981 law and the real aspect of those which we deal with generally in Jersey is subparagraph (b), that is a passport issued by the Lieutenant Governor of any of the Channel Islands or the Isle of Man. It is not always particularly understood the precise nature of the passports that are issued in Jersey. Many people think they are Jersey passports but they are in fact a variation of the United Kingdom passports, hence the definition, which they say is taken directly from the Nationality Act 1981. Article 2 creates the offences of dishonesty in relation to an application. This is in relation to an application for a United Kingdom passport, so this is dealing with offences of dishonesty when someone is trying to apply for a passport in Jersey. Article 3 creates other offences in relation to passports. This is dealing with all types of passports, not just ones issued here but forged passports or passports of that nature, which might appear when someone is trying to gain entry on a forged document to Jersey. There are a number of different offences created there including forging, uttering (that is using) a forged passport, knowingly or recklessly purchasing or receiving the forged passport or knowingly or recklessly possessing a forged passport. The maximum penalties in relation to offences under Articles 2 or 3 are an unlimited fine or a term of imprisonment of 2 years. Article 4 contains powers of arrest and detention. These have had to be particularly put in here in order to extend the necessary powers to Customs and Immigration Officers. In addition to these, of course, as Members may note under Article 4(5), that of course there are already a variety of provisions that apply and should also be extended in addition to these. Article 5 deals with the obtaining of a search warrant before arrest. Article 6 deals with a specific case in which officers would arrest a person on or near premises and would not then need to apply for a warrant to search because they effectively would have arrested the person on or near the premises. There are safeguards there. Article 7 deals with seized material, in particular the right of a person from whom materials have been taken to be provided with a copy of those materials. Article 8 includes further provisions and safeguards in relation to the application for search warrants and Article 9 deals with execution of a

warrant by an immigration officer and finally, Article 10 deals with coming into force. It is not intended here that there would be an Appointed Day Act but simply that it would come into force 7 days after being registered before the Royal Court. The Customs and Immigration Department is very well aware so that there will be a need to adjust the current forms and paperwork in order to give specific warnings to individuals of the new offences and suppliers not only in relation to offences committed by the person applying but also potentially in relation to offences committed by the person countersigning the document if they knowingly make a false statement. So there will have to be appropriate warnings. I have removed the words “recklessly” in Articles 2(a) and (c) because of concerns expressed by the Scrutiny Panel and indeed by the Comité des Connétables that keeping “recklessly” in there might unfairly prejudice people countersigning and that is why that has been removed. So I could go into enormous depth but I hope that suffices for now. I maintain the Articles.

**The Bailiff:**

Are Articles 1 to 10 seconded? **[Seconded]** Does any Member wish to speak on any of the individual Articles?

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

I am sorry. Something that the Minister said just caught my attention and I feel I have to ask the question. Article 2(4), the Minister said that it was an unlimited fine. Normally legislation refers to a scale of fines and I just wondered why this piece of legislation does not do that?

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

I would just like to ask about the taking out of the word “reckless”, because I am aware - I may be completely wrong - that there is a specific legal definition for the word “reckless” and I just wondered if the Minister could enlarge on that?

**The Bailiff:**

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

**8.2.3 Senator B.I. Le Marquand:**

Advice is always taken with penalties that the top end of the scale at the moment is a fine of £5,000. So if it is envisaged that there should be a larger level of fine then essentially you have to have an unlimited fine. That is the reason for it. It is possible that there might be a situation that might arise where there was very large scale for financial gain and forgery taking place or provision of that sort of nature and therefore quite large fines might be required. The definition related to “reckless” is one of my areas of legal expertise, having succeeded in a case in this very House before the Court of Appeal. The definition in Jersey is different from that in the U.K. Recklessness means essentially that you know there is a risk of something and in the knowledge of that risk that you go on and take the risk but you have to have knowledge that there is a risk. It is a subjective test but the English test has been changed by statute in the past. I can see that the Bailiff is looking at me quizzically **[Laughter]** but I hope nothing has happened in terms of changes since my days.

**The Bailiff:**

I would not dream of doing that, Senator.

**Senator B.I. Le Marquand:**

The leading case I was involved in was the case of Hines.

**The Bailiff:**

Very well. The appel is called for in relation to Articles 1 to 10. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 34</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator P.F. Routier		
Senator A. Breckon		
Senator S.C. Ferguson		
Senator B.I. Le Marquand		
Senator F.du H. Le Gresley		
Senator L.J. Farnham		
Senator P.M. Bailhache		
Connétable of Trinity		
Connétable of St. Mary		
Connétable of St. John		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Connétable of Grouville		
Deputy R.G. Le Hérissier (S)		
Deputy of St. Ouen		
Deputy J.A. Hilton (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy R.J. Rondel (H)		
Deputy N.B. Le Cornu (H)		
Deputy S.Y. Mézec (H)		

**The Bailiff:**

Do you propose the Bill in Third Reading?

**8.3 Senator B.I. Le Marquand:**

I do, indeed, Sir.

**The Bailiff:**

Does any Member wish to speak in Third Reading?

**8.3.1 Deputy R.G. Le Hérissier:**

Very briefly, and the Minister may have covered this: could the Minister tell us if he went on about this being an attempt to deal with a narrow problem. Does he have evidence, anecdotal or otherwise, that passport forgery is indeed a widespread problem and is there other legislation

imminent? Secondly, does he believe the introduction of e-scanners for passports would help in removing forged passports?

**The Bailiff:**

Is there any reason, Deputy, you could not have raised that on Second Reading, which would appear to be the natural place for it to arrive? Or on the principles?

**Senator B.I. Le Marquand:**

In relation to the first question ...

**The Bailiff:**

One moment, Minister.

**Senator B.I. Le Marquand:**

I am sorry, Sir.

**The Bailiff:**

There is another Member who wishes to speak in Third Reading.

### **8.3.2 The Connétable of St. John:**

I stand up to congratulate the Minister and Scrutiny for the work they have done on this because this is obviously long overdue, because Guernsey have had it in for a number of years and with the things going on around the world, and I was not even aware myself that it was not illegal to have a false passport prior to seeing this paperwork come across my desk a few weeks ago. Therefore, I would like to thank the Minister for all he has done to bring this forward.

**The Bailiff:**

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

### **8.3.3 Senator B.I. Le Marquand:**

In relation to the question of evidence, yes, there have been cases from time to time, particularly in which people have arrived with false documents and obviously they have had to involve the police in relation to those matters and could not deal with them themselves. There have also been occasions when people have done strange things with signatures and even, I think, countersigned their own things and things of that nature.

[14:30]

So there has been an issue from time to time. Unfortunately, I missed the word in relation to the second question, which was something passports, whether they would be helpful. I did not pick up the word.

**The Bailiff:**

I think it is the same question as he asked you in Question Time this morning. **[Laughter]**

**Deputy R.G. Le Hérisier:**

Of which I never got an answer.

**The Bailiff:**

About electronic passports being used.

**Senator B.I. Le Marquand:**

Oh, electronic passports. No, because that is just a method of swiping information. The passports, particularly a new generation of passports, which the U.K. is bringing in and to which we have been required to join into, will contain increasing quantities of electronic information on them.

**The Bailiff:**

Very well, all of those in favour of adopting the Bill in Third Reading, please show? Those against? The Bill is adopted in Third Reading.

**9. Draft Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 7) (Jersey) Law 201- (P.27/2014)**

**The Bailiff:**

P.24 has been deferred as we heard earlier and so we now come to P.27, Draft Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 7) (Jersey) Law, lodged by the Chief Minister. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (No. 7) (Jersey) Law. A Law to amend the Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (Jersey) Law 1976 and to vary the fundamental rules of the Jersey Mutual Insurance Society, Incorporated. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

**The Bailiff:**

Deputy Chief Minister, are you taking this one?

**Senator B.I. Le Marquand :**

This was one that Senator Ozouf was meant to be here to take. **[Laughter]** I discussed that with him this morning. I do not know where he has gone.

**Deputy J.A.N. Le Fondré:**

If it helps, I do not know if I can assist, but I was the one who brought the petition so, although I am not prepared for it, I know fractionally something about it. But I do not know if it can be delegated to me.

**The Bailiff:**

Yes. I do not think you can propose it.

**Senator B.I. Le Marquand:**

I am not prepared to propose it, I am afraid, because Senator Ozouf was meant to be proposing it as an Assistant Minister. I spoke to him about it this morning.

**Deputy J.M. Maçon:**

Move to the next item, Sir?

**Senator B.I. Le Marquand:**

Could we put it back, Sir? I do apologise.

**The Bailiff:**

Proposition to move to the next item of business? Seconded? **[Seconded]**

**Deputy J.M. Maçon of St. Saviour:**

Could we ask who is proposing the next item of business, Sir?

**Deputy J.A.N. Le Fondré:**

Out of curiosity, Sir, could I just ask ...

**The Bailiff:**

One moment. [Approbation]

**9.1. Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):**

I apologise, normally the Minister for Home Affairs takes rather longer. [Laughter]

**The Bailiff:**

Well, I think by the skin of your teeth, Minister, you are in. Very well. Greffier, I have now lost my position. Did you read the citation, or not? Yes.

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

I do apologise, I should have been here. Right, I will catch my breath with my Assistant Minister. This proposition proposes an amendment to the rules of the Jersey Mutual Insurance Society. The Jersey Society was incorporated by an Act of the States on 13th February 1908. At this time legal effect was given to the fundamental rules of the Society which will continue to be embodied in statute. From time to time the rules of the Society require amendment and this has occurred on 6 occasions since that original date of 1908. The last occasion was in 2010. This has historically occurred by the States adopting, through an amending law, further to a petition brought to the States Assembly, and no doubt, as Deputy Le Fondré reminded Members, he was the individual who brought a petition to amend the fundamental rules for the Insurance Society and that position was unanimously adopted by the Assembly. Following adoption of that proposition, the Chief Minister's Department of Financial Services instructed the law draftsmen to prepare relevant legislation and that is before Members now. The draft law replaces the rules of the Society by replacing the schedule to the Jersey Mutual Insurance Society, Incorporated (Alteration of Rules) (Jersey) Law 1976. The draft law also introduces an ability to amend the schedule in future by Regulations with the view that if a future change is required to the fundamental rules it will not have to be undertaken by a primary law amendment. The change made by the draft law including capping recourse to members to £5 per member in line with common practice in the United Kingdom, increasing the use of bylaws to avoid the States needing to approve administrative changes to the rules, removing references to the Judicial Greffier that is no longer required, and reducing investment capital restrictions such as the rules of the regulatory laws, will now determine such matters. A number of changes made by the draft law are as a result of the commencement of the Regulation of the Society by the J.F.S.C. (Jersey Financial Services Commission) which was a recommendation included in the I.M.F. report in 2009. That Regulation commenced when the Society became a permit holder under the Insurance Business (Jersey) Law on 25th February 2013. I propose the principles to the proposition.

**The Bailiff:**

Are the principles seconded? [Seconded] Does any Member wish to speak on the principles?

**9.1.1 Deputy R.G. Le Hérissier:**

The Minister spoke about removing, I think he said capital limits which these days, of course, is absolute heresy given the way the banking system went. I wonder if he could explain in more detail to the House how he believes placing this Society under the J.F.S.C. is a better way of doing



it than retaining a capital limit, given what we have seen with such a well-intentioned Society recently like the Co-operative Society in the U.K.? Thank you.

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

I begin by I think I will have to declare an interest. As a policyholder, I think, I would be right in saying, one is a member of this Mutual Society. But assuming that is shared with other people, and many other people carry on, I think it is to Jersey's credit that here we have, in the world of giant corporates and insurance conglomerates and call centres and all this kind of paraphernalia, in this Island a Mutual Society. A Mutual Society that appears to have run its affairs very well and here they are modernising their rules. I was amused by rule 14 which appears to deal with if ever things go wrong in the Society and they get hit by a claim, which they have not got enough money for, that members, that is all policyholders, have to be asked to pay a fine ... sorry, pay a call to make up the money. If they do not do so in 10 days they get a fine of £5, and I thought: "Oh, dear." I am relieved to think that, as a policyholder, it is only £5 but then I go and I see that the General Manager then can take action to recover the unpaid amount. But I make the point, I think it is really, when one looks at the way things have gone in the world of lots of small insurance companies, mutual societies, mutual building societies and so on, they are all being swallowed up by conglomerates and look at the mess that has been created as a result. Here we have got a local society where one hears that they are making a good contribution to Island life, providing a quality service and one that appears to be run within the rules and here they are modernising it. I think that is to be to Jersey's credit and all those part of it.

### **The Bailiff:**

Does any other Member wish to speak on the principles? I invite the Minister's reply.

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

I am sure Deputy Le Hérissier was not making an inference to the issues about the Co-op in Jersey with the Co-op in the U.K. because clearly there are a whole load of issues there. His question about why it is more appropriate to put the regulation of the Society in the hands of the J.F.S.C. is a perfectly good question. What I can say to that is that the capital restrictions that are required by the regulatory laws under the Commission are more stringent than the restrictions embodied in the current laws. So in fact, if anything, the new regulatory requirements ... and if I may say, respectfully, to Deputy Le Hérissier, I think the J.F.S.C. is a better regulator of capital adequacy than effectively a group of 53 States Members which set up a commission to do that. I think that most Members would agree that the way in which the J.F.S.C. performs its functions, while sometimes being unpopular, is indeed absolutely at the heart of why Jersey has not had some of the difficulties of other jurisdictions in all sorts of capital ratio requirements than others. It is the prudence and a well-respected ... as I saw in the Middle East last week just how well our regulator is respected in the way they do their job. We should take comfort in now passing over that responsibility to the J.F.S.C. who I know will do that job well. I agree with Deputy Young about mutual societies. It is great that there is a mutual society in Jersey that is performing so well in a competitive marketplace. Mutual societies, not for profit organisations, are clearly a great thing; enterprise partnerships, the coalition in the U.K. is celebrating the fact that partnerships and mutual societies have a role. Credit unions is something that the Treasury is looking at at the moment in terms of providing hard to reach banking services and I have previously said that we should do it. So I absolutely agree. What is most important, however, as we are seeing from mutual societies' conduct in the U.K., and the fact that the co-op in the U.K. is simply incapable of running its affairs with the structure that it has got. Mutual societies work best when they have arrangements that are akin to proper company structures, and I think that is really embodied in what these changes to the fundamental rules are doing, taking the best of the mutual approach but applying proper standards

in terms of their organisation. So I agree and I think I answered all Members' questions in relation to the principles.

**The Bailiff:**

Very well. All those in favour of adopting the principles, please show? Those against? They are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel?

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

No, thank you, Sir.

**The Bailiff:**

Do you wish to propose the 2 Articles together then?

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

Article 1: it inserts the ability for the States to amend the issue by Regulations. No questions arise so I think that is the right thing to do. Clearly Members agree. The Article deals with the citation of draft law and comes into force 7 days after it is registered in the Royal Court. I propose the Article.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on Articles 1 or 2 of the schedule? All those in favour of adopting Articles 1 and 2 in the schedule, please show? Those against? They are adopted. Do you propose the Bill in Third Reading, Minister?

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

Yes, Sir.

**The Bailiff:**

Seconded? **[Seconded]** Does anyone wish to speak in Third Reading?

**9.2.1 Deputy J.A.N. Le Fondré:**

Just briefly to say, as the bringer of the petition on behalf of the Jersey Mutual Insurance Society, thank you very much to the Chief Minister's Department, to the officers involved in getting the drafting done, the Greffier as well in getting the petition prepared and the advice given, and obviously to the Minister for Treasury and Resources for eventually being here to propose the proposition today. Also to endorse Deputy Young - as a Member I do not have any financial connections with Jersey Mutual - but certainly to endorse his comments about the quality of service provided by the Society and have been very grateful for the support of this Assembly today.

**9.2.2 Deputy R.G. Le Hérissier:**

Sorry, it is slightly technical and the Minister dealt with it when he said everything is going to be very soundly dealt with by the J.F.S.C., and Deputy Young made a light-hearted reference to the £5. But of course the £5 is not a fine, the £5 is the contribution required from each member, and it does strike me, in the current circumstances, in all the issues we have had with the banking industry and, as the Minister himself acknowledged, with the Co-op, which is a very fine organisation, that clearly things went badly wrong in its banking arm, is in the U.K., as a candidate for one of the offices has kindly reminded me. What I would like to know is, what are the actual protections if the Society or if this group finds itself short of capital? What are the actual protections?

**The Bailiff:**

Again, Deputy, that really is a matter to be raised on Second Reading not Third Reading, otherwise we are just going to have a perennial debate on Third Reading.

**Senator S.C. Ferguson:**

He is a little slow after lunch, Sir. [Laughter]

**Deputy J.A.N. Le Fondré:**

I know I have spoken but would it help to assist the Minister for Treasury and Resources in answering this question, or not?

**The Bailiff:**

No, I do not think so. Does any other Member wish to speak in Third Reading in a way that is relevant to Third Reading? Minister, do you wish to reply?

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

Just a reminder, this is not the Treasury doing this, this is the Chief Minister's Department. I am doing this as an Assistant Chief Minister, just to be clear. You are quite right; a new matter, not really relevant. All I would just repeat is on the first issue, J.F.S.C. is a better regulator. If the J.F.S.C. is in charge we are not going to have issues because they are going to be monitoring and doing the job properly. I cannot really add anything else. Thank you.

**The Bailiff:**

Very well, all those in favour of adopting the Bill in Third Reading, please show? Those against? The Bill is adopted in Third Reading.

