

STATES OF JERSEY

OFFICIAL REPORT

WEDNESDAY, 7th DECEMBER 2011

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[9:30]

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

PUBLIC BUSINESS – resumption

1. St. Helier Waterfront: development (P.175/2011) - resumption

The Bailiff:

We return to the debate on Projet 175 - St. Helier Waterfront: development - lodged by the Connétable of St. Helier.

The Bailiff:

Does any other Member wish to speak?

Deputy G.P. Southern of St. Helier:

Are we playing games now, Sir? Is it the queue to be the last to speak? Senator Farnham seems to want to be the last to speak.

The Bailiff:

You had indicated, Senator Farnham, so I think you must be.

Senator L.J. Farnham:

I think it is my right to speak when I see fit during a debate, with your leave, Sir. The circumstances have changed; yesterday afternoon I was going to ask the Presiding Officer to consider whether a reference back would be appropriate. Almost all Members who have spoken on this debate seem to have been wanting for a lack of detail and information about the scheme in question.

The Bailiff:

I am sorry, Senator, but this is the proposition of the Connétable to defer matters, so he cannot produce further information about the scheme. A reference back is when you refer back to the proposer saying: "You, Mr. Proposer, need to provide ..."

Senator L.J. Farnham:

This is what I wanted to seek your advice on, Sir. I think that the Constable could have provided a lot more information in relation to the scheme to this debate but upon reflection I think a number of Members have spoken since I was going to raise this point and that, for the Deputy's information, is why I decided not to speak first thing.

The Bailiff:

Very well, does any Member wish to speak? Very well then, I call upon the ...

Deputy G.P. Southern:

Sir, I ...

The Bailiff:

Members need to indicate their lights reasonably promptly. You did that as I said: "Very well", Deputy.

Deputy G.P. Southern:

My hand was moving earlier, Sir. I must have been pressing it.

The Bailiff:

Talk of playing games; pots and kettles appear, Deputy Southern. [Laughter]

1.1 Deputy G.P. Southern:

Indeed, and I will take that like a man. Yes, in terms of pots, kettles, I am as black as they come. While we are on the topic of tactics, new Members will be interested, I am sure to see what happens when there is a pause in a debate either over lunchtime or over an evening. What happens is that both sides rally their troops. So, be prepared for at least three-quarters of an hour, probably an hour today, even though yesterday evening it looked like everything had been said and the thing was grinding to a halt and a vote almost happened but not quite. So there will be speeches today, some of which will remind people of what was said yesterday and this may be one of them. I was struck yesterday by the phrase “at no cost to the public purse”, because it always makes me feel very warm-hearted when we get something for nothing. Except that in this world unfortunately there is never something for nothing. Something for nothing reminds me of Kentucky Fried Chicken and a great big shed on our prime site that shows films on 10 screens. It reminds me of another project down there which was this luxury, top of the range hotel that was going to be placed on the Waterfront and turned out to be a Yugoslavian factory, the Radisson - a carbuncle if ever there was. So, something for nothing; my mind says beware. Yet here we are part of something for nothing. It came initially with £70 million towards the public purse, now it is far less. The Minister for Treasury and Resources, when he spoke, praised how well my Constable spoke in this debate, then went on to speak very fluently himself about what this was going to deliver and although he said he was going to deal with it, failed to put any meat on the bone of the £20 million that we are supposed to be getting from this project; something for nothing. As I was looking at this document last night and during the debate, everywhere throughout it there was a question mark. Question mark detail, evidence, proof; it is singularly missing, this is a very nice wish list. Clients will be lined up. £20 million will be returned to the public purse. It does not say how. So, the first point, the detail is absolutely missing and if we were discussing this document on its own - if that was being presented - then a reference back would be the order of the day. A reference back to the Constable who is saying: “We should not be going this way because of lack of detail” is absolutely, completely inappropriate and not right. While I am on the Constable; yesterday he said: “Unlikely as it is that I, as Constable of St. Helier, will turn down rates.” Indeed. I have seen the Constable’s eyes light up at the prospect of additional rates for St. Helier and the possibility of taking 0.1 of a penny off the rate. That is the sort of thing that Constables do and, boy, does he enjoy doing that when he can do it. So, to hear my Constable turn down what is a substantial amount of rates because he is unsure - he is not convinced by what is being proposed - is indeed a remarkable day. That must be borne in mind; that the Constable has come to this House reluctantly giving up his rates to say: “Watch out for this. The detail is not there, it is completely unsure and unsafe.” Remarkably, what was said yesterday was that here we have now a part-project. Now, those Members who were not here on the original debates about what we were going to do with this wonderful site were persuaded almost universally by the concept of “this was the masterplan”. This was the complete package; if you sign up for this ... and there was plenty of detail in that about what was going to happen, including digging a tunnel under the Esplanade. Today that is left begging and what we have got is part of a project. Part of a project when this entire project ... what are we going to do with the Waterfront? We had what we thought was the final answer and that was certainly how it was packaged; as the complete deal, the masterplan. We do not have that here and I believe we should be rejecting this project.