## **10. Draft Financial Services Commission (Amendment of Law No. 2) (Jersey) Regulations 201- (P.29/2014)**

**The Bailiff:**

We come next to Draft Financial Services Commission (Amendment of Law No. 2) (Jersey) Regulations, P.29, lodged by the Chief Minister. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Financial Services Commission (Amendment of Law No. 2) (Jersey) Regulations. The States, in pursuance of Article 4(3) of the Financial Services Commission (Jersey) Law 1998, have made the following Regulations.

[14:45]

**The Bailiff:**

Assistant Minister, are you dealing with this one too?

**10.1 Senator P.F.C. Ozouf (Assistant Chief Minister - rapporteur):**

Indeed I am, Sir. The Draft Financial Services Commission: these Regulations make amendments to the Financial Services Commission (Jersey) Law 1998 to remove the age limit as stated in that law by which a commissioner is required to retire. The Commission Law sets out certain conditions pursuant to which commissioners on the Financial Services Commission are appointed. One of those conditions currently set is that a commissioner shall retire from office on reaching the age of 72. A decision has been made that there should not be, and I hope Members would agree with such matters, such an ageist limit to somebody in terms of a Commission by which an individual commissioner has to retire. So I propose the principles of the draft Regulation.

**The Bailiff:**

Are they seconded? [**Seconded**] Does anyone wish to speak on the principles? Yes, Deputy of St. Martin.

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

The Minister has obviously taken note and looked at the law and where it needs to be changed. Can I ask, are there any other parts of this law which need looking at? Is the Minister continually looking at it?

**10.1.2 Senator A. Breckon:**

When I saw this I thought it was to allow the Commission to impose fines because that was the piece of work, this is probably an easy thing to do, but I assume someone had seen something coming through with the F.S.C. (Financial Services Commission). I wonder if the Minister for Treasury and Resources could take note of that, if they are looking at the law because in other jurisdictions it is a significant income for the regulator when they are able to do that, rather than just have the nuclear option of striking somebody out when it is too late for people who may have lost money. Thank you.

**The Bailiff:**

Does any other Member wish to speak? I invite the Assistant Minister's reply.

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

Two very good questions, I will deal with the last one first. The fining issue is a matter which the Chief Minister's Department took responsibility for under financial services, as the Senator will know, last summer. The issue of fining is an important issue which we have already had discussions with the Commission on. It is an important issue; the fining issue, as an interim step to effectively removing people's licences, *et cetera*, is a power which is an internationally accepted power for regulators, for monetary authorities and equivalent regulators, and arrangements are coming forward. I will send an email to the Senator to say the timing of it because he is right. I hope he still agrees with the lifting of the Commission limit because, as Members will perhaps know, there have been some vacancies on the Commission and there is a chairman to be appointed, and in fact this process started before the new chairman process which is shortly to be concluded, had happened. Indeed, it is probably just worth saying that there was one commissioner who... and I know that he would not mind me just mentioning him, for example. Sir Nigel Wicks was a highly respected commissioner who could have continued on the Board of Commissioners and had to retire because of this. The recruitment process and others fortified and made the point that this is a crazy situation to have somebody of such unbelievable stature that was forced to retire from the Commission. I should have probably said that in my opening remarks, but it was really Sir Nigel's compulsory retirement that brought this, and indeed the vacancy of chairman. To answer the Deputy of St. Martin; yes, we are looking at the Commission Law. We are having a very good look at it at the moment and work is currently undergoing at this very moment to see whether or not the Commission Law, which was passed by this Assembly in 1998, is fit for purpose for today. The Commission is working well, the relationship with the Commission is working well. But there are a number of issues with the law, specifically defining economic benefit and economic interest. There is lots of new legislation, particularly in the U.K. Banking Bill and other European legislation and elsewhere that gives a much tighter focus for the Commission. We are looking at that, and we are looking at that in partnership with the Commission, with the Financial Services Unit and we hope to lodge amendments pursuant to the work that is currently going on by, hopefully, July and then they will be debated prior to the end of this Assembly. So, yes, the Commission Law is being looked at and there are other things that can be expected, and I know that

his panel is the panel charged with it and I am happy to brief the panel on that work that is underway. I think that dealt with all of the issues.

**The Bailiff:**

Very well. All of those in favour of adopting the principles, kindly show? Those against? They are adopted. Senator Ferguson, do you wish this matter referred to your Scrutiny Panel?

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

No, thank you, Sir.

**The Bailiff:**

Do you wish to propose the Regulations together, Assistant Minister?

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

*En bloc* with no further comments unless Members have any detailed questions.

**The Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to say anything in relation to Regulations 1 or 2? Very well, all those in favour of adopting the Regulations, kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading, please show? Those against? They are adopted in Third Reading.

## **11. Chief Minister election: Island-wide vote (P.45/2014)**

**The Bailiff:**

We come next to P.45 - Chief Minister election: Island-wide vote - lodged by Deputy Mézec and I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion – (a) to agree, in principle, that the Chief Minister should no longer be elected by Members of the States, but should instead be selected through an Island-wide vote of registered electors from candidates proposed by Members of the States after each general election: provided that this new system will not be instituted until the States have agreed appropriate amendments to the role and powers of the Chief Minister to enable a system of government including the selection of the Chief Minister in this manner to be workable; (b) to request the Privileges and Procedures Committee, in consultation with all Members, to bring forward to the States for approval, proposals on the necessary framework to allow the Chief Minister to be elected by the public.

### **11.1 Deputy S.Y. Mézec:**

I do not intend to speak proposing this for a huge amount of time because this is a matter that has come to the States before and I think the principle is probably something that is relatively easy for Members to get their heads around especially if they have read the report that comes with it. It is a little bit disappointing that we are debating it when the Chief Minister is not here. That is obviously not his own fault as he has got other business to attend to. I think that is a shame because it means he will miss some of the important issues that are brought up in this debate that I hope will be considered fundamental and be carried over into the debate on P.33. I lodged this proposition as a direct response to P.33. I did it in line with a manifesto commitment that I made during my by-election, in which I said that if the Chief Minister is to have more power, that can only be traded-off

with more democratic accountability. I think the question of the relationship there is between the Chief Minister and the public of Jersey is one that absolutely has to be defined before we can even think about passing P.33. Democracy is ultimately a balancing act between power and accountability. A Government has to have power otherwise it would be completely ineffective, but that Government has also got to be accountable otherwise it will use its power to do the wrong thing. So these are 2 sides of the same coin and surrounding them both is a question of mandate. A Government only has the right to pursue a political agenda because it has instruction from the public to do so. The point of democracy and elections is that it is meant to be the opportunity for the public to cast a verdict on the previous Government's performance and then give an indication as to what sort of things they want to see from the new Government. Now, in most jurisdictions this manifests itself in a party political system where at each election several visions for the country are presented and then the party with the majority then has a mandate to proceed on the promises that it made in its manifesto and the overall vision that it gave. Some jurisdictions, like the U.S.A. (United States of America) and France, directly elect presidents to lead their Governments but in Jersey we have neither of those systems. Since the adoption of Ministerial government in 2005, we have never had an election in which the result gave a clear indication of who had the right to form a Government based on a particular set of policies. Some describe our Ministerial system as a coalition, but if you think about it, it is not really a coalition. A coalition is normally a mutual agreement between groups or parties who choose to work together and come up with some agreement based on that, whereas in our system, Ministers do not sit beforehand to come up with an agreement, they are basically thrown together by the vote of this Assembly. So it is not a coalition government, it is a conglomeration government. The public, they elect 51 - or 49, as it is going to be - States Members who all stand on independent manifestos, few of which have any substantive details in them and can only really be described as badly informed wish lists. Some people believe that it is the Island-wide mandate in the form of Senators that gives a mandate for Government, but I think the history shows this to be nonsense. For a start, half of the Council of Ministers are Deputies and we have never had a poll-topping Senator become Chief Minister. Our first Chief Minister, the former Senator Frank Walker, became Chief Minister when he had not been elected for 3 years, and when he had he came sixth. To get to that position, he beat the former Senator, Stuart Syvret, who had just topped the poll and had campaigned saying that if he won the election he intended to stand for Chief Minister. Our second Chief Minister, former Senator Terry Le Sueur, again became Chief Minister without having been elected for 3 years, and when he had he came fifth. He then beat Senator Breckon, who had just fought an election and had come second. Now, undoubtedly, the current Chief Minister, Senator Gorst, has the best mandate of any Chief Minister we have ever had. When he became Chief Minister, he had just faced a public election and he came second. That is pretty good, not bad, but to become Chief Minister, he beat the only other States Member who had a better mandate which was Senator Bailhache, who had just topped the poll. So there is no mechanism on a Senatorial ballot paper for voters to give a mandate for a Government. We have no idea why people vote for Senators the way they do. Some may have voted for Senator Gorst because they thought he was a good Minister for Social Security and wanted him to carry on there. Some people may have voted for Senator Bailhache because they thought he, with his legal background, would be good at Home Affairs rather than External Relations. There is not a box you put your cross in on a ballot paper saying: "I want this person to do this." We do not know why people vote the way they do, it is unclear. Voters in Jersey do not get to pick their Government but instead it is this Assembly that picks the Chief Minister and the other Ministers in a wholly unsatisfactory way. That is, in my view, why people do not come out to vote because they know it is ultimately a complete waste of time. Things will stay exactly as they are and there is no connection between how they vote and what they get. When you see things like the Jersey Annual Social Survey which showed that 75 per cent of Islanders do not have faith in the States of Jersey, it is obvious that something drastic has got to change. We have 60 per cent voter

abstention. Our Governments lack legitimacy, and democracy in Jersey is in a permanent state of crisis. Now, obviously Jersey is not the only place that suffers from this; politics is in crisis all across Europe. But I am not cynical or pessimistic, I think that it is because we are a small affluent Island community, I think that makes us better placed to create a pristine democratic government system that is open and accessible for all sections of our community. One of the most obvious problems we have to overcome to fix our democracy is obviously on the subject of the composition of this Assembly. The composition is grossly unfair to my constituents in St. Helier and it leaves the country Parishes over-represented at the expense of the urban Parishes. That is something fundamental that I think puts people off from voting in my district and I think that hopefully this can be dealt with separately with the referendum we will be having in October. But aside from the composition element, there are 2 potential ways forward in which we can give legitimacy back to the Government of Jersey; to create a link between how people vote and what policies they get. The first option is the one that I am dealing with in this proposition, which is that the public should have a more direct say over who the head of their Government is. If candidates for Chief Minister have to stand before the whole electorate for that position, the winner will have a clear and undeniable mandate to form a Government and pursue their manifesto commitments and to take Jersey forward based on the vision that they have stood to the public and asked them to endorse. It will be in these candidates' interests to compile a more comprehensive and detailed manifesto with realistic commitments and hopefully even be independently costed beforehand so candidates will be putting forward a realistic vision for Jersey, not just the wish list that I mentioned before. It would be in the interests of those candidates to campaign as widely as possible, to draw in as many Islanders as possible to contribute to their campaign, and I think that the whole exercise would be really good for democracy in Jersey because it would involve people and we would be talking about a vision because that is something that connects with people. If you talk about the minutiae of irrelevant policies people are not going to be inspired and engaged, where I think this sort of election they would be inspired. We would have the best and most concentrated debate on the future of the Island that we have ever had and there would be a clear choice for voters, and I think people would be inspired to take part because of that. There would have to be a realistic and sensible mechanism for such a system. In this proposition, part (b) does leave that task to be for the Privileges and Procedures Committee to come up with that in consultation with Members here. I have outlined a way in my proposition that I think it could work. The way you could do it is by starting by having Islanders go and elect all of their States Members in a general election as they are going to start doing from October. Once the Members are elected, their first job would be to formally nominate their preferred candidates for Chief Minister from the Members of the Assembly, and then an Island-wide campaign would commence culminating in a public vote 4 weeks after that general election. Now, that is obviously not a perfect system, there are some problems with that, that no doubt we will hear in the debate after this. The most obvious and important one is the potential possibility of the public electing a Chief Minister who does not command the confidence of this Assembly. That has to be avoided because, as I said at the beginning, a Government has to have power for it to be effective, and in that circumstance we would end up in an endless cycle of votes of no confidence and whatever. I think the way you can get around that is by insisting that the candidates for Chief Minister who end up on the ballot paper have to receive a reasonably high threshold of nominations to be a candidate, and I think that should also be combined with States Members being allowed to nominate more than one candidate. So you would end up with a system where the only candidates going forward would be the ones that this Assembly is happy to work with in the first place, so we are not giving the public an unreasonable choice. That is just one potential system, one vision I could see for that working. Ultimately the States would be able to consult with P.P.C. and come up with something better if there is another option. That is the point of this proposition; it is to accept the principle that there should be a link between the public and who becomes Chief Minister. But even then, what I am

proposing is definitely not the perfect answer to all of our problems. I do not even consider it my favourite of the 2 options. I said earlier on that there were 2 options that we could go forward to restoring a link between how people vote and what Government they get. The second is party politics. If this proposition is lost and P.33 is passed, we absolutely must form a party system as quickly as possible otherwise our democracy in Jersey is history, as far as I am concerned, because we will be concentrating too much power in one person's hand without extending their democratic accountability to the public in a way that is only possible if we have a direct election for Chief Minister or we have a party system where the leader of the biggest party ends up becoming Chief Minister. Senator Gorst has already indicated that he wants to stand for re-election to the States and then re-election for Chief Minister.

[15:00]

If P.33 is passed he will even be able to choose who his Ministerial colleagues are. He will know in advance of the elections when he is standing, ideally, who he would like to be in his Ministerial team. The question will be asked at every hustings across the Island: "Who will you appoint as your Minister for Treasury and Resources? Who will you appoint as your Minister for External Relations? Who will you appoint as your Minister for Housing?" An answer of: "Oh, I will just have to wait to see what other candidates get elected" will just not cut it and it will be treated with contempt by the public and it will absolutely deserve to be treated with contempt. The Chief Minister will know who he wants to work with and will know what programme he wants to pursue in Government. That is essentially a party in all but name. He will know who he wants to work with, the people who he wants to work with will know that he wants them to work with him, so the only thing you could do there is put it on the ballot paper, say the Senator Gorst Party or whatever it would end up being. So that is the challenge of this proposition to the Chief Minister. It is to say if he cannot back a direct election for Chief Minister, which this proposition gives States Members here an opportunity to do, then there is only one other option left for democracy if P.33 is an inevitability, and that is to resort to party politics instead, and most importantly to do it before the general election in October so all Members can stand up and be counted and give the people of Jersey a real say in what they get out of Government. If Members are confident that the people will back their visions that they want to put their name to, then we all have absolutely nothing to lose. So that is what we are dealing with here, it is a question of power versus accountability and I look forward to hearing the thoughts of States Members during this debate on that. Thank you.

**[Approbation]**

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Deputy Baudains.

**11.1.1 Deputy G.C.L. Baudains:**

I think it is good that one should have a debate about this sort of thing, it has been on people's minds, but I am concerned about the practicalities of it. To start off with, taking part (a), hopefully in summing up the proposer can explain to me quite how that would work in reality. I presume that immediately after a newly elected States is formed, presumably during or shortly after the first sitting, a list of potential candidates for Chief Minister would be assembled, and then it goes back to the public for an election; I am not sure how that will work. I hope the proposer can explain that and clarify how that would work. But probably the major worry I have is the difference between popularity and ability because I am worried that the public would, presumably if their voting record is an example, most likely choose the most popular. Some of us can recall from the past where such a choice would have been a potential disaster because the public only know about, certainly a new, candidate from manifestos and hustings and the like. But on the other hand, unless the candidate is new to the States, in which case it is not impossible but unlikely that he would be



running for Chief Minister, if the person has been a Member before we know much more about that candidate than the members of the public do. We know more about the ability of the person. I appreciate the Government, in whatever form, whether it is party politics, whether it is what we have here, it is never perfect. Our system is certainly not perfect but in my view the alternative is worse so I am unlikely to be supporting the proposition.

#### **11.1.2 Senator P.M. Bailhache:**

One can sympathise with the aim of the Deputy to create a system where the Chief Minister is more accountable to the public than is the case at the moment. But the trouble with the Deputy's proposition is that it is simply not practical. It confuses a presidential system of government with a Ministerial system of government. In a Ministerial system of government the Chief Minister is accountable to the Legislature. If he loses the confidence of the Legislature, there can be a motion of no confidence and the Chief Minister can be removed from office. In a presidential system, the President is usually removed from the Legislature; the Executive is usually removed from the Legislature and is not accountable to it. The President of the United States cannot be removed by Congress by a vote of no confidence other than in the rather remote and arcane process of impeachment. In France, which has an Executive President appointed for a period of 5 years, elected for a period of 5 years by the people, he appoints a Prime Minister, but he must appoint a Prime Minister who carries the authority of the Assemblée Nationale because if he does not, then the Assemblée Nationale, which is the only authority that has the power to do it, can remove the Prime Minister and the Government from office. So, in circumstances where the President and the majority in the Assemblée Nationale are from different parties, there is a delicate process called cohabitation, as the Deputy knows, where the President's powers are very severely constrained and it is a particularly French way of dealing with a difficult situation. What are the practicalities of introducing a system such as that proposed by the Deputy in his proposition? He says that after the election the Assembly should choose candidates, I think, or I am not quite sure how it would happen, but in any event, after the election there would be a number of candidates for Chief Minister who would be proposed by Members of the States and then those Members would presumably have to campaign again and the public would vote on who should be the Chief Minister. But what would have happened on the last occasion? On the last occasion, as the Deputy rightly said, I obtained slightly more votes than the current Chief Minister, and if that had been replicated in a public vote the public would have elected me as Chief Minister, but I would have been in an impossible position. I did not command the confidence of the Assembly. I did not command a majority in this Assembly, and so on any controversial matter I could have been immediately removed from office and what happens then? I do not know what happens then, perhaps the Deputy could explain because I assume that if the Chief Minister is elected by the public only the public can remove him. But if he does not command the support of the Assembly what happens then? It is just not practical. The answer to the Deputy's problem is to give proper authority to the Chief Minister which has not been conferred since Ministerial government was introduced in 2005. If the Chief Minister is given proper authority to appoint his Ministers, to dismiss his Ministers, then certainly he is accountable, not only to the Assembly but he is accountable to the public because if the Government makes a mess of things, in one respect or another, the Chief Minister will be accountable to the public at the next elections. There will be no hiding behind: "Well, I cannot really be held responsible for what happened in the Planning Department because I wanted to get rid of the Minister for Planning and Environment but I was not allowed to do so." There is no accountability under the current system, and the remedy is for Members to support the proposition of the Chief Minister which will be coming before the Assembly very shortly.

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

I have taken the perilous decision of speaking early which is always a 50/50 chance, if you like, 6 of one, half-dozen of the other, and the reason I have done that is to try and scotch the myths very early on. I do not know if the previous speaker was being ... what is the word? I do not know if he had maybe misunderstood the proposition and the report because suggesting that, for example, the public would have the whole say and the States Assembly would be stuck with the verdict of the public is not the case because Deputy Mézec quite clearly addressed this, both in his opening speech and in his report. He is trying to, as you will read through the report, strike a balance under our convoluted system and he has also said that it was not his first preference, that party politics is the way to go, that is how democracies work. In other places you give the public a policy choice. A strategic choice plan is formed before an election, the public vote on it and then a Government is formed on that basis, that is how a legitimate democracy and parliaments work. We do not have that and so I believe in an attempt to square the circle and find an acceptable balance between the Chief Minister absolutely being accountable to this Assembly and extending that to say we have a democratic deficit in our system, the public are increasingly feeling disenfranchised and that politics and politicians do not speak for them, and that we know the public want to have a say in policy and who their leader is, but also who is setting the political agenda. So it is absolutely correct, when we have a proposal on the table, as is the case with P.33, which for some of us we think is very dangerous, but it will give the Chief Minister more powers, than has been admitted. If that is the case and we are going to give the Chief Minister more powers, the accountability... well, that is questionable, then he certainly needs to have more of an input with the public. Let us just reiterate what I think is being proposed here. There would be a mechanism in place; first of all, that everyone who is elected, it would then be up to the Assembly to shortlist candidates who can command the majority of the Assembly. I would imagine we would be given one, 2 or 3 votes depending how many candidates there are. You cast your vote and you have your first candidate preference perhaps commands 45 out of 49 Members in the Assembly. That is your first candidate the public can vote on. Then you have another one who commands perhaps 33. That is another candidate who can command the majority of the Assembly, and let us say for argument's sake you have a third candidate who scores 26, who can also command a majority and other candidates may fall away. They cannot hold a majority of the Assembly, therefore there is no point in putting that to the public. Now, what happens is that when those 3 go to the public, we know that the Assembly can work with those 3 people at the point at which they are standing for election to the public. So what it does is belt and braces; it extends the fact that these individuals can work with the Assembly, they are accountable to the Assembly. But now, there is a new added dynamism, an element, to say that the public can endorse this individual. It is not going to be an extremist, if you like. It might be an extremist, but it would be an extremist that the Assembly can work with. The usual type of extremist, if you like, that we have had for the last 8 years; the neo-liberal extremist, no doubt. But at least the public would be given a choice about what kind of conservatism they are being given, or whatever the makeup of the Assembly is. So Deputy Mézec should be commended for this because he has sought to avoid, I think, pitfalls that perhaps in the past, as far as I know, were not addressed. When it was simply said: "The poll-topper will not necessarily make the best Chief Minister." That is simply not the case. The public, we know, vote for Senatorial candidates as they do for other candidates for very different reasons and when they are given a choice of candidates who this Assembly can work with, they will also make informed decisions, I believe. Just to add one last comment.

[15:15]

It is strange to say that we cannot trust the public to choose a Chief Minister because they might not be intelligent enough, to paraphrase, yet we can trust the public to choose Deputy Baudains in St. Clement because they are obviously clever enough to do that, and to choose all States Members, they chose all of us, but they cannot be trusted to choose a Chief Minister. But as I have said in the

past and just a moment ago, that argument does not work anyway because we do have the safety mechanisms in place. It will be up to P.P.C. to bring forward a mechanism. As a member of P.P.C., I do not speak on their behalf because we have not necessarily had an official position on this, but I do not see that is something beyond our wit of being able to come forward with a workable system. Is it the optimum system? Probably not. For me, party politics is the way forward and I think we will do a great service to the public when we can band together on policies rather than personalities and come forward with worked out economic plans, *et cetera*, and different visions. That is all valid and that is all part of the political landscape. But we are not at that point yet and I think what we have seen here is to be commended, and, more importantly, it takes P.33 away from being simply, as it was intended to be, some kind of esoteric internal, another talking-about-ourselves proposition to how we relate with the public. How do we, once again, re-energise democracy in Jersey? Accountability. So I think that whether or not you want to support this proposition, please let us not carry on in this vein with those arguments about the public might get the wrong person because there are safeguards that will be put in place. If they are not seen to be workable then let us hear from people as to why that mechanism might not be workable. But I believe it can be workable and that this is something worth supporting. I think the public would like to be able to also endorse Chief Ministers and policy direction in the future.

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

Deputy Mézec took a sound bite, he described the Council of Ministers as being described as a coalition. I think probably I am the one responsible for using that expression, and what I have said - the full sentence - to Deputy Mézec is I have described the Council of Ministers as a coalition of independence in a minority. That is very different to portraying, I think what he has made in his opening remarks, and Members might think about the implications of what I have just said. In his opening remarks he said that he is putting Members on notice, that effectively there is a binary choice; go with this and therefore you might be able to stomach P.33, but certainly if you do not go with this we cannot have any of P.33. Well, with the greatest of respect to Deputy Mézec, he is a young, fresh, newly elected Deputy, but he has not been in this place a very long time, and I do not think he understands - with the greatest of respect to him - some of the subtleties of what goes on in Jersey politics, and the fact that coalitions and groups do have to work together. There is quite an important point that I am coming to, I am not patting Deputy Mézec on the head, but I am trying to say the reality of what happens in our system. I do want to say something about the other binary option that he said is, if we do not have this we have got to have party politics. Now, 2 of the speakers so far in this Assembly are now declared members of a new party. Sorry, it must be growing by the day, 4 Members of this Assembly are a member of a new party. Now, I do not think it is as simple as that. I do not think that it is a binary choice to have this proposition or party politics, or this proposition or P.33. Our political system is much more subtle than that. The only other speaker in this Assembly so far has been Senator Bailhache. I was interested to know on the front page of the *J.E.P. (Jersey Evening Post)* that apparently I am Senator Bailhache's closest ally in this Assembly, and I am delighted; I like Senator Bailhache very much, he is a poll-topper and he is doing a great job, and yes, I am a very strong ally of Senator Bailhache. I am also an ally of the Chief Minister. I would remind Members, and again, absolutely no criticism whatsoever, but of course I was not the Chief Minister's candidate for Minister for Treasury and Resources, but I work with him and I absolutely respect what he is trying to do. I indeed have had to adapt and work my own working style according to what he wants, and I think that he is doing an extremely good job of being a coalition of independence. The consequence of this proposition is effectively that ... and sometimes the possessive word "our" and sometimes people said it was "our Bailiff" and nothing against you, Sir, Senator Farnham in the debate 2 weeks ago said "our Bailiff" and I am sure you are "our Bailiff" and you are the Island's Bailiff, Sir. But the Chief Minister is this Assembly's Chief Minister by a majority. What Deputy Mézec is asking us... and also a word of advice to

Deputy Mézec, if he wants the Constables' votes he has got to be nice to the Constables, he cannot just say that they are completely unaccountable and improper and all the rest of it. He has got to get people to vote, he has got to persuade people on the arguments and telling them that they should not be here and they have got no democracy and all the rest of it is not the way to get them on board, if I may say so. The fact is the binary solution is not as simple as that. If we go for a presidential election, Senator Bailhache has absolutely said all the correct things about presidential elections and the consequence. It is not going to be we are going to have an election which will have a result and then this Assembly will have a Chief Minister imposed. Yes, organised by public vote but it will be a Chief Minister that then will be imposed on this Assembly. That is an odd state of affairs. Senator Bailhache mentioned cohabitation **[Aside]**: it did not work in France, and what on earth are we going to have? We are going to have a Chief Minister that has been elected on... and no disrespect to the electorate of Jersey, but do we really think, and Deputy Mézec said that politics is not working internationally. Politics is not working here, the esteem by the public of this Assembly is pretty poor. It is pretty poor for all sorts of reasons because we are busy here discussing ourselves again **[Approbation]** and we do not deal with the real issues that are dealing with real people. Now, how is that going to work? I was, believe it not, a poll-topper one day. I know it is very unlikely to ever happen again. When you make decisions, of course, you become unpopular. Are we really saying that this Assembly that has to hold the Chief Minister to account... nothing in P.33 is going to give the Chief Minister a majority. He is going to continue to be effectively a minority Council of Ministers. I do not think that is going to work, I do not think it can work. Do we really think that an election individually ... we hold up the American democracy as the fountain of democracy; we are all democrats, we all believe in democracy, we are all parliamentarians. Do we really think that presidential-style elections, which this must surely be, with all of their highly short-term promises, all the thing embodied in an individual, do we think that that is right? Do we not think that one of the problems with other places and presidential systems is effectively short-termism? Of course it is easy to tell the public what they want to hear. Politicians do that around the world. This Assembly and this Island, and I said it this morning, has a fantastic economic legacy. We have good finances because this Assembly has not been short-term. We have been long term in our thinking and there is a kind of hard wiring of that in this Assembly. I believe that the Senators' position, 6-year Senators, not everybody facing the ballot box at some time, helped that. That is gone. For those people who are going to be standing in election, we are all going to be fighting for effectively pleasing the public and telling the public what they want to hear. That is the downside of politics and democracy; we have to be honest about that. Politicians love to tell people that there are non-consequential decisions, that we can promise everything; you can have low taxes and more spending and everything will be glorious tomorrow. Do we really want a presidential style of Chief Minister that is going to do that? That is then going to be in a position that they are going to be a Chief Minister ... what happens if they lose the confidence of this Assembly? Do we have another presidential Chief Minister election? I want a system where the Chief Minister can do the job, is not in a majority. I believe in collective responsibility but from time to time people will mix-and-match in terms of their grouping. I agree with Deputy Mézec on some things. I agree with him on marriage equality, I agree with him on a number of other things. I want to be part of a flexible coalition approach of things that is not a bipartisan approach to the world, an approach where we elect a leader because they say the right things and because they promise the right things in the short-term; get elected in a huge wave of optimism and then arrive in this place and realise they cannot do their job. Because effectively the composition of the Assembly bears no resemblance to effectively the presidential C.M. (Chief Minister) election. I say to Deputy Mézec, politics is an onion with lots of different levels, and I do not know whether party politics is right for Jersey; I am beginning to think that maybe it might be in some cases because of the crisis that these last 3 years have had in not resolving composition issues.

[15:30]

Maybe we do need a short-term party political grouping that is going to come on and sort ourselves out so we can get elected and we can get elected properly and legitimately. I agree with Deputy Mézec, but I am not in Deputy Mézec's party for everything. I do not want a whip. I do not want to be forced into being in a group. I believe in a Chief Minister being able to hire and fire and being accountable to this Assembly properly and not being in a majority of States Members because that keeps a Chief Minister and a Council of Ministers far more with their feet to the fire and having to argue their case each time they have got a difficult issue rather than the ability to force something through that you have in other places. Most other majority governments led by party politics can just force legislation through and force whatever decision they want through and parliaments around the world have been undermined by that. I do not want that for Jersey; I do not want that for this Island. I do not think that is good for democracy, I do not think that is good for long-term decision-making. It is an interesting debate to be had, some useful comments made, but it is the long-term interests of Jersey which would not be served by it. We need reform, but not this kind of presidential personality cult short-term issue.

**Deputy M. Tadier:**

Can I seek clarification? If the Minister does not like the idea of whips, why does he and his colleagues on the Council of Ministers spending so much time whipping on issues such as the Population Policy in getting their members to change their vote?

**The Bailiff:**

That is not a matter of clarification.

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

But I am happy to describe what a whip is, versus good argument and debate, **[Laughter]** because a whip is when a member of a party has to go with the majority party line, otherwise they lose the party support. That is a whip, to Deputy Mézec. What we do in this Assembly is persuade, and does the Council of Ministers persuade on trying to do this, because ultimately the Members have every right to press whatever button they want, absolutely, every day of the week, but should we persuade people to try and do things? Completely. It is called debate and democracy.

**11.1.5 Deputy J.M. Maçon:**

Much has been said, so I will try to keep to the arguments which have not been raised yet. Looking at the process of if the Assembly decided to introduce this, there are some practical considerations which need to be considered. For example, we know this year on 15th October we will have our general election, and my committee certainly is reserved about whether, even if this was to be approved, we could bring in the necessary legislative changes in time for that to give effect. My committee does not believe that we could do that, bearing in mind that Deputy Mézec's position does have the caveat that this is only if the States were to agree changes to the Chief Minister's powers, so that does also need to be borne in mind. But even if that was the case, we change the old system that we had in electing Senators, Constables and Deputies all to one day in order to rule out and remove the electoral fatigue that we used to experience beforehand, and without having an opportunity to test that at a full proper general election, which is what is being asked for, probably this time again we will be moving ... if this were to be introduced and we could get it all in place, there would be the problem of then potentially a month later you will have another election for whoever would be potential Chief Minister, and again, we have to raise the issue, are we going to bring back another round of electoral fatigue? Senator Ozouf and others have made the point about personality politics. Being an individual who would much prefer debates in Jersey to focus more on policy rather than personality, I do not feel ... you can see it even in the U.K. now, they are

already gearing-up to make it a more personality-based system, with all the leaders of the parties kind of going down that way with those U.S.-style kind of presidential debates and all those types of things, when in fact the system is a political party system, which is different, but again you could say: “Well, that does not apply in Jersey, because we do not have official political parties” so it depends how you want to slice the cake. Whenever you talk about appointment processes, at the same time you have always got to talk about dismissal processes, and this is a problem. For example, if someone were to be voted in to be Chief Minister by the public and that individual does not command the confidence of the Assembly, how is that person going to be dismissed? I understand that Deputy Mézec’s proposition does say that these things should be ironed-out in wider consultation, but let us just work through this. How would they be dismissed? For example, do you have some sort of recall mechanism whereby you have to have some sort of petition by the public in order to do this? If a Chief Minister has done something so tragically bad that they should not be Chief Minister any more, is that really a time-effective process in order to carry out that particular function - I do not think it is - or do you say: “This individual should be dismissed by States Members”? But what happens then if someone is elected to be the Chief Minister, States Members do not feel that person is appropriate and within the next couple of weeks, either this new candidate is facing a vote of no confidence immediately from the States Assembly? Now, to be fair, you could argue that the States could appoint someone under the current system, they did something tragically wrong and you could have a very short period whereby a vote of no confidence was lodged the Assembly. That potentially could happen. However, if we go under the proposed system, I wonder whether Members might feel incredibly inhibited to do what they have got to do in the best interests of the Island and possibly vote to remove someone who perhaps has just been voted in by the electorate as a whole. I wonder when you are looking at systems whether that exists within the Assembly. We know already that Members are very, very reluctant - and I will use that word, reluctant - to support votes of no confidence in Ministers as we are. Here I can feel a vote of no confidence in the Chairman of P.P.C. coming on now. But we know Members are very reluctant to support votes of no confidence in individual Members because they feel perhaps they are too personality-based and all these types of things, so when we are looking at this proposal in the round and you are looking at how someone should be dismissed, perhaps they have done something wrong and their position of Chief Minister is no longer tenable, how is that person dismissed? It seems to me that we would be in a very farcical situation whereby if someone who has just been appointed as a Chief Minister and a month down the line States Members decide that this person is no longer competent to fill that role, we are going to put ourselves in - again, as Senator Ozouf said - a worse situation in the public eye by then dismissing that person, even though it is our duty to do what is right for the Island. Another consideration is what would happen, for example, should the Chief Minister, through this system, resign? Does that mean we have to go again through a whole round of an election process? What happens if that is particularly close to the end of a current Assembly? What happens then? It does seem particularly expensive, not to say that democracy should not proceed because of the cost to it, but nevertheless, when we are deciding how the internal mechanisms within this Assembly go forward, it does not mean that such things should be disregarded. There is a cost implication there. It is the same thing not only if a Chief Minister candidate were to resign, but also if, for example, they were to have a vote of confidence, again, that process would happen all over again, and again, would Members feel inhibited from doing what is right in removing a Chief Minister from their position if they felt that a whole election was then to follow and the cost to go along with it? I do not know, I cannot answer that, but I put it out there for Members to consider. Oh, and another thing which we have not considered is the majority of these candidates - not always, because anyone can stand for a position - who will stand for Chief Minister will most likely have just gone through a Senatorial election. I have stood and been unsuccessful in the Senatorial election, but I can tell Members that process is exhausting, absolutely exhausting, and what we will then be doing is saying: “Right, now

you have got to do it effectively all over again” and the question is how is that going to be paid for as well? Are we then going to have Central Government providing information and education, information on behalf of the public? Is that going to be funded by the taxpayer or would it be reasonable to expect whoever the Chief Minister was themselves to then provide funding? Then of course you have then got the issue of equalities of arms and all these types of things going along, so I just want to highlight these kind of practical issues for Members when they consider whether it is the correct route to go down. I did enter this Assembly thinking that having the public being able to directly vote for the Chief Minister was the right thing to do. However, after time and being in this Assembly, I have changed my mind on that under the current system, and I do think there is a lot more argument than I appreciated before I stood in the Assembly about the Chief Minister having the confidence of the Assembly and how important that is. Again, it has been interesting looking over the current incumbent’s terms about how much confidence that gives to a Chief Minister and how bold they can be, because certainly I feel that in this round, because the vote for Chief Minister was so close, I think that has inhibited quite a bit the way in which the Chief Minister is currently undertaking his work, because I get the feeling that he has felt inhibited to be able to do that, because so few votes were between him and Senator Bailhache at the time. Is that a good system? Is that a right system? Is that a healthy system? Again, I leave Members to consider that, but it is something which does need to be considered within this debate. I, for my part, will not be supporting Deputy Mézec’s proposition for the reasons that I have outlined.