1.1.1 Senator F. du H. Le Gresley:

I am going to be taking a different tack to people who have spoken before, so I hope I am going to add something new to the debate. I think Deputy Young is to be congratulated on his speech

yesterday. His arguments in favour of the proposition may have been convincing to many Members, however, there is a great danger that we are interfering in the planning process simply because the developer in question is States-owned. The States set up the States of Jersey Development Company with an independent board in order to stop Members interfering in the day-to-day affairs of the company. The Regeneration Steering Group on which the Constable of St. Helier sits has no direct responsibility for operational matters relating to the S.o.J.D.C. (States of Jersey Development Company). Their role is in the development planning aspects of regeneration which means translating masterplans into workable development plans. It seems to me that if you are a member of a group or committee and you disagree with the direction or decisions taken, you should voice your opinions or objections in the first instance to your fellow members. The Constable has chosen not to do so and I would be interested to know why.

[9:45]

Yesterday the Minister for Planning and Environment was quite clear that he could consider an application from S.o.J.D.C. for Phase 1A of the Esplanade Quarter, taking into account the current masterplan, which was approved by the States in 2008 and the new Island Plan. Yesterday Deputy Maçon very kindly pointed out some of the debates that this House has had with regard to Esplanade Quarter and he, in particular - and I thank him for this - emailed Members last night with a number of links to Hansard and also the votes on some of these propositions. I want to refer Members to proposition P.77 of 2009, which is the proposition of the Deputy of St. John, currently the Connétable of St. John. It was a very simple proposition. I do not mean that it was simple because it came from him - as the Connétable has a habit of misunderstanding my choice of words. **[Laughter]** It simply said that: "... to agree that the development of the proposed Esplanade Quarter and other areas of St. Helier Waterfront, including the sinking of the Route de la Libération, should be deferred until there is a significant improvement in the economic situation in Jersey, with clear indicators of economic growth ...". Now, those are quite crucial words: "Significant improvement in the economic situation in Jersey, with clear indicators of economic growth.". Now, what we do know from the presentation we had from the S.o.J.D.C. is that they have in mind a major on-Island tenant who requires 150 square feet of modern office building. We know this because we have been told. So there is an indication clearly that there is somebody who is interested in developing their operation in Jersey and therefore has confidence in Jersey's economic future. Now, when previously S.o.J.D.C. has entered into contracts ... I did research a document, which some of you may have read. It was a review of the Waterfront Enterprise Board by a firm called DTZ and it was done in May 2010. In very small detail at the back of this document there are details about the types of contracts that the W.E.B. (Waterfront Enterprise Board) and now S.o.J.D.C. have entered into when they have had land developed. What they tend to do - and it is clear that the Esplanade Quarter is listed in here - is that the buildings would be let on what is called "long leasehold", 150-year leasehold. There was a discussion yesterday about the underground car park and what happened if the company owning the main lease got into difficulties. The fact is that the ground on which we are going to be building these offices will remain in the ownership of the States of Jersey Development Company as has most of the Waterfront and a 150-year lease will probably be created to the potential major tenants. So that is how it will be structured. We understand that this is a £100 million development. It will bring business into Jersey for the construction industry, therefore it is again a sign of improvement in our economic situation. I now want to move on to another subject, which is perhaps going to be uncomfortable for some Members of this House. I want to talk about conflict of interest. I thank again another Deputy who happens also to have the name of Rondel who asked a question of the Minister for Planning and Environment. It is a written question and therefore it is public information. He wanted to know how many commercial planning applications were still under

consideration. On that list, which we were given yesterday in response to written questions number 4, there are 6 pending applications for office schemes. So, with your leave - I do not know whether I am going to be allowed to do this but I hope so - I am going to read out what those 6 are. It is public information.

The Bailiff:

If it has been published in written questions and answers that is in order, Senator, yes.

Senator F. du H. Le Gresley:

The schemes are: 8-9 Esplanade and 10-12 Commercial Street, that is one application for an office scheme; Lord Coutanche House, 66-68 Esplanade and 14 Patriotic Street, another office application; 27 Esplanade and 3 La Rue des Mielles, office scheme; 19-29 Commercial Street and 31-41 Broad Street, office development; 19-21 Esplanade and 34 Commercial Street, office scheme; 4-6 Pitt Street, 6-8 Dumaresq Street and 21-28 Charing Cross, office scheme. I would suggest to you that all those properties are in the hands of private developers or in private ownership. So what we are saying, if we approve the Constable's proposition, is that we want to tie the hands of the States of Jersey Development Company because we own the shares in it and we do not think that they should be going into competition with these 6 developers. When I talk about conflict of interest, I was on the political steering group - along with Deputy Le Hérissier - that looked into the planning development control process report and came up with a number of recommendations. This is relevant to anybody sitting in this House today who, if we go with the Constable's proposition, is effectively wanting to make a planning decision, because that is what we are doing today. We agreed that Members - this is to do with the Planning Applications Panel - in particular should not make any representation in connection with an application, which is to be considered by the Planning Panel. That was because quite clearly it would be incorrect for somebody who has an interest in a particular development or is representing a developer to have an influence in the decision on a planning issue. So we have to be very careful today that there may be Members who have an indirect interest in some of these applications that I have listed who may feel that they should or should not vote in this current proposition. What this steering panel agreed is that we would allow panel members to be seen to be removing themselves as far as is practicable from creating an impression that they have any undue influence over the determination of an application. So we were at great pains to ensure that if the planning process is absolutely transparent no member on the panel should have any interest or any representation in a planning decision. If we move to make this decision today we are tying the hands of the States of Jersey Development Company from putting in their planning application for Phase 1A, an application which will be in competition with those 6 applications currently being considered. So we have to be very careful and I would suggest to Members that there are a number of people who definitely cannot take part in the vote; the Minister for Planning and Environment, the Assistant Minister for Planning and Environment, all those who are potential members of the Planning Applications Panel, and anybody else who feels they might have a conflict. I would like to move on from that issue of ...

Deputy M. Tadier of St. Brelade:

Could I interrupt for a point of order because I think Senator Le Gresley has made quite a strong case there which may or may not be correct? It would be interesting to hear the view of the Chair because we are all elected to do a certain job and we should only abstain from voting if there is a real reason.

The Bailiff:

Senator, it is not entirely clear to me what you are saying. I do not know whether anyone has any interest in these other applications. If they have then I would have thought possibly that is a

financial interest but it is not one which is direct, because it is not direct in this matter. So, I do not think they would have to withdraw but they probably ought to declare it. Now, as to Members who were on the Planning Applications Panel, that is entirely for them. They have no financial interest in the matter.

Deputy J.A.N. Le Fondré of St. Lawrence:

I would like to seek a further clarification from you. My interpretation of the proposition is that this is in relation to commitments to be made by the S.o.J.D.C. and I would not have thought that would preclude a planning permission being sought by that company. I have always interpreted this as a contractual commitment, not a planning application.

The Bailiff:

Yes, I have indicated that I am not making any ruling in relation to members of the Planning Applications Panel; that is entirely for them to consider in accordance with their usual policy and it may well be they conclude there is no reason why they should not vote on this matter. I am not making a ruling on that. I am only making a ruling in relation to if somebody does have a financial interest in what are said to be rival applications in the immediate area which might benefit if this is deferred, then I think they should declare it but it is not so direct that they would have to withdraw. It is right that other Members should know and the public should know that they have some interest in these other applications.

Senator A. Breckon:

I wonder if I may raise an issue on that. I remember some years ago where a member of a Planning Committee expressed an opinion in public and was challenged by a developer that they were not fit to sit in judgment of an application because they had expressed an opinion.

The Bailiff:

But nobody is expressing any views as far as I know about the merits of any application which the S.o.J.D.C. may make in due course. This is just a question of whether there should be a deferral so I cannot see that matter can possibly arise.

Connétable P.J. Rondel of St. John:

Clarification, if I may, on what has been said about having to declare an interest. When do you declare an interest? I should think a lot of Members here shop at the Co-op and would have a number and therefore a shareholder number. Surely it does not go down to that extent, does it?

The Bailiff:

No, not at all.

The Connétable of St. John:

No; thank you.

The Bailiff:

The Senator was raising the question as to whether some Members may - I have no idea whether they do or not - have a direct financial stake in the applications; they might be shareholders in the developer or something like that. Of course not, no, if you are merely a member of the Co-op and the Co-op is the tenant of one of these places. That is not a matter to be declared.

Senator L.J. Farnham:

Just to be absolutely clear, Senator Le Gresley has suggested that the Minister for Planning and Environment, the Assistant Minister for Planning and the Planning Applications Panel are conflicted. Are you categorically saying they are not?

The Bailiff:

They are not and I have made that clear.

Senator L.J. Farnham:

You were not making a ruling, Sir, but you are ruling they are not? **[Laughter]**

The Bailiff:

I rule that it is entirely a matter for them. In my opinion they are not conflicted. There is no reason why they should be.

Senator L.J. Farnham:

So they are definitely not conflicted, thank you.

Deputy J.A. Martin of St. Helier:

Can I just press that point because I am confused about what the Senator was raising? I am clear on the conflict on the commercial sites but I think the Senator was saying that because they were determining the planning application they had some sort of financial interest in this site. But are you clear ...