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

I rise as a fairly new Member, just under 3 years ago, very naïve - slightly less naïve now - but I like to think that I do decide on principles and try to act in the best interests of the Island. One of the most difficult questions I found during my election campaign was when I was asked publicly who would I be supporting for the Chief Minister and that hit me by surprise. I asked myself why this question was so important, and it is clear, because the public know very well that it is the Chief Minister that will determine the entire policy direction of our Government. They know that. They also at the same time of course are asked to vote for individuals, and there is no question that those individual choices they made are made on a whole host of factors, including their judgment of what the personal qualities of candidates are. At that time, I declared for Senator Bailhache. What I was astonished with, as soon as I came in this Assembly, I was then faced with a system which I found really, really unsatisfactory, where within minutes of coming into the Assembly, I was required to make judgments of effectively the shape of our Government for 3 years without having the personal knowledge or awareness of the individuals, as well-meaning as of course they all are, and I really just did my best with that. Something I really felt, and I still feel, that was a very disconcerting experience for myself. Why do I think this is important? Because my starting point is the disconnect that exists between the people of Jersey and our States. What do they feel about this? I joined, as it were, as a kind of a new broom and I have now become part of the problem. I am now one of the people that the public tell me all the time: “We have absolutely no confidence in you” and yet I look around and I see really hard-working Members doing their best.

[15:45]

The system I do not think is working well and I think what we have heard from Senator Ozouf, for example, is that, yes, look, we have got this hybrid kind of system where we have this kind of coalition of people, but I think that now we have to face the fact that that may be been okay or tolerable when we had 12 Senatorial positions elected on an Island-wide mandate, because the public could feel confident in an Island-wide vote that the Chief Minister was certainly going to come from those ranks. We always had the Senatorial votes to go and of course our 3 Chief Ministers, since we simply threw out the committee system, have all been on Island-wide votes, and before then, I am pretty certain that Policy and Resources Committee Presidents were also on

Island-wide votes too, so there was that connection; as loose as it was, it was significant. We are holding a referendum at the end of the year and there is a possibility - I believe a strong possibility myself - is that there will be a decision to go for a Clothier change, which will mean an end to Senatorial mandates. But even if they say no, we have gone from 12 to 8, so we have weakened that, and so I think the question comes as where does the Chief Minister mandate come from? Is it satisfactory now to say, as Senator Ozouf said - I think it was Senator Ozouf, apologies if it was not - that the Chief Minister is the Assembly's Chief Minister? I do not see that. I think in the public eye the Chief Minister is seen as being the head of our Government. Yes, they have the Bailiff's role and we know how much the public value that, but that is a different role from our lead political role, and I think there is a need to be sure we are moving towards a system where the public can have greater confidence in its choice, in its decision-making processes when at election time, in the shape of the Government and the policies that are followed. Now, I do not want to join any parties, I have never been a joiner of things - I tend to be a bit of loner, I will be honest about that - and I promise you I am not in the party that exists, but I do think we probably would not be having this debate if we did have a mature party political system in the Island, because what are the elements that that provides? That provides, I think, a general screening-out of candidates, so that people rise to the top through party systems of proven ability. They are tested, they are people that understand very well what their policy, what their manifesto and the strength is and also people have a very good view of what their political alliances are and the people are likely to form their team, how that will be, and they can make an informed view. Of course we do not have that and I am absolutely not advocating it, but I think what we have got here is a proposal on the table which tries to put in place an alternative. I personally got hammered for it in my hustings. They said what was my view on this, and I declared that I favoured the election of the Chief Minister on a public mandate and I declared that. If you go on to my website, you will see it is still there. I feel that my reasons for doing that were that I wanted to see greater connection with the public. Now, of course coming in as a Member, I have been educated in the difference between the Presidential system and the Assembly system and so on and I absolutely now see the practical problems of the system being proposed by Deputy Mézec about election fatigue. I have always thought if you had an election for a Chief Minister, it would be a nonsense to do it on the same day as the general election. You really have to have a 2-tier system where you have an election for Members and then you have a separate process for your Chief Minister, so there is a big worry there. Of course, what happens if you do not get a decent turnout, so there is a practical problem there, absolutely I accept, and there are issues about how you get rid of that person if they lose the Assembly's acceptability, because that is a massive issue. I absolutely accept what is being said, that you could not have in any democracy a person elected on a public mandate who did not have the confidence of the Assembly. You need systems to deal with that. I feel really torn. When I look closely at the proposition, what the proposition says, it is to agree in principle that we should make this move and then it says: "Provided that the system will not be instituted until the States have agreed appropriate mechanisms to the roles and powers of the Chief Minister to enable a system of government including... [et cetera]." I personally see that as a big proviso in this proposition, that this a statement of principle and I think there are big practical problems to it and it may be the practical problems cannot be solved and we cannot find a way forward. Maybe by then we will know what the outcome of the referendum, which is months away, will be and whether we will have Senators or not, and we will know of course by then whether we have signed up to P.33 or not. So in my view, I am going to support this, to stick with my manifesto commitment, but I do so recognising the validity of all the things that Members have said about the disadvantage and the problems to be solved, and I do so reliant on the fact that it will not happen until we could find a way forward, but it is going to be easier to find a way forward when we know if we are going wholesale Clothier or we know we are going P.33, so that is where I stand on it.

#### **11.1.7 Deputy J.A. Martin of St. Helier:**



Where do I start? Yes. Did we need to change this before we moved the machinery of government, before we went from committees? We are not supposedly presidential, but we do have a Chief Minister that is elected just within this House and commands the Assembly, which then looks after the Island. I am not convinced that we are asking or the Deputy is asking to go too far to ask the people. I have heard some funny speeches. What would we do if someone elects somebody who would only last a month or 2? I do not know where these raving loonies are coming from. They have never been here in the last 20 years. They need to go out, if anyone has read this proposition and get the Island behind them, just keep that in mind because we could not possibly let the public ... and do you know why it is that they are important to the public? If you looked at Statistics Jersey and figures, yes, half of the population are still born in Jersey, probably the majority of that 50 per cent, like 2 of my 3 children, are born of non-Jersey parents, then you have got another 31 per cent who are from the U.K., Portugal, Poland, they all know, and when you try and explain this on the front door or on any door, they all know whoever they vote for in a particular way or party who will lead their country or their island or their government for the next expressed amount of years; this time it would be 3½ to 4 years. Quite clearly no. I have had people saying: "I really do not want to vote for our local Labour M.P. (Member of Parliament) because the Conservative one is going to do much better for my district, but I want Labour in" so it is conscience, but they know which way they vote who is going to lead the country and they do the other one. They might have voted the other way all their lives and think: "Well, I do not like this leader, so I have got to vote the other way for this time." It works both ways. So I think it has got to be worked out, it can be workable, but to the people out there, it really is a big question: why even, as Deputy Mézec pointed out very clearly, when we have poll-topping Senators, Island votes and they do not even get the job in the Cabinet? Are they really that bad? No, it is exactly what I have said before. We have had Senator Ozouf's quote, that his words were he called our Council of Ministers a coalition. Today has reminded us it is a coalition of independents in the minority, but I would add to that, that minority sits in the Assembly mainly made up of Conservative States Members, with a big C. They will vote, they always do ... even we had a classic 2 weeks ago on the Population Policy. People who spoke against, said they could not vote for, were not whipped into place - obviously they are big enough not be whipped - but might have had an extra sugar put in their coffee in the tearoom, and funny enough, at the end of the day they voted for something they stood in this Assembly and said was rubbish. As I say, does the minority really mean anything? Senator Ozouf nods his head. To my knowledge and memory, in the last House, the 2 closest votes we have had were for the Chief Minister and I think the second was on Plémont. Other than that, it looks like ... some of us on the benches, we get excited sometimes, like in the population we thought it was going to be pulled because they thought they were losing the debate. But no, they were outside rallying up some more support. You do not care how you defend it and I am not whipping you, but here you go. So why do you think people out there want to know who their Chief Minister is? It is absolutely fundamental who his team is going to be, why that person would pick that team. If you stretch it a bit further, anybody under this, if they are really, really good for the job and can be persuaded, it does not say that they have to be a poll-topping Senator. It could be anybody and it might be somebody who does not think ... who might be quite new and think: "No, I am not going to go this time" but then you get to know them, because there will be new people coming forward who might make a fantastic Chief Minister. They can go to the public. So I dismiss all this about what if they do not get on, what if they are dismissed? People are not silly. You read the proposition and they get signatures, they have to get a majority of the House and this might not be the way to do it, but if you asked what the ... oh, I have got the wrong one here. Yes, I have got P.45 coming up, which is ... I absolutely will back Deputy Mézec, but people want to know, and if people will not put their hats into the arena before they go for Island-wide or even before, which is P.45, P.44 definitely one is that I can support. What the Deputy is asking is: "Do you have the principle that the people out there ... or do you think the principle is right, that the

people out there ...” who, by the way, even if it is thousands of votes or 10 signatures on a paper put all of us in here. Do you think that they should not decide who is going to lead their Island for the next 4 years? They think they should, statistics tell me why they think they should, because that is what they are used to and I just think the Deputy is very good to do this very early, on remembering one of his manifesto commitments and I commend him, but I also in principle support him wholeheartedly and he will get my vote.

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

It is interesting this time around to have a debate, because the last time I brought this sort of proposition for an elected Chief Minister, the entire House sat on their hands and I was the only person to speak, so at least today we have had some sort of debate about this issue, which I think is a very important one. It is important because when we look at what is described as electoral fatigue or the lack of interest in politics on the Island, we have to look at ourselves, I think, and say: “What are we doing wrong?” The answer is, I think: “Plenty” and I include myself in that, because it seems to me that the basic fundamental reason underlying the disinterest of the public is the one I often meet on the doorstep as I am seeking election, which is that members of the public say: “Why should I vote? Nothing will change.”

[16:00]

I think what we are getting here today is this reluctance to change what this body, this Assembly, embodies. What we are given here is a different vision. Deputy Mézec used the word “vision” and repeatedly used the word “accountability” and it seems to me that many speakers today have lost sight of that accountability. Many Members in this Assembly, it seems to me, in my experience here in the last 10 years, spend far too much time looking at their worth and esteem in the eyes of other Members and have lost sight of looking for the worth in the eyes of their voters. That is the key element. The key element is not in this Chamber, the key element is out there, and out there people do not see the connection between their vote and what happens: “Why should I vote, because nothing changes?” That is the reality and I meet that time and time again. Here we are being proposed a change in principle. It is perhaps not the perfect answer. Of course it is a compromise between where we have been and where we might be in the future and Deputy Young was talking about there is a referendum at the end of the year that could indicate that change and we could be in a very changed society if we adopt that referendum by the end of the year, yet here we are. It seems to me many people are refusing to look at this fresh idea to say: “Can we do it differently?” and most importantly: “Can we do it better? Can we put a mechanism in our peculiar system with its 3 types of Members, nonetheless can we put in a mechanism that will make some connection between the electorate vote and what happens?” That is what this proposition does, it makes that connection. The arguments about: “We do not have a presidential system and there is something wrong with the presidential system” I think by and large are specious. We have been told that this is going to be personality politics if we have this important, overpowering personality selling us sweetness and light and a great future and everything is going to be okay. Well, hang on, is that not what most candidates do anyway? That is the reality. Does any candidate, as Clothier suggested, that comes forward with a competent manifesto that has some costs in there and talks about the overall tax bill and the overall things, services that need doing: “I am going to concentrate on this particular service and I will dedicate this amount of revenue towards it and make sure that this particular solution is found to this particular problem” does anybody in this Chamber ever do that, are we called on to do that? No, we are not. When do we see anything like a manifesto? Only after the Chief Minister has been elected and his Ministers have been appointed. What sort of choice is that? At that stage, there is nothing to do, there is nothing to mend. We have got a nice list of wonderful-sounding wish lists of things we are going to do, and steps along the way sometimes, which is already *fait accompli*. We have made this up behind a door. If it gets

amended or when it comes to the House, of course we get the trick that instead of being the Chief Minister's manifesto and the Chief Minister's plan, it becomes our plan: "You signed up to it. We are all in agreement, hunky-dory." When do people out there ever get to say: "What about this? You say you will do something." Let us do a classic. Which classic do you want? We must invest in young people; they are our future. I can see some people nodding, yes, I think I have said that on hustings. How? How much? How will we deliver that? Where do you put the emphasis: at the young end, at the older end? Is it higher education, is it primary education, is it nursery education? What is that going to cost? What about childcare? When does anybody talk to our voters about issue like that: "This is how I will do it and this is how much it might cost and that is what I will attempt to do"? It just does not happen. That is a democracy that is broken. I see one Member shaking her head as if that was a ridiculous statement, but I have not heard it in the last 14 years; that is my last 30 years on the Island. I have never heard it. I have never heard a single policy come forward from anybody at any stage that has costed and says: "These are the consequences and this might mean this and it might cost you this." It just does not happen. Until it does, we do not have a proper functioning democracy. As some other Members have said before me, we do not have party politics therefore we do not know what we are getting. We got this incredible statement from Senator Ozouf that somehow to put the Chief Minister out to an election by the electorate is to have someone imposed on us. Hang on, what sort of arrogance is this, that the electorate should impose someone on us? What sort of an attitude to the people does that represent? I do not believe that is a healthy one. I am told that somehow the Minister for Treasury and Resources is co-operating with what the Chief Minister wants to do. There is an interesting ... I am doing what the Chief Minister wants me to do. I am glad that the Minister for Treasury and Resources understands the Chief Minister, because for the life of me, for the last 2½ years, I do not quite understand what the Chief Minister is trying to do and I do not think anybody else out there does. We talked about our Bailiff and our system. How about our policy, a policy that belongs not only to this Chamber, because it has been fully worked out or worked through and has some agreement, but also one that belongs out there because it has been worked through in front of the people who are voting for it? That is the reality. If I just briefly return to this idea of people making promises, presidents making promises and selling us down the river, and I think Senator Ozouf said we will have this attitude that all we will get is people who tell the public what they want to hear and that is the danger if we go for this system. It may come as some news or no news to Senator Ozouf that I have heard a Minister say that and the complete phrase is: "I do not know." He called me Geoff: "I do not know, Geoff, why you make such difficulty over this. All you do is stand up, tell the people what they want to hear and then go away and do what you like." That is the reality. It is already here, it is not threatened by this proposition, it is not that it is about to happen, it is already here. The other argument that has been given against this is that it is obviously too difficult to do, because a 2-stage election is an absolute nonsense. Well, we have been running 2-stage elections for the last I do not know how many decades, 30, 40 years, Senatorial, separate from and distinct from Deputies and Constables at the moment at different times. We have done that for the last 50 years. There is absolutely no intrinsic problem or difficulty or impossibility with having a general election followed by an election for the Chief Minister. The key is the accountable policies in there. Until we see them, we do not have a proper mandate and nor has anybody else. Now, I do not quite know how to butter-up the Constables, because it is said by Senator Ozouf: "The way to get things done is to be nice to the Constables" and I expected Deputy Martin to do that for me, because she stood before me and I thought: "Right, you butter them up and I will follow it up with the principles" but it did not happen. But I am reminded of a conversation we had at lunchtime, just briefly looking forward: "The game is on now. Who is going to be standing for Senators? How many are we going to get?" and we had the question this morning as to how we are going to organise it should we get quite a few of them. The prospect, the odds were almost being quoted around at lunchtime of: "This so-and-so is standing. What about so-and-so? What about so-and-

so?” The key question was: “How many will we get?” My bet was maybe 10 reasonable candidates, Deputies who want to step up, Senators who want re-electing, who want their mandate reinforcing, or not, and a great long trail of, quite frankly, no-hopers and a system which through ... do not worry, I was not including myself in that. **[Laughter]**

**The Deputy of St. Martin:**

Is this the part where he is buttering-up the Constables? **[Laughter]**

**Deputy G.P. Southern:**

But the prospect around the table this lunchtime, the prospect of facing that trek through 12, maybe 13, 14 hustings where you have got 25 candidates, all given 90 seconds to sell themselves to you, it just does not bear thinking about, but nonetheless faces were long as we realised that that may well be the very situation we are in. We look at that and say: “Is our system working?” I would say: “Barely.” Is this an improvement? Could this make it better? I would say yes. Does this form some sort of connection between the voters and what happens? Hopefully, absolutely. In terms of Deputy Maçon’s problems with what happens when it all goes wrong, the fact is that if this House were to reject a Chief Minister that had just been elected by this House, I do not believe it would - it has not happened for the past 10 years - then we would be showing the utmost arrogance and ignorance of what the people wanted, provided that that was on a proper manifesto basis. That is the reality, that is how you get accountability, that is how you rebuild some respect in what we are doing, I believe. I will be supporting this proposition.

**11.1.9 Deputy S. Power:**

When Deputy Mézec talks about the low esteem that this Assembly is held in, he is correct in saying that a lot of the responsibility for the low esteem that we are held in is because of the decisions we have made. We constantly dip our interest into the pot of electorate reform, whether there has been 31 or 32 or 39 debates since I came into this Assembly at the end of 2005, I cannot remember and I have lost count, but every time we debate something about electoral reform or the Electoral Commission or the role of the Bailiff or a speaker in the Assembly or any other thing, we just give ourselves a kicking and we draw ourselves even into further low esteem. The result is that we lose further interest in how we conduct ourselves and how we make decisions about the business of running this Island. The biggest damage that was done was the rejection of the work of the Electoral Commission, where even though 25 per cent of the electorate voted, 86 per cent voted for change and this Assembly rejected it.

[16:15]

Deputy Mézec, in his undoubted enthusiasm for being a new States Member, his undoubted ability to speak, his undoubted ability to debate is now suggesting in his potential model on page 5 that there would be a general election to the States of Jersey as normal, that once Members are elected, their first job, at a specially convened States sitting, will be to formally nominate the preferred candidate for Chief Minister and then another Island-wide campaign commences, culminating in a public vote 4 weeks after the general election. I say to Deputy Mézec that if he is serious about asking the public to do a double-dip and to go out and vote twice in a relatively short period of time, my view is and my advice is to the good Deputy that it will not endear him and that system would not endear itself to the public. Deputy Mézec has a very good summary on page 3: “Currently faith in the States of Jersey and the democratic process is at rock bottom.” It is, and he quotes the Jersey Annual Survey correctly, that almost 75 per cent of Islanders - I am not quite sure if it is 75 per cent - do not have faith in the States of Jersey, 60 per cent do not vote, that is correct: “Jersey’s democracy is in a permanent state of crisis.” I do not agree with that statement: “Governments with such weak mandates suffer a lack of legitimacy.” I do not accept that statement either. I would say this, Sir, that I question those that say that Jersey is undemocratic or that Jersey

is not a democratic place or that Jersey does not adopt all democratic principles. In my view, Jersey is a democratic place and change has to be voluntary and through evolution over a period of time. It is a peculiar system that we have here. It is difficult to understand, but it has evolved over a great period of time and it is going to take time - it is going to take a great deal of time - to restore faith in the system and to overhaul a system that will be acceptable and that will bring credibility of the type we are hoping for, that every Member of this Assembly aspires to in this Assembly. But the business of this Assembly is about doing business, it is about the decisions that we make on behalf of the Island and we spend a hugely disproportionate amount of time, we have done in the last 8½ years, on ourselves and we are doing it again today. I just say to Deputy Mézec, and I plead with anyone else, please can we just leave it until the new Assembly comes in and those Members can make decisions on our behalf? We are elected to make decisions to better the Island, to better the public in the Island, but what are the priorities of those that are living here today? It is about holding on to a job; it is about paying bills; it is about job security; it is about cost of living and all of those things, and it is about trying to keep your company together, trying to hold on to stuff and basically paying an increasing operating cost of doing business in Jersey for those that are employers. These are the priorities that the public of the Island of Jersey are facing. This is not anywhere on a hierarchy of needs and I say to Deputy Mézec and I say to colleagues that this is inappropriate at this time. I also believe I agree with some comments by Senator Bailhache and Deputy Baudains that it is not workable in the present time. I cannot see how the public would accept this, going out to the polls twice, and for that reason, Sir, I cannot support this proposition.

#### **11.1.10 Deputy N.B. Le Cornu of St. Helier:**

This proposition is in fact a yearning, it is a yearning for change, because there is a realisation that there is a big disconnect between this Assembly and the public outside and this proposition seeks to bring that connection, to make that connection, but I do not think this is going to achieve it. What we really need is party politics and party politics has been successful in Jersey. In 1948, the party of the right succeeded so dramatically that they knocked out the parties of the left entirely for the next few decades and there has never been a real challenge by the left. Only when the left forms its political party and is successful will it put pressure on the right to create and form their own party. At the moment, that party of the right is being dishonest with its own electorate, because it is not offering them a real opportunity to say: “Yes, these are our policies. This is what we are going to pursue.” It is just assumed that on this very low turnout, which is what elects the majority of the people who are here, that they are just going to form and vaguely come up with the right policies that are going to represent the interest of those who elected them, because that is what it is all about, social and economic interests. What you have got is this mass voter abstention, essentially by the working class, and because the working class knows that this Assembly does not represent them, does not represent their social and economic interests. Can that change? It is only going to change when, as I say, the party of the left gets itself organised and starts putting the pressure on. Until then we are going to continue with this disorganised coalition of the right, the emphasis being on “disorganised”, by that is what runs the Government, that is the Government. The electorate just cannot structure the State. It does not really have any policy choice. It is so disillusioned and the constant refrain is on the door: “They say one thing and they do another.” That is because there are not political parties to hold people to account for accountability. I was passed a little note by Deputy Tadier a little bit earlier and I thought it was going to be whipping note, it was going to say something like: “Nick, you are a part of Reform Jersey, you had better speak and you had better be in favour of this.” It did not say that. It just says: “Why do we never hear it asked that if the States elect someone the public cannot work with?” I think what he is getting at this again is this disconnect between this institution and them out there and that has often been the case, that their particular choice - that is the public out there - never gets to reflect and really run what this Assembly does, because of course this Assembly merely reflects the interests at the moment of a

small minority of society. It will take for the majority in society to get out there, get involved and start voting and that is what our duty as part of Reform Jersey will be, to do voter registration, to knock on doors, to get our people and to provide candidates that really will provide an opposition, and hopefully, in due course, a government with real different policies. I shall be supporting this, but I realise that it is only the yearning for some real change.

**The Bailiff:**

Does any other Member wish to speak? Then I call upon Deputy Mézec to reply.

**11.1.11 Deputy S.Y. Mézec:**

Thank you to all of the Members who spoke in favour of this proposition, in particular of course my party colleagues, but I also enjoyed the speeches by Deputy Young and Deputy Martin, and Deputy Young said that he was not someone for political parties. I hope in time he changes his mind, because I think Deputy Young's speeches are always very, very informative and I think he is a credit to this Assembly. I enjoyed some of the points that Deputy Martin made as well. She had her little statistic book out that showed a breakdown of the demographic of where people in Jersey were born and you can see half of the chart is red, because that is Jersey-born people, but she is absolutely right, that lots of Jersey people have family roots outside of the Island, and there is this quarter, it is like a rainbow of different colours, because those are people from all sorts of different countries, from Poland, from Portugal, from Romania, *et cetera*, and these people do not vote, we all know they do not vote, and one of the reasons they do not vote is because they just do not understand the system in Jersey, this 3-tiered system, Senators, Deputies, Constables and all independents, nobody signing up to any sort of over-arching manifesto. It is not easy to get to grips with. The one demographic that is not mentioned on that chart that I should bring up is young people. I was pretty much the odd one out at my school during the 2008 election when I was trying to encourage people to vote. The reason most of my associates when I was younger did not want to vote is because they did not understand the system either. Even if they were Jersey-born, when they see a ballot paper with a bunch of names on it, those names do not mean anything to them, they do not know this person's record, simply because they are so young they have not been around long enough to know what this person was up to 10 years ago, what they have stood for in the past, *et cetera*, whereas 2 years later, after the 2008 election, I was living in London studying there and I voted in the 2010 general election in the U.K. and the day before the election I asked my friends at university, I said: "Oh, are you guys voting tomorrow?" and they all said: "Yes, of course we are voting." Why? Because it was so easy for them to vote, they knew exactly what they were doing. There was only really a few options they could choose between, that is the Labour Party, the Conservative Party, the Lib Dems and maybe Greens or Monster Raving Loony or whatever. It is so much easier to get to grips with. They knew basically because Gordon Brown, David Cameron, Nick Clegg, they have all been on TV debating, putting across their visions. Everybody basically knew what those visions were, they knew what direction they were heading off in, and so to vote, they were able to do so without necessarily having to worry too much about who their local candidate was. There was a clear connection between how they were going to vote and what would end up happening, whether there would be a coalition government of one set or a Labour majority or whatever. That is the thing, our system is so complicated. I think that if we had a direct election for Chief Minister, some have said that the 2-tier process would be off-putting for people, but we have already had a 2-tier process for decades in the past anyway, so I do not think that that argument holds much water anyway, but if it were a presidential-style election - I am not saying a presidential election, because that is not what it is - but a style election in that it would be 2, maybe 3, maybe 4 candidates up on the platform giving their vision for Government, it would be so much easier for people to understand, so they do not have to worry about going through dozens of manifestos for their parliamentary elections, they just look at the presidential-style election, and it

would be much easier to understand, it would be easier to know what the candidates stood for. I think that would have the opposite impact of causing voter fatigue. It would make people more likely to come out and vote, because they would understand what they were voting for much easier and they would see the clear link, so they would be motivated to vote. We always hear people talking about why voter turnout is so low in Jersey, what can be done to improve it, whether we need more people on the electoral register blah blah blah. Well, the reason people do not vote is because there is nothing for them to vote for. They do not see something that motivates them to want to go out and the style that this direct election for Chief Minister would take would be something that would be much more likely to inspire people and make people feel like they want to come out and vote, because they know that it will matter and it will have an impact. With our current system and people having no way of saying who the Chief Minister is, candidates, when they are knocking on doors and speaking to constituents, they do not have to say anything about who they think the Chief Minister should be. You see it in the *J.E.P.* every election, the question is always asked: “Who should be Chief Minister?” and half of the candidates do not even answer it, such contempt they have for the people they are asking for their vote. They will say: “Oh, I will see who the best candidate is.” So people, even when voting for their local candidates, do not know who that is also a vote to be the Chief Minister. I had a conversation with somebody on the doorstep during the by-election. It was quite a good conversation, one of the more animated ones I had during the campaign. I knocked on somebody’s door and he knew who I was because he had paid attention to the newspaper and vaguely knew bits and pieces about what I stood for, but before he asked about me, he told me a bit about himself and his background. He was from England, he was from the southeast of England, and had been a staunch supporter, member and activist for one of the political parties in the U.K. In my head I am thinking: “Southeast of England? I wonder which party that is” and then he told me exactly where he was from. I cannot remember where it was, but then it suddenly clicked: “Oh, this guy is a true blue. This guy is a staunch Conservative” and then he asked me: “Sam, if you were in the U.K., what party would you vote for?”

[16:30]

I am thinking: “Right, I know that this person is someone who holds a set of values completely opposite to my values” because I am not a Conservative, I supported the Labour Party when I was in the U.K., and I suddenly realised that any other person answering that question could so easily come up with any answer to that. They could judge it and play it by ear: “Oh, I will just say whatever he thinks, just so I can quickly get this vote and move on.” I decided to be honest with him and told him exactly what my views were and that I was not a Conservative and he appreciated my honesty. We carried on having a good discussion. I saw him on polling day and I think he voted for me because we were able to carry on this conversation, despite knowing we were from different sections of the political spectrum. We had been able to carry on the conversation, having a dialogue about the things that people do agree with on these other sides of politics so I think that ties in with something Senator Ozouf said about wanting to work with other groups. Having a party system or having a direct election for Chief Minister that will not stop people working together on issues that matter to them. One of the great moments, I think it was in 2008 or 2009, there was a cross-party campaign to get immigration rights for the Ghurkhas that had fought in the British Army. It was led by the Conservatives and Lib Dems in coalition, essentially, with some Labour Back-Benchers and they were able to get it through. So it just shows that having a party system does not arbitrarily mean that everything is going to go a specific way and that people are banned from working together just because there is a different logo next to their name on the ballot paper. The loudest thing I was hearing from Members speaking against this proposition was that they just do not trust the public. That is what it is about. Somebody used the phrase “popularity versus ability”. Well, ability, surely that is what we judge we see in people. There is no objective criteria for ability. Everybody has their own opinion on what level of ability somebody has. Who

are we, as States Members, to say to the public: “No, you do not have intelligent enough judgment to work out who the best person to lead this Government is? It is only us that do that.” Then say to them: “It is okay for you to be able to vote for the States Members themselves, just not the person who is going to lead the club inside.” I think that is quite an arrogant attitude and an undemocratic one at that point as well. Senator Bailhache said that had this system been in place when he and Senator Gorst were against each other for Chief Minister, that had the general election results been replicated in the Chief Minister votes that he would have ended up Chief Minister for an Assembly in which he could not command a majority. Well, how does the Senator know that he would not have been able to command a majority? In the voting system and the nomination system for Chief Minister he has no idea who put their name on the ballot next to Senator Gorst but in their head was thinking: “Oh, yes, they are both quite good. On balance I am in favour of Senator Gorst”, but they would be just as able to work with Senator Bailhache either way. He does not know that he would not have been able to command the confidence of this Assembly and with the safeguards that I have suggested in this proposition exactly the same would be the case in that Members would be able to nominate more than one so you would be able to get a decent number of candidates hopefully to be nominated for Chief Minister. That combined with the fact there would need to be a high threshold so if the States do not want a Chief Minister who they cannot work with that is the responsibility of the Assembly to not nominate somebody who they are not going to be able to work with. It is up to our own judgment and hopefully our intelligence as well not to put your cross on a ballot paper next to someone who you know you cannot work with. Surely that is just logical. Deputy Power made a few points. He said that the public lose faith every time we debate electoral reform and he cited the referendum; an example I completely disagree with. I think it was not the States rejecting the referendum that has caused disillusionment. I think it was the States putting forward a flawed referendum from the start that caused disillusionment and the States should be commended for rejecting that referendum. I hope Members standing for re-election will make that point because they absolutely did the right thing. Had the referendum result been passed disillusionment would be even worse and we would be walking into an absolute disaster of an election in October. He said that Jersey is a democracy. Well, I am not going to stand here and say Jersey is like North Korea because it blatantly is not. Jersey is a democracy but it has severe deficient elements of that democracy. You have one Parish in this Island that has one representative for just over every 800 people yet my parishioners have one States Member for every 3,000 people. How anybody can describe that as fair in a democracy is just beyond me. It is not right at all and it shows the Jersey system is deficient and it is one of the reasons people do not come out to vote. He says that we should be talking about more important issues and I completely agree with that, things like getting unemployment down, improving living standards for people, safeguarding the environment. These are things that matter to people and that is what I think the States should be talking about most of the time, but the reason we have to talk about electoral reform is because when we have such an unrepresentative system and one without the level of accountability that you see in jurisdictions across the world we end up with a Government that does not look like the people it is purporting to represent and will not be tackling the problems we face today in a way that is in line with the values of the community. That is the point of democracy. We give a mandate to a Government so that they can take a problem and say: “Right, we need to fix this and we know that this is the way that people would like it to be fixed. They would like extra spending on something like this and maybe spending taken down on this because that is something the people consider less of a priority, *et cetera*.” So that is why electoral reform is important and why we should be talking about it. It is a real disaster that we have to talk about it but it is the failing of this Assembly, time and time again, not to be able to put aside its self-interest and accept a fair democratic system and that is why I brought this proposition forward because it is an opportunity to say: “Right, let us just say the head of the Government who will have the power to hire and fire his Ministers should be chosen by the public”, because then at least there is that clear link and they will be electing somebody who at least



will represent the values that the public have and there will not be any denial of that. He or she will have to stand up with a comprehensive manifesto and say: "This is how I would spend my money on this. This is how I would raise revenue to pay for that." It is what Deputy Southern was talking about before about how that would exist in a party system. It would also have to exist in this system as well. Moving on to some of the points that Senator Ozouf made. He sort of tried to take me to task on the point of coalition. I should make it clear that I was not actually quoting him. It is a phrase that I had heard other people use but I was grateful for his view on it as well. I do not agree. I still maintain my position that it is a conglomeration government because the Ministers are put together ... he himself said he was not the choice of the Chief Minister. Okay, mature adults in a democracy will be able to work with the people they have to work with. I am sure it was not the first choice of the Lib Dems and Conservations to have to work together in the U.K. Government but people just deal with that. There has to be a connection between who ends up in those positions between the results of the election, which we do not have under the current system. He said that I should not say the Constables should not be in the States if I want to get their votes. Well, I do not think I mentioned the Constables at all in my opening remarks to this. That is a reference to stuff I had said outside. But I do not agree with that as well because I am not in politics to win friends, I am here to tell the truth. I am here to say things as I see it and speak in line with a manifesto that I put to the public and the public seemingly endorsed. I think it is wrong that the Constables are Members of this States Assembly because I think it weights the voting power in this Assembly to the countryside at the expense of the town and I think that is why we end up with a Government that lots of people in this Island consider to be completely out of touch. There was a glimmer of optimism in me when I heard Senator Ozouf say this, he said: "Parties may be the solution." Okay, he put the caveat afterwards in saying it would be a temporary one but he said they may be a solution. So my challenge to him is when he stands for re-election in October, whether that is as Senator or Constable of St. Saviour, we do not know what that is going to be, but when he does **[Laughter]** I am grateful for that clarification. When he stands then take the opportunity and do it now. Stand as part of a party. Stand with other colleagues standing on the platform beside you because that will give the policies that he puts forward greater weight among the public. We will know that they will have more credibility because we will already know that he has a team of people that are ready to sign up to that and to work towards implementing those as well. So that, to me, sounds like a much better way to go about things especially ... he says it is not a binary choice between a directly elected Chief Minister and parties. Well, what is it then, because it is not the status quo. The status quo is completely broken. We need something different and I am putting it forward in this proposition that if we cannot accept that the Chief Minister has to be elected by the public then it should at least be a party system where we know a vote for Party X's candidate in my district is also a vote for Party X's leader to be Chief Minister and for them to follow through on a manifesto that is hopefully more comprehensive than what we normally get. The point that he and Senator Bailhache made about P.33 increasing accountability, I think shows that they just do not get it. P.33 is going to do the exact opposite for accountability in democracy in Jersey especially Senator Ozouf's amendment that suggests States Members should have graded amounts of pay. If that goes through this will not be a democracy, it will be about putting your cronies in place and saying: "You vote the way I tell you and we will give you a pay rise eventually." That is what it will be about. None of the Assistant Ministers will ever vote out of line with the Council of Ministers because they will be looking for that ministerial promotion where they will get that pay rise and in that system, okay, the Executive will be the majority but they will have only 4 votes they will have to win over from the rest of States Members to get their policy through whereas any Member of the opposition wanting to win something will have to get 26 votes through to win anything. So I do not accept that point whatsoever. This was the best part of it, he said he was against party whip but he is in favour of collective responsibility. Well, how on earth are they any different? They are exactly the same thing especially when you take the pay issue into account.

What I have proposed here is a safety net to P.33 because some of the arguments for P.33 are very strong. If you are comparing a Council of Ministers to a board of directors, for example, collective responsibility makes perfect sense. You cannot have a meeting in a business of a board of directors, agree something 6 to 4 and then all go off and do your separate things anyway because the business would just fall apart. It makes perfect sense to have that when you think of it in that context but this is not a business. This is a democracy and accountability has to come into it somehow so that what we end up with somehow represents the values of the public we are meant to be representing. This is a safeguard to make sure the public just do not get lumped with some all-powerful emperor type figure because that is what I think it will end up as and that is the choice that Jersey's democracy has now. There are 3 options. There is the status quo, which is not really an option anyway. It is a directly elected Chief Minister system or it is by having a party system and I hope that is the point that Members are bearing in mind when they decide how to vote and how to vote on P.33 later this week. So I call for the appel.

### The Bailiff:

The appel is called for then in relation to the proposition of Deputy Mézec. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 14</b>	<b>CONTRE: 32</b>	<b>ABSTAIN: 0</b>
Senator A. Breckon	Senator P.F. Routier	
Senator F. du H. Le Gresley	Senator P.F.C. Ozouf	
Connétable of St. Helier	Senator S.C. Ferguson	
Deputy R.C. Duhamel (S)	Senator B.I. Le Marquand	
Deputy R.G. Le Hérisssier (S)	Senator P.M. Bailhache	
Deputy J.A. Martin (H)	Connétable of Trinity	
Deputy G.P. Southern (H)	Connétable of St. Clement	
Deputy of Grouville	Connétable of St. Peter	
Deputy M. Tadier (B)	Connétable of St. Mary	
Deputy T.A. Vallois (S)	Connétable of St. John	
Deputy M.R. Higgins (H)	Connétable of St. Ouen	
Deputy J.H. Young (B)	Connétable of St. Brelade	
Deputy N.B. Le Cornu (H)	Connétable of St. Martin	
Deputy S.Y. Mezec (H)	Connétable of St. Saviour	
	Connétable of Grouville	
	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy E.J. Noel (L)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	
	Deputy G.C.L. Baudains (C)	
	Deputy of St. John	
	Deputy J.P.G. Baker (H)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy R.J. Rondel (H)	

**Deputy M.R. Higgins:**

Can we have the ones who voted against again? I just want to confirm that it was all Constables with the exception of the Constable of St. Helier voted against showing that he did not convince them.

**The Bailiff:**

Are you asking for them to read out or not, Deputy?

**Deputy M.R. Higgins:**

I am asking for them to be read out.

**The Bailiff:**

Comment is not necessary after a vote, thank you.

**The Greffier of the States:**

The following Members voted contre: Senators Routier, Ozouf, Ferguson, Le Marquand and Bailhache, the Connétables of Trinity, St. Clement, St. Peter, St. Mary, St. John, St. Ouen, St. Brelade, St. Martin, St. Saviour and Grouville, and the following Deputies, St. Ouen, Hilton, Le Fondré, Trinity, Power, Lewis, Noel, Green, Maçon, Baudains, St. John, Baker, Pinel, St. Mary, St. Martin, Bryans and Rondel.

**12. Chief Minister and Ministers for External Relations and Treasury and Resources: Island wide mandate (P.44/2014) - as amended**

**The Bailiff:**

Very well, we come next to Project 44, Chief Minister and Ministers for External Relations and Treasury and Resources: Island-wide mandate lodged by the Deputy of Grouville. I will ask the Greffier to read the proposition. **[Interruption]** Deputy, you have brought your own amendments here. I think it is a sort of tidying up exercise. Do Members agree to take the Deputy's proposition in its amended form? Yes, so we will read it in the amended form.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion; (a) to agree that candidates for the offices of Chief Minister, the Minister for External relations and the Minister for Treasury and Resources and the amendment for any Ministers under a revised ministerial structure fulfilling the functions currently undertaken by these Ministers should be required to hold the office of Senator having therefore been elected with an Island-wide mandate, (b) to request the Privileges and Procedures Committee to bring forward for approval the necessary amendments to legislation to give effect to the proposals with effect from the appointment of Ministers after the 2014 elections.

[16:45]

**12.1 The Deputy of Grouville:**

I am asking the States to agree that candidates for the office of Chief Minister, Minister for Treasury and Resources and Minister for External Relation or their revised functions, if that be the case, should come from an Island-wide mandate. It is a simple proposition. It does not, as has been suggested, open up the debate on the composition and election of the States. The composition will not change nor will the election to the States change. It might, however, give the electorate greater focus for making their choice in the ballot box in the full knowledge that some of their 8 senatorial candidates, which they chose, could occupy these important positions. Many States Members will know that I am a strong supporter of the Island-wide mandate which this Assembly had no right to

reduce in number and no right to reduce the people's voting powers on the senatorial benches from 12 to 8 seats 3 years ago. Personally, I would favour increasing the senatorial number from 12 to 16 or so and increasing the number of ministries to be occupied by those holding an Island-wide mandate. That of the Minister for Environment, for example, I do not necessarily believe someone with the enormous planning powers should come from a particular geographical area in the Island. By the way this is not news to my Minister for Planning. Likewise, the Minister for Health and Social Services, the Island's largest spending budget, should also, I believe, come with an Island-wide mandate. I say this not as a criticism of the particular people who occupy those roles, far from it, but more for the rights of the Islanders to be able to exercise a voice over the person they wish to occupy these positions which are obviously clearly of great relevance to all of us and not just the parishioners of Trinity or a particular area in St. Saviour. But with only 8 Senators I have had to focus on the roles I consider to be of greater significance to all Islanders and who should be given the opportunity to vote for the candidates who could occupy them. So, the offices, I feel, that warrant this out of the 8, are the office of Chief Minister, the Island's political leader and Chair of the Council of Ministers with possibly extended powers if amendment 8 is approved next. It is simply inconceivable that this position could be occupied by anyone who does not hold an Island-wide mandate. Likewise, the Minister for Treasury and Resources, the person in charge of our tax receipts, the purse strings and therefore it could be argued the person who yields the most power and I am glad I am saying this in the absence of the Chief Minister. **[Laughter]** The post holder requires intellect, huge amounts of commitment and has enormous responsibilities to the whole Island and should be recognised as such in an Island-wide vote. The third position is that of the Minister for External Relations for much of the same reasons that were advanced when it was felt that the position warranted elevation to that of Minister. The person acting as an ambassador for Jersey and representing the Island abroad and through the London office will surely come with more gravitas if that person comes with an endorsement from the whole Island rather than a small constituency in Jersey. All candidates - all - not just that of Chief Minister, putting themselves forward for these ministries with high profiles, important roles, relevant to the Island as a whole and therefore should be recognised as such. The States, in my opinion, would be belittling those ministerial positions if the post holder for the Ministry of Treasury, for example, could be elected with a couple of hundred votes from one-twelfth of the Island. Or put another way, eleven-twelfths of the Island would have been denied a vote for that person with Island-wide duties. The other not insignificant point is that candidates from the Constable and Deputies' Benches has their constituency work to carry out. No less time consuming but different. The Ministers for External Relations, Treasury and Resources and Chief Office surely need to be totally focused on those roles, their departments and the responsibilities of leading and representing the whole Island without distractions of Parish life. Now, I am sure there may be some very able Constables and Deputies who aspire to being Chief Minister or Minister for External Relations or Treasury and Resources, which is fine and good, and if that is the case they will know they have to leave their Parish work behind and offer themselves to the public on an Island-wide mandate. I appreciate that if this proposition is accepted the timing is tight but perhaps a little more generous than the P.P.C. would have us believe in that it is not until November before the States appoint the Ministers. I do not believe it is crucial to have the legislation in place beforehand. If the Assembly accepts my proposition today it would set out guidelines for this Assembly in the November appointments. The office of Senator is the most democratically accountable seat in the States Assembly. It gives the Island, as a whole, the opportunity to express their opinion about candidates and we, in turn, should place a greater value on that office by differentiating the role and its abilities. My proposition goes some way to achieve that but more importantly gives the whole Island the opportunity of endorsing those who represent them in 3 of the most influential posts in the States Assembly and who should, therefore, have mandates to reflect this. I maintain my proposition.

**The Bailiff:**

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

### 12.1.1 Deputy J.M. Maçon:

As it would fall upon my committee to enact this, I suppose I should begin by saying that once elected to this Assembly all Constables, Deputies and Senators are States Members and that gives them the entitlement under the current system to stand for any position. An argument advanced by the Deputy of Grouville is: should a Parish or district-based representative be deemed by the Assembly to be appropriate to be appointed in any of the senior ministerial positions? She said that it could be seen as eleven-twelfths of the Island have not had an opportunity to decide who that individual is but on the other hand because we live in a representative democracy of course they have had a say through their elected representatives and how their elected representative had voted in support of an individual getting into position or not getting into a position. I mean if you use that argument you could say: "Right, well, let us not bother with any of the representatives being able to use their discretion about how to appoint people to a position and let us have every position decided by Island-wide vote", because where do you draw the line which is what the Deputy quite rightly made out so it was very difficult for her to say "only these positions". One of the limiting factors, as the Deputy pointed out, was the limited pool to choose from with the reduction in the amount of Senators. There was always an issue, as we might have seen in the previous Assembly, whereby for one reason or another a Senator cannot or would not enjoy the favour of the Assembly because they have had to resign from a position of being Senator. If all the other Senators are allocated to another Minister what happens then? Because we have 11 ministries ... I know we are saying in this case only for 3, but there does come, potentially, a situation whereby, for one reason or another, the pool of senatorial candidates is not sufficient to be able to fill all the various posts potentially and what happens then? There is not a mechanism to say: "Right now we have to redo the whole senatorial election to elect new Senators in order to be able to fill these posts." In addition to that we have to remember not every ministerial post is contested by a Senator. Again, the Deputy will say: "I am not talking about all ministerial posts I am just talking about these 3 in particular", but not all of them are contested. So, for example, last time we know that Senator Ferguson contested the position of Minister for Health but the Assembly did not agree that at that time ... no, let me rephrase that. **[Laughter]** The Assembly at that time selected someone else for the position. **[Interruption]** Thank you. I do not think anyone would say that in another set of circumstances that might have meant that Senator Ferguson would not be appropriate for the particular role of Minister for Health; that is just how it particularly went. So you have got this issue of the pool of people that you are able to choose from. You have also got the other issue, as I mentioned, about when Islanders elect their representatives, regardless of which name, title, constituency pool we come from, through the fact that this Assembly is a representative democracy they delegate their choice through their representative to ask their representatives to choose on their behalf who they think are best capable to run the various ministries. It would be very difficult ... no, it would not be very difficult, to justify saying all of a sudden, these pool of people are suddenly better than anyone else again just because of who they have been elected by. It is a very difficult argument to sustain in the long run. In addition I do not think it is good enough to say, for example, even if P.P.C. and the States Assembly were not able to agree these changes, we would set a guideline because as we have seen perhaps in Guernsey, for example, just because there has been a set of rules set down there is nothing to say that the next Assembly will not totally disagree and change it all. I appreciate that the Deputy of Grouville has asked for this to come forward in legislation so it is less easy for it to be ducked than say it had been in Standing Orders, because in the Guernsey model they have a restriction on who could be their Chief Minister saying he had to serve one term but the States of Guernsey decided to suspend that Standing Order in order to allow a new fresh candidate to stand for the role of Chief Minister in their Assembly, but I think going forward we should not be trying to be divisive. I think we should accept that once elected to this

Assembly we are all States Members judging and discharging the functions that we have been elected to do. I think that it is very belittling to Constables and Deputies to say that they do not think about Island-wide issues or the Island-wide impact. I think we all do as a States Member, whether something is in our constituency or not, and therefore at this time I would ask Members not to support this proposition.

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

Just a few maybe disjointed comments. I think as with the last proposition both the proposers have struggled with the fact they are trying to mend a broken system. With the Deputy of Grouville, she has obviously fought valiantly for the retention of the Senators and I do see her logic but it struck me, if we are to accept what Deputy Maçon of St. Saviour has said, it makes much more sense that everybody should run in a bigger constituency because the implicit criticism is that there are some people here with 200, 300 votes and there are others with thousands.

[17:00]

Well, you have got to ask yourself the question, which Deputy Mézec has been asking us for some time now in his very short period of service, how on earth can you match the mandates that people have because of that utter inconsistency and size of constituencies and that is the issue. I have a feeling of this being Custer's last stand with the Deputy of Grouville. I think it would have been much better to have fought for consistency in the size of constituencies. Secondly, I think her argument that Senators have to be totally focused, because we have seen what appears to have happened, for example, with one Constable who took on a ministerial job and electorally suffered because of that. I think it is not right to say that Senators should not be involved in constituency issues. I know a lot of them are not but surely if they are to be listening to people, which it is argued we do not do much of as an Assembly, although it begs the question of which people, which sections of people. I do not think there is this amorphous mass called "the people" who are desperately screaming and that we are walking blind down the street ignoring. It is not quite as simple as that but I think Senators should be locked into constituency issues. Okay, not what you might term Parish pump issues which the Deputies are expected to handle but I think they should be locked into those issues so that they have feedback, so that they keep in touch with what is happening on the street. I think that is very important not that they operate in isolation as some kind of detached executive body, which I know is the problem at the moment. I, ultimately, have to agree with Deputy Maçon I do not think you can have a 2-tier Assembly. I think while we have got this totally illogical dinosaur-like Assembly at the moment of different offices and so forth I think we have to go where we think the talent is and I think it has to be used and those people, bearing in mind the kind of fate that befell a Constable in the last elections, I think they have to make their own judgment about how they can handle very labour intensive roles. I think that is how it should be handled but ultimately the real logic is to fight for everybody to be in larger constituencies and I will be interested in the Deputy's view.

#### **12.1.3 Senator P.M. Bailhache:**

I shall vote against this proposition for 2 reasons. First, it seems to me to be a transparent attempt to preserve a category of Member which, if we are to continue to have a single election day, is plainly past its sell by date as I fear we shall discover in October. Secondly, we should not tie our hands in this way. I was reminded of the elections that took place in Guernsey not very long ago where there was a rule that the Chief Minister should have been a Member of the States before the elections. In other words a new Member of the States could not be elected as Chief Minister. But unfortunately they discovered in Guernsey that somebody who was plainly one of the good candidates for Chief Minister and arguably the best candidate for Chief Minister was going to be a new Member of the States and they could not elect him as Chief Minister. So what did they do?

They changed the rules and they enabled the former Chief Minister of Guernsey to be elected. Let us suppose that the Minister for Treasury and Resources, and I use him only as an example. I hope he does not mind. Let us suppose that the Minister for Treasury and Resources did not wish to continue in the office of Minister for Treasury and Resources if he continues as a Member of the States. There may be a Deputy or a Constable who would be the obvious candidate for this post but the Assembly will not be able to elect him because he is not a Senator. This is just not sensible. It really ought to be the case, as I think Deputy Le Hérissier was saying, that the Assembly should have the freedom to appoint as Chief Minister, Minister for Treasury and Resources and Minister for External Relations the person who is best fitted for that job, whether he is a Senator, a Deputy or a Constable.

#### **12.1.4 Deputy S. Power:**

I can assure you that I can be very brief because Senator Bailhache has just stolen some of my thunder. I think this debate is largely a question of trying to create almost an elite group within the States and it infers, in my opinion, that those in the ranks of Deputies or Constables will never be able to attain a senior position of responsibility. The way I would put it is that it is about leadership and there are, in my opinion, a number of colleagues who are able to show and have shown leadership skills in my time in this Assembly and I include in that general remark colleagues who are both Deputies and indeed Constables. Being a Chief Minister, being a Minister for Treasury and Resources, being a Minister for External Relations, certainly the first role and the second role, also involves the ability to gauge judgment, skills in judgment and indeed risk. It involves colleagues who are able to manage relationships, decision-making, score keeping, attention directing, problem solving, all of those things, and the common denominator in all of that is leadership skills. The proposition, in my view, discriminates a large section of colleagues who have leadership skills and are not risk averse and when we are in positions of responsibility and we are elected to make decisions in this Assembly some of us have to make decisions which involve risk. Certainly that risk can be defined as an economic risk, a material risk or it can be a risk to do with other areas. We are elected to make decisions and that should not always be a situation as I have found out and the Minister for Planning and previous Ministers for Planning have found out in regard to making planning decisions, which is incredibly difficult at times. So this debate is about creating a selection process which I think is unfair and I do believe that in any country close to us or any country across the world that is deemed to be democratic, people who become presidents or chief ministers or prime ministers or whoever, are elected show their leadership skills for the large part and those who are successful in their political careers as leaders show that they have the ability to make decisions, for the largest part to make correct decisions and lead their country or their jurisdictions by example. For that reason I would be against creating an elite group or a pool of Senators that would divide the Assembly and I shall be voting against this.

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

I wondered where this argument would start coming from, let us not discriminate. We might find we have a suddenly brilliant Deputy or a Constable who could be Chief Minister. No, you ask, if you decide you have got the qualities to be Chief Minister, Minister for Treasury and Resources or Minister for External Relations, you decide before the election, you put your hat in the pool and you go for it. This is what it is about. Again, it is all reversing. It all makes it personal. It is only 3 Ministers. Who would elect in this House? I mean the last 2 incumbents who went for it said, one was a Deputy and one was coming back to the House: "I want to go for Senator because I want to be Chief Minister." At least people out there knew and this is where this is coming from. For someone who did not vote for Senators to stay in the House the Constable of Grouville is giving them a lifeline because you want to fade away the Constable or Senator, make it so that there is no reason to be a Senator. It can be anybody. I have heard some arguments in my time but now it is,

suddenly after all we have gone through, the build-up and everything, we have realised one of the Constables or one of the Deputies who happen to be elected in a small Parish is going to make the best Minister for Treasury and Resources, Chief Minister and Minister for External Relations we have ever had and we are going to have to discriminate against him because we have passed something that says no. You want to hold a very important position in the Assembly vote it in Island-wide, you go to the public and you make sure you get that Island-wide vote. It is simple. It is very simple. As I said I thought I would have difficulty ... well, not me but many Members of the Assembly would have difficulty supporting Deputy Mézec but this to me should be being supported by the people who, as the Deputy says in her report, 25 to 26 wanted to keep the Island-wide mandate. Now, who do you want from that Island-wide mandate? Going round all the Parishes and letting the people know, yes, if I get voted in ... well, no, I am going to go further than that. I am going to present my manifesto as I want to be Chief Minister or External Relations or being there, whatever it will be called, in the next House as Minister for Treasury and Resources, whatever it will be. You go round all the Parishes and you do the job. It is not all the Ministers, the Deputy has not gone that far. So if there is in this new reformed constitution, if P.33 in my lifetime, which may look like it is going to go through, because I am getting less and less confident as the weeks and the nearer the debate goes on with it. We will still have, well, we hope, other ministries and if we have got some really good people who want to do that job ... I mean I do not know whether the last Constable of St. Brelade lost his seat as Constable because he was Minister for Transport and Technical Services. He happened to be a Constable but the person before his incumbent was a Deputy and he lost his seat because he was a ... was it, because he was a Minister for Transport and Technical Services. I am sorry to alert the incumbent now. I think he is a very good Deputy or is he a very good Minister and needs to be re-elected in his constituent. Now, these are things that people have to add up but I think this one for people who cannot tell me we are having super elite, it is not something you are going to invent after and say: "Oh, you did not go for one of these posts. You did not stand Island-wide. You cannot put your hat forward as one of these people." So I have got the Minister for Treasury and Resources - and the Minister for Treasury and Resources nodding at me now so I am hoping he is agreeing - this is a lifeline and it is a shame Senator Farnham is not here because I know he would agree. This is a lifeline to the post of Senator. We all know we do have a referendum coming up and I know which way I am going to vote in it. Do I have the faith that this House is going to change it? No. So do I vote with what I have got today? Do I make it that there is somebody ... people out there will have a say because you have got to put yourself ... it does not go as far to say that you are going to be but people will tease it out, people will tease it out of you and you should be bold enough to say: "This is why I am standing for Senator. This is why I have left the Constables Benches or the Deputies Benches. I want to be this in the House and this is what I want to do." As clear as everybody understands where they stand, not after. Not after the event. Hopefully we are going to hear some support for the Deputy's proposition because anyone here who still really relishes, and I know the people out there do, we compromised on larger constituencies because the people ... we have said it mathematically will not work, people out there, the Electoral Commission know the people out there wanted everyone to be voted in on Island-wide mandate. Logistically it was not possible, unless we have elections every year and rolling, rolling, rolling. It was not going to be working. So, please, do not listen to what you have heard prior to my speech with respect because it had nothing to do with this proposition. It was all about what we would think of each other after the election. This tells you exactly where you are going to be or who you want to be if you are voted in by the public as Senator and that is 3 positions. It is, to me, a no-brainer. It has got to be supported and I rest my case there.

#### **12.1.6 The Deputy of St. Ouen:**



I am delighted to follow Deputy Martin although I am sure I will not be quite so persuading perhaps with some of the language that I will use.

[17:15]

I believe, pretty much as Deputy Martin does, that we are making a lot of work out of nothing here. We already know what form the election is going to take in October. We are going to have individuals elected on an Island-wide mandate, so what is the problem? We have got a Chief Minister and a load of other people saying we are going to seek the Island-wide mandate because we want certain positions. So what is the big deal? We have got Deputy Le Hérissier, I think he has lost the plot today **[Laughter]** when he suggests that the Deputy of Grouville should concentrate her efforts on large constituencies. Well how much margin do you want in an Island-wide mandate? **[Laughter]** No, he would prefer the previous proposal that was put forward in a referendum by some that we should be made up of 6 constituencies, so only a sixth of the population could vote for a Chief Minister, a Minister for Treasury and Resources and indeed a Minister for External Relations. I do not know if the Minister for External Relations should be included in the mix but I do not see a problem in supporting this particular proposition. Senator Bailhache quite rightly pointed out, if we had a problem we deal with it like Guernsey, but we are not going to need to deal with it, to be honest, this time round because we have got the Island-wide mandate. We have got individuals that are saying: "We believe and it is right that we seek the Island-wide mandate for these sorts of positions." So as Deputy Martin quite rightly says, any potential candidates for these 3 positions would know exactly what to do: put their names forward; stand in the senatorial election. Furthermore, we want to help the electorate give them certainty. Let us declare here and now that when they come to cast their vote in this election, especially for those that will be elected as Senators, they will be guaranteed that out of that number will come the Chief Minister, the Minister for Treasury and Resources and the Minister for External Relations. How difficult is that?

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

Oh dear, oh dear. **[Laughter]** I have written here that this is the least useful amendment on the reform of the Assembly I have yet to see. **[Members: Oh!]** It adds a further level of complexity to our unique and arcane system which is totally unnecessary and there I will stop. It will not be getting my vote.

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

Sometimes this Assembly gets some strange bedfellows and I mean that in a political sense. **[Laughter]** I am delighted to follow on this occasion, not the last speaker, but the 2 previous speakers because I have to say I am very conscious that the public is absolutely exasperated - and I understand - of us talking about ourselves. I have to say, however, that we carry on talking about ourselves for many of the good reasons that Deputy Mézec spoke about in the earlier debate. It is because we have not fixed the problem and we are in a really, really serious situation. I know the Deputy of Grouville said that we cannot open the composition of the States issue but we are here because we have not fixed it for better or for worse. I agree fundamentally. I do not agree with his left views of the world because I know he is a card-carrying Labour Party supporter and that is fine. He has made that absolutely public. I do not agree with his brand of leftism as I think it is, but anyway that is my interpretation. But he is absolutely right in saying that we have got some serious democratic issues. I am going to be supporting the Deputy of Grouville. I hope she is listening. I am going to be supporting the Deputy of Grouville because of the mess and I will come to Senator Bailhache, apparently my closest associate. I hope he is still going to be my closest associate. I may not. I am going to upset people I know, but I do that from time to time. The fact is, I do not think the parallel for Guernsey is right, with the greatest respect to Senator Bailhache. That was a

sort of a naked protectionism that was put forward by a previous States of Deliberation to stop their system of democracy, to say that just because somebody had been elected in their system of a super-constituency there could not be a Chief Minister because they are new. Well that is completely wrong democratically. I think the parallel is wrong. I do appreciate that there are issues, Senator Bailhache kindly said, that if a Minister was to stand down during a term of office, perhaps if they had to resign or there would be a replacement, perhaps it simply would not be possible. You would need to have the first election, which you would hope somebody elected for a permanent position as Minister would see their 3 years. If there had to be a resignation or an illness or something, maybe you would have to flex the system. Systems can be made flexible. Fundamentally, what the Deputy of Grouville is trying to do, and here is where I ... Deputy Le Hérissier never ceases to amaze me. The Deputy of St. Ouen is clearly on form today. He was priceless in what he had to say to Deputy Le Hérissier. Deputy Le Hérissier, I had no idea what he was talking about because he was arguing for both sides of the argument at the same time. He sometimes sits on the fence. It must be very uncomfortable sitting on the fence and arguing for both sides of the see-saw. He voted against everything to do with the referendum. The public is furious about us voting against the referendum yet they do not want us talking about ourselves. This clearly is not an issue on the electoral doorstep; that is clear. They somehow want us to sort ourselves out and to have proper democracy. But Deputy Le Hérissier's observations were almost laughable, if I may say, in terms of being against the Deputy of Grouville's proposition. Deputy Martin hit the nail right on the head. If somebody wants to stand for Chief Minister and Minister for Treasury and Resources, no disrespect to Senator Bailhache or to the position of Minister for External Relations, I am not sure about that but I am going to go with the Deputy of Grouville's proposition primarily because of the Chief Minister issue and the Minister for Treasury and Resources issue. I hope that Members who might have doubts about the Minister for External Affairs being in there will not vote against this proposition because clearly the matter would have to come back. But Deputy Martin said it as it should have been said. If somebody wants to stand for the position of Chief Minister, we all know that the electoral system we have got is a mess. I agree with Deputy Mézec: equality of voting; size of constituencies. I agree with all of that. I only disagree with him on the historic issue of the Constables. I believe constitutions should evolve and you cannot just simply throw out everything, and that is why I was a B supporter, but I agree with him on everything else. There is a disconnect with democracy, there is a disconnect with the people, there is a disconnect in all sorts of areas. If somebody wants to stand for Chief Minister or Minister for Treasury and Resources, let them face the Island-wide mandate. Let them stand and go round the 12 Parishes and get a mandate. It is wrong. I am sorry, I mean no disrespect for anybody in this Assembly, but it is wrong that some people are elected with 200 votes. Deputy Mézec and Deputy Le Cornu: Deputy Mézec was well ahead of his other competitors but Deputy Le Cornu was not in his area. What do these Deputies' elections mean sometimes? I do not know. The public does not know because it is confusing. We are heading to an election which is going to be completely confusing. The cat is out of the bag this morning in relation to senatorial elections: 30 people for Senators because it is going to be different? Deputy Southern telling us that we have got no hope in senatorial elections. He has stood in a few senatorial elections **[Laughter]** and yet he is against this. I think the positions of Chief Minister and Minister for Treasury and Resources in the mess that we are in in our electoral system is a short-term fix. The Deputy of Grouville and I fought valiantly to keep Senators before. There are only going to be 8 now. The public are not happy about that issue, they are not happy that the fix on that issue has been coming forward. I see Deputy Le Fondré's light coming on. Maybe he wants to speak because he wants to be the next Minister for Treasury and Resources, I do not know, but he is a Deputy. If people want to stand for Chief Minister or Minister for Treasury and Resources, stand in an Island-wide mandate; in this next Island-wide mandate. We have made a mess of reform, we are in a real difficulty but at least try and make something of the position of the Island-wide mandate and Senator. At least try and

hold some sort of decent Island-wide policy debate on the important issues of government leadership and financial management and let that be going round the 12 Parishes. At least let us do that in the mess that we have. It is a halfway house; it is not ideal. I wish we had agreed reform but we have not, but at least vote for this to ensure that there is a semblance of something that is going to mean something meaningful for the senatorial election. That is no disrespect to Deputies' positions or anybody that has been elected on a Deputies' Back-Bench position or a small constituency or Constable. No disrespect at all. But the 2 important issues of Island-wide responsibility and Island-wide policies, where we are, should be an Island-wide mandate. That is what it is about. Not a 3-tier system, it is about an Island-wide mandate for an Island-wide responsibility where we are in this system. I hope Members will support the Deputy of Grouville in what she is trying to do.

**12.1.9 Deputy P.J.D. Ryan of St. John:**

I think the comments of the President of P.P.C. were a little bit unfortunate when he said that this proposition was belittling to Deputies and Connétables because I know that the Deputy ...

**Deputy J.M. Maçon:**

A point of clarification if the Member will give way. I did not say that. What I said was it is belittling to Constables and Deputies when it is said that they do not think about or have policies that cover Island-wide issues.

**The Deputy of St. John:**

Because I know that the Deputy of Grouville is also a supporter of the Parish system and quite a passionate one as well. I do not think it is about belittling Deputies or Constables or their ability to think on an Island-wide level. It is not even about the relative size of the different Deputies' constituencies or their electorate or that of Constables either. It is simply about the 3 posts in question being of such critical importance to the Island that they should come from ultimately the largest possible mandate i.e. an all-Island one. It has, after all, been shown that the public want above all else in our electoral system to keep the office of Senator. I know that is difficult for some Members to accept. I know some people have said that the Senators are past their sell-by date. Clearly, they are not; there will be 8 voted in in October. Historically it has always been the case that all 3 officers have been Senators. So the office of the Minister for External Relations is only a recent one but always before that the Chief Minister and the Minister for Treasury and Resources have been from the senatorial benches. I believe it should be formalised in the way that the Deputy of Grouville suggests and I will also be wholeheartedly supporting her. Thank you.

**The Bailiff:**

It is now 5.30 p.m., I have one speaker at the moment who has indicated a wish to speak. I do not know whether there are others. If not, would Members wish to continue to see if we can finish this debate? The adjournment is proposed. Very well, perhaps we better decide then. So the adjournment is proposed. Is that seconded? **[Seconded]** Very well, so at the moment, as I say, I have one speaker, the Constable of St. John identified still to speak, but obviously I do not know whether others will wish to speak. So is an appel called for then? The appel is called for then as to whether to adjourn. If you wish to adjourn now you vote pour; if you wish to continue until the end of this debate you vote contre and the Greffier will open the voting.

[17:30]

<b>POUR: 17</b>		<b>CONTRE: 23</b>		<b>ABSTAIN: 1</b>
Connétable of Trinity		Senator P.F. Routier		Deputy S.Y. Mézec (H)
Connétable of St. Mary		Senator P.F.C. Ozouf		
Connétable of St. Ouen		Senator A. Breckon		

Connétable of St. Brelade		Senator S.C. Ferguson		
Connétable of Grouville		Senator B.I. Le Marquand		
Deputy R.C. Duhamel (S)		Senator F.du H. Le Gresley		
Deputy J.A. Martin (H)		Senator P.M. Bailhache		
Deputy G.P. Southern (H)		Connétable of St. John		
Deputy of St. Ouen		Connétable of St. Martin		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Deputy R.G. Le Hérisssier (S)		
Deputy M. Tadier (B)		Deputy of Grouville		
Deputy M.R. Higgins (H)		Deputy J.A. Hilton (H)		
Deputy A.K.F. Green (H)		Deputy of Trinity		
Deputy G.C.L. Baudains (C)		Deputy S.S.P.A. Power (B)		
Deputy S.J. Pinel (C)		Deputy E.J. Noel (L)		
Deputy N.B. Le Cornu (H)		Deputy T.A. Vallois (S)		
		Deputy J.M. Maçon (S)		
		Deputy of St. John		
		Deputy J.H. Young (B)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		

**Deputy J.M. Maçon:**

Sir, can I propose that we carry on with this item of business and then adjourn?

**The Bailiff:**

Yes. [Laughter] The Connétable of St. John.

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

I should be fairly short. The proposition itself is lacking. It is lacking in a way that I would say is a shame because if we have 2 senior positions to be on an Island-wide mandate, I believe all our Ministers should be on Island-wide mandates and you would get an increase obviously of Senators automatically that way. Because if somebody wants to be the Minister for Transport and Technical Services, Minister for Drains, in my case, therefore, you put yourself forward because it is affecting the entire Island. Education, the same thing, and so on and so forth, Health; all these are positions that we need to be able to take forward in the future. Positions of gravitas, I suppose you might call it, but you need people who will have gone and got the vote from the public out there, not just in the Parish as has been said, or a district. That way it will suit all those people who have been knocking on my door ever since we reduced the number of Senators from 12 to 10 and now down to 8, the Island mandate. They will not be choosing who eventually gets the position because they will have to come into this Chamber, particularly if there is more than 12 put in, but it does mean change to the system we have. It is a shame that this proposition did not come with a larger number of Senators proposed and also locking them all into the ministerial benches. That way, anybody who wants to become the Minister, like the Deputy of St. Ouen who was the former Minister for Education, Sport and Culture, he could stand on an Island-wide mandate and let the public decide.

**The Bailiff:**

Connétable, can I bring you back to the actual proposition?

**The Connétable of St. John:**

Yes, you are cutting me off at the knees again.

**The Bailiff:**

We have to discuss the proposition as lodged.

**The Connétable of St. John:**

I am disappointed that this proposition has not gone much wider. Very disappointed. I am going to listen to the remainder of the debate carefully to see what other Members have got to say because they may be able to kick what I have said into touch or otherwise they may support it. But having stood myself in a senatorial election way back in 1975 with some real heavyweights, real heavyweights, who were, with the exception of one, all presidents of their committees, you really saw the calibre of people that we were electing. The Ralph Viberts of this world, the Le Marquand brothers, *et cetera*, they were the real heavyweights that gave this Island what we had. To see the position of Senator dwindle in this Chamber from 12 down to 10 to 8 is a worry. All right, we have arrested that at the moment but I know the public out there would like to see these numbers increased back to what they were and if that was the case, every Minister should be a Senator. Thank you.

**12.1.11 Deputy M. Tadier:**

I came into this debate wanting to support this proposition, partly because I thought there is no harm, let us support this. The role of the Senator is on the way out anyway, this is going to be the last election, I thought, when we have Senators. In this bungling mess that we have where we are trying to give more say to the public, and we have just had a previous debate where we have spoken about that, maybe it is the right way forward. But then I thought it is not really the right thing to do. I say that with a slightly heavy heart because I would like to support the Deputy of Grouville but I have to look at what is on the table. The first consideration, wearing the P.P.C. hat but also as a general reform hat, somebody who sees that this Assembly could function better, and that applies perhaps to all of us, is that we have already decided to have a referendum in October. That is the status quo. Unless something changes, that is the will of this Assembly. We have asked P.P.C. to have a referendum which will put to the public a single type of States Member. We have also decided to pursue the removal of Senators by stealth, if you like, by an evolutionary process. Are we not always told that evolution is better than revolution? That is what has happened, the role of the Senators is being removed. So at this stage I think, partly from people who are trying to hark back, the reason to support this, if you are pro Senator, if you are looking nostalgically back at the good old days where apparently the heavyweights were elected and got these senior positions in a committee system, of course you might look back and say: "Well this is a way to try and save the Senators, to try and stop the reforms that are happening." But I would suggest that is not a reason to support this proposition if that is the reason to do that. Another consideration is why is it limited to these 3 positions? Maybe that can be summed-up. Because, in fact, what are the 2 biggest budgets and ministerial budgets in the Assembly? I guess Treasury in one sense is but apart from that it is Health and Social Security. I would add Education to that because in terms of service delivery obviously we are giving money to poor people; that is going to take a lot of money up. But in terms of service provision, if you like, Education and Health are the big ones, currently being led by 2 Deputies. I do not think anyone is suggesting that they are not the best people in the Island to do that job but they have been appointed by this Assembly to do those jobs and it could be anyone else among us. That question has to be answered: why is it limited to these positions? It seems slightly strange. But more compellingly are the practical arguments. There will be 8 senatorial seats which will be filled by October 2014 unless something cataclysmic happens and, I do not know, maybe we get reformed or invaded or something. Now out of those 8 Members, there will be individuals who have absolutely no interest in contesting the position of Chief Minister, Minister for External Relations or Minister for Treasury and Resources. They may want to stand for senatorial election because that is their best chance of getting elected. There are individuals out there with profiles who can get elected on an Island-wide basis. They may want to do that because

they are campaigning on an environmental issue. They may want to do that because they are campaigning for education reform because they think that we have a system which is far too elitist, far too selective and that we need fundamental reforms to our education system. We may have somebody who is, let us say, a States Member already deciding he wants to become Minister for Health and Social Services. In order to do that he is going to contest a senatorial election so that he can have a public mandate, if you like, and to have the respect within the Assembly. I think that brings me on to perhaps the last point which I will finish on, is that we already have the phenomenon where those who are aspiring to highest office know instinctively that in order to hold the office of Chief Minister you should really be a Senator unless something remarkable happens. It is probably inconceivable that the Assembly would appoint somebody who is not a Senator. We also do not have the problem of the past where somebody can be elected halfway through their term because we now have a general election. So it means that Senator will have faced an Island-wide mandate and then will contest the position of Senator, so I would suggest we do not need that. In the eventuality where there is no Senator come forward who can command the respect of the Assembly, it may well be that it is a Deputy and a Constable, and why should that not be the case? If the Chief Minister is first among equals, why should not a senior Constable, who knows how to work with a collective of people, or a Deputy? That could happen but it is very unlikely. Anyway, I would suggest we do not need to be putting this into Standing Orders, into law, to be that restrictive to regulate for something which is very unlikely anyway. We would not do that in public laws, for example, the proportionality test has to be there. You do not legislate for something which is not a problem and it is not a problem in this Assembly. I will wind up there and I apologise for keeping Members but I did vote to go home at 5.30 p.m. because we are here tomorrow anyway. I think deep down in our hearts we know this will send out an absolutely false message to the public to say: "On the one hand we have all decided a route for reform which we are going to go down and put that to you in the form of a referendum but because there is a slight nostalgia, we think that this is the best way forward." It is superficially compelling, I would argue, but it does not stand up to scrutiny and we should really kick this out and carry on with the wholesale reforms that we can work to after the next election, whoever is in the Assembly.

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

The Deputy of Grouville has been extremely strong in supporting the role of Senator now and in the past and I obviously commend her for it. Unfortunately, I will not be supporting the proposition. To an extent it is the age-old argument, it used to occur a lot, I can remember, under the committee system as to why were the Presidents not Senators? This argument goes backwards and forwards through decades and a lot of the time, or all of the time, up to now it has always given flexibility for the Assembly to appoint or to put the right people into the right places. I think where we are, and I endorse what Deputy Tadier has said in certain instances, in terms of we are being somewhat inconsistent if we do support this proposition in terms of we do, and we have charged P.P.C. with bringing this referendum in the October elections. This does, I think, in their words, effectively reopen the whole debate on the constitution and composition of the Assembly. But to pick up on a couple of points said by certain Members, I think it was Senator Bailhache identified what happens if the Minister for Treasury and Resources, for example, for whatever reason, does not last the full term? You then have to go through a full, whole Island-wide mandate just to reappoint. Interestingly enough, the other thing that struck me from a different comment which was from Senator Ozouf, there is nothing more permanent than a temporary solution. What I am trying to say there is that we are not playing around with a bus timetable or whatever it is. We are playing around with something that is pretty important, is the constitution of this Assembly of the Parliament of the Island and, more importantly, of the Government, and definitely, Senator Ozouf called it, a quick fix. I am afraid I do not like quick fixes because they will turn into permanent fixes and it has not been thought through. That is not, in my view, a good way of making

decisions. Unfortunately, I do find we sometimes have too many quick-fix decisions and how many times do we live to regret them? To again reinforce the point, why should the Minister for Health and Social Services or the Minister for Social Security or any Minister, therefore, not be Senators? But that then leads me back to inconsistency. If we look at P.33 which is the debate that the Chief Minister will probably be proposing tomorrow on hire and fire and the changes to machinery of government, one of the core principles in there, and I do not know if we are going to get to that point, is flexibility to the Chief Minister of the ability to appoint his or her team. That has been put to the point of number one, a minimum of 7 Ministers, but a maximum of whatever is defined by the Troy rule, so that could be 20 Ministers, for the sake of argument. So what one is doing here, is one is tying that Chief Minister's hands as to the Minister for Treasury and Resources and the Minister for External Relations, where that pool can come from. Yet, one of the thrusts of the whole thing behind the internal reforms to the machinery of government is the ability for the Chief Minister to put his team together. Therefore, I think there is an inconsistency in approach between this proposition and that proposition.

[17:45]

I do not say that the next proposition does not have flaws, that is a different debate, but I think if one is going to be consistent and if one accepts that argument, one should not be looking at supporting this proposition. The final thing I would say and it is about, I think, learning from experience, I do not like what I call "prescriptive rules" and that is why, whether one uses Deputy Mézec's proposition, or I think it was Senator Farnham's proposition as well, about should the Chief Minister be selected from the Island-wide mandate as a prescriptive rule? As a principle, it makes sense, but if one uses the example of Guernsey, it is a different rule but it is a similar analogy whereby I seem to recall, not their present Chief Minister but the one who recently resigned, that the rule was something along the lines of that the candidates for Chief Minister must have sat in their Assembly for a previous term of office or something. There was some prescriptive rule in place. They had to have a special sitting to revoke those rules because they wanted a particular candidate to go in and that is why I do not like them. I have no issue with the principles, particularly on Chief Minister, as to where they come from and where they are selected from, but as soon as you get into this type of prescriptive rule, particularly if it is a quick fix, you run into difficulties, I think. This is not a quick fix. This has to be a long-term solution and I do not think it is a workable one. On that basis, I will not be supporting it, I am sorry.

#### **12.1.13 Deputy G.C.L. Baudains:**

If I understood Deputy Tadier correctly, I think he was suggesting that this proposition basically pre-empted the referendum and therefore it created confusion and be unworkable if Senators did not exist after the referendum. Well of course this proposition refers to what P.P.C. would be required to do after the election so I do not see the problem because I do not believe the public will vote the way the Deputy thinks they are going to, but if they do then it simply means this would be abandoned rather than implemented after the next election. I do not see a difficulty there. Again, if I understood the Constable of St. John correctly, as far as I can see, the change to 8 Senators was a mistake because from what I hear from the public they would rather we had stayed with the number as it was before. Now, I have been a Deputy for something like 14 years so far and I would not be offended if I was excluded from the offices involved. As Senator Ozouf so eloquently said, if you aspire to any of these 3 offices, then stand for an Island-wide election. I really do not see the problem. Before Members vote on it, one or 2 seem to me to have strayed into the area that if you were a Deputy or a Constable you would not be able to stand for a Minister. Well of course I would remind Members that there will be still 8 ministerial positions available to you. So I will be supporting this proposition because in my view it increases democracy because what will happen is the positions will be filled from a pool which has already been selected by the public.

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

I have to rise to counter the views of Deputy Tadier and Deputy Le Fondré. I think we are absolutely making heavy weather of this. I totally support what Deputy Martin had to say and Senator Ozouf, 100 per cent behind him. I just cannot envisage a situation where we would nominate or elect a Chief Minister who did not have an Island-wide mandate. Yes, there is the referendum but any changes will not come about until 2018, so frankly we have to address what is: the public are absolutely willing to having an Island-wide mandate for the most senior positions. Yes, there is an issue of where do you draw the line. Deputy Labey has said it there. I will support her and I think we should just get on with it and vote. **[Approbation]**

#### **12.1.15 The Connétable of St. Mary:**

Firstly, I would like to put on record that I think it is a great shame we are rushing to finish this debate today and I am sure the Chief Minister may have had some words to say perhaps of his own. However, Senator Ozouf said that these debates can bring out strange bedfellows and, bizarrely, I find myself agreeing in this instance with a lot of what Deputy Tadier has said. I absolutely do agree that this proposition would provide a difference in role which would give a reason to stand for Senator. How many times during the reform debates of the last Assembly did I hear the words that with the general election the role of Senator was going to “wither on the vine”? I am fairly sure, in fact, that I have used those words myself. But if this renewed purpose was so easy to find, it would have been found before and would have been put up for discussion during those debates. Let us look at the hypotheticals here. I have heard today of a possibility of up to 30 candidates, and I certainly do not disagree with that as a possibility. I do not believe that the renewed increased importance of the role would discourage what another Member has perhaps uncharitably called the “no hoppers” from standing. It will not. So what if of the 30 candidates 6 think they have got a reasonable chance of becoming a viable Chief Minister? What if 3 others think they could be either one of the Minister for Treasury and Resources or the Minister for External Relations? Or of the 30 candidates, 12 at least are interested in those positions? They make a good case, they arouse a good deal of support. Supposing only one rank outsider emerges to shine through to the ballot box? So we have one rank outsider and then we have 7 people who have expressed interests in these roles and made a good case and they really have the public behind them. But what happens if by some reason one of the roles, probably one of the roles where only 3 people were interested in, none of the people who expressed an interest wins through because the other candidates who expressed interests in the other positions are very strong? Well, then probably we will end up not getting the best person for at least one of those positions. But more likely probably than that scenario, which probably is on the edges of probability, is that the election will turn solely into an election for those 3 roles, candidates for those 3 roles, so all the focus will go on those 3 positions and that to me is a real issue. We have already had Deputy Tadier saying with the greatest of respect and deference, but highlighting the fact that other Members have said throughout the history that 2 of the biggest budgets of this Assembly are run by people who do not have an Island-wide mandate. Not criticising that; pointing it out. Now, we could end up in future with a lot more Members of the ministerial team not having a wide mandate. You have only got 8 senatorial positions and we have not taken the step of increasing the width of mandate, the breadth of mandate for the other Members of the Assembly. We rejected that so we will end up with probably more ministerial positions being filled by people without Island-wide endorsement. Probably from my point of view, much more dangerous than that, we will run the risk of not airing the wider issues that affect our Island population at that broad election because the focus will be on Treasury and Resources, External Relations and Chief Minister. Very important positions, obviously, but as somebody much greater than me has said: “It is the economy, stupid.” We have not talked about the Minister for Economic Development and yet his role is vital in ensuring the future prosperity of this Island. We are saying that the chances are probably increased that that role will be filled by somebody with



a smaller mandate, again, not necessarily a problem if the best person for the job gets the role but we are seriously rejecting our pool. I have been torn about this because I thought earlier on that I was going to support the Deputy but the more I think about it, the more I am concerned that we limited ourselves too much, that we run the risk of not debating the wide issues in the senatorial hustings. We have not put in place any other wide-ranging method for talking to our Islanders. We have not formed constituencies; we have not given people broader mandates. There should have been a quid pro quo. The general election was what the people wanted more than anything else. There are consequences; we needed to step up to that mark. We have not done it and I think, from my own point of view, I can hardly conceive of the situation where the Chief Minister or the Minister for Treasury and Resources or, for that matter, the Minister for External Relations, would not have an Island-wide mandate. Providing the right calibre of people are elected, I am sure that is where I will be placing my vote if I am re-elected but there is no guarantee that the best person will get into that position. I think we are wrong to limit it and to tie our hands. So for that reason, with regret, I will not be supporting the Deputy's proposition. Thank you.

**The Bailiff:**

Does any other Member wish to speak? Then I invite the Deputy of Grouville to reply.

**12.1.16 The Deputy of Grouville:**

I will try and be as brief as I can given the late hour. Just touching on what some States Members have said. I must confess the last speech astounded me probably the most. The Constable of St. Mary, who was the most instrumental person in bringing about the demise of the Island-wide mandate, stands there and says that now the Islanders do not have quid pro quo when we reduce that mandate. So why did she not bring that forward when she reduced the voters' rights? I find that quite incredible. I would like to just touch on what others have said. Senator Bailhache said that the office of Senator was dead and Deputy Tadier talked about it as if it was some nostalgic position. However, we still have the senatorial position and it will fall away if we decide to go with another system, of course, and this what I am proposing today will fall away. However, we still have it and I think it would be a very interesting referendum indeed if we were to put to the public: "Do you want to retain the Island-wide mandate and the Parishes or do you want super-constituencies?" I would love to see the result of that. I think that would be very, very interesting because most of the people I speak to favour retaining the Parishes and the Island-wide mandate. The Constable of St. John, I did want to extend this proposition, as I touched on in my opening remarks. In an ideal situation I would prefer 16 Senators so that we had a pool of people to choose from. However, we are limited to 8 so I limited the choice to 3 but I can quite understand the argument for the bigger-spending budgets to come from an Island-wide mandate. Deputy Le Hérissier spoke about the inconsistency with the size of constituencies. Well I am afraid the Island-wide constituency is the same size, so I could not really fathom what he was trying to say there.

**Deputy R.G. Le Hérissier:**

Can I attempt to say what I was trying to say [**Laughter**] having been very unfairly maligned by Senator Ozouf, as ever? All I was saying is everybody should be part of a larger constituency.

**The Deputy of Grouville:**

Some of the Members that have spoken in this debate, I think it is a lot about honesty of intention and democracy. If people like my colleague on my right wants the job of Treasury and Resources, then he ought to stand for Senator. [**Approbation**] This is what it is all about, I think. Let us just bring back a bit of honesty here. All I wish to say is that Members have got to decide if they want the positions occupied by someone who is elected by one-twelfth of the Island. Put another way,

do Members think it right and fair that eleven-twelfths of the population will be denied a vote for 3 of these highly-influential positions if it goes to somebody else that does not hold an Island-wide mandate? I ask for the appel, please. I rest my case, sorry. **[Laughter]**

**The Bailiff:**

The appel is called for then in relation to the proposition of the Deputy of Grouville. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 18</b>		<b>CONTRE: 21</b>		<b>ABSTAIN: 0</b>
Senator P.F. Routier		Senator A. Breckon		
Senator S.C. Ferguson		Senator P.M. Bailhache		
Senator B.I. Le Marquand		Connétable of St. Clement		
Senator F.du H. Le Gresley		Connétable of St. Mary		
Connétable of St. Helier		Connétable of St. Ouen		
Connétable of St. John		Connétable of St. Brelade		
Connétable of St. Martin		Deputy R.G. Le Hérisssier (S)		
Connétable of St. Saviour		Deputy G.P. Southern (H)		
Connétable of Grouville		Deputy J.A.N. Le Fondré (L)		
Deputy J.A. Martin (H)		Deputy S.S.P.A. Power (B)		
Deputy of St. Ouen		Deputy K.C. Lewis (S)		
Deputy of Trinity		Deputy M. Tadier (B)		
Deputy T.A. Vallois (S)		Deputy E.J. Noel (L)		
Deputy G.C.L. Baudains (C)		Deputy M.R. Higgins (H)		
Deputy of St. John		Deputy A.K.F. Green (H)		
Deputy J.P.G. Baker (H)		Deputy J.M. Maçon (S)		
Deputy J.H. Young (B)		Deputy S.J. Pinel (C)		
Deputy of St. Mary		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy N.B. Le Cornu (H)		
		Deputy S.Y. Mézec (H)		

**The Connétable of St. John:**

Could you repeat how Senator Ozouf voted, please?

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

I confess that I pushed my button and I did not notice that it carried on flashing so my vote was not registered, I am sorry. **[Members: Oh!]** I do not know what happened. I pressed it but ...

**Deputy M. Tadier:**

That is even with an Island-wide mandate, Sir. **[Laughter]**

**The Bailiff:**

Very well, is the adjournment proposed now? So the Assembly will reconvene at 9.30 a.m. tomorrow when we will start with P.33/2014.

**ADJOURNMENT**

[18:00]