The Bailiff:

I do not think he alleges a financial interest, Deputy, no.

Deputy J.A. Martin:

Well, he is not clear on what he is saying then.

The Bailiff:

Do you want to carry on, Senator Le Gresley?

Senator F. du H. Le Gresley:

Yes. If I have done nothing else I have put a seed of doubt in people's minds **[Laughter]** which was partly the purpose ...

The Bailiff:

Doubt about what, I am not entirely clear, Senator.

Senator F. du H. Le Gresley:

That is for Members' own consciences, I am sure. I am not going to say a lot more except to repeat that when the States of Jersey Development Company was set up, we separated the powers of the Minister for Planning and Environment from the Regeneration Steering Group to ensure a clear distinction of responsibility for planning policy and for the interpretation of the States' requirements and that is still where we are today. Personally, I think it is inherently wrong for the States to be once again treating S.o.J.D.C. as a department of the States rather than an arms-length body. I would urge Members to reject part (a) of the Constable's proposition and allow the normal planning application process to proceed. With regard to part (b) of the proposition, I tend to agree with the Minister for Planning and Environment that a masterplan or development plan for the area commonly known as East of Albert should be produced by his department before any application can be considered and therefore I feel able to support that part of the Constable's proposition.

1.1.2 Senator B.I. Le Marquand:

When this Assembly voted to set up the States of Jersey Development Company I supported the proposition because I was convinced that this Assembly - even acting through its excellent officers - was quite unable to manage the efficient development of our very considerable property assets. I make reference to the inability of the States to organise its way out of a paper bag or to organise the customary event in a brewery on that occasion, in order to try to indicate how strongly I felt about this, and that is based upon 21 years of experience in the public sector. In so doing, I accepted that we would be taking some element of risk that some deals might lose money, but that overall there would be a massive gain in relation to this. The culture of this Assembly is absurdly risk-averse and this has transmitted itself to our civil servants and managers, so that is why we had to set up an organisation which could take risks in order to realise the sort of profits which we should be making.

[10:00]

So what am I to make of this proposition? My first concern is that this proposition seeks to take back control of development decisions on 2 sites from S.o.J.D.C. That, we should not be doing. The proper role of this Assembly is to determine the Island Plan in order to determine the zoning of land, including publicly-owned land. We did that last year. We did not then change the status of the Esplanade Quarter. What we should not be doing is turning ourselves into a 51-member planning committee or a 51-member board of directors of a development company. Now yesterday we had classic examples of why we should not do this. In all the different suggestions which were being made as to potential uses of different sites the Connétable suggests it could be a site for a hospital. Deputy Young definitely wants to see the underpass covered over. Deputy Power seems to like the car park as it is. So it is, we all have different suggestions; 51 different ideas. Similarly, in relation to the La Folie site; perhaps it should be a fish restaurant, perhaps it should be some sort of fishing museum, or perhaps it should be some sort of management centre. A lot of different ideas; all expressed in the letters to the Connétable of St. Helier. The only common theme being it should not be luxury housing. This is no way to seek to make decisions. This is exactly why we set up S.o.J.D.C.; to avoid us going back into those bad old habits in this sort of way. But there are 2 separate sites here. The first is the Esplanade Quarter. In 2008 the States agreed a masterplan for the site and we did not change that last year. Outline planning permission was also granted last year. The current proposal of S.o.J.D.C. is to proceed with detailed development permission for 3 blocks - part of the overall scheme - at the extreme eastern end of the site. That is part of the original plan and there is a particular business which has interest in the block. The proposition does not seek to rescind the masterplan but merely to put things on hold, perhaps indefinitely. In my view that is wrong. If the Connétable of St. Helier or other Members feel that the masterplan is now wrong, let us be straightforward about it. Let us have a rescission proposition in relation to that, otherwise where are we? Do we have a masterplan? Do we have a suspended masterplan? What is the situation? Chaos. The second aspect is in relation to the La Folie site. Now, in relation to that it is quite clear that there does need to be a piece of work - a major piece of work - done by the Planning Department who determine a planning brief or something of that nature. The Minister for Planning and Environment, Deputy Duhamel, has indicated his willingness to bring that to the States for approval. He does not have to do that. I am not sure that by so-doing he is not setting a dangerous precedent in terms of having to bring masterplans for relatively small areas. That is a matter for him. The case of the Connétable of St. Helier in this matter rests upon the assumption of a development of luxury flats but we have no idea what might come out of the process. My concern is this; that again we are setting a bad precedent. Not only are we seeking to intervene, as it were, in the planning process but also in the management. So, to summarise very quickly, the proposition undercuts the whole reason for setting up S.o.J.D.C. It seeks to take back

to the 51 Members the planning operation and the development company functions. We are in danger of going back into the inability to organise our way out of paper bags, et cetera. Thirdly, we would be paralysing the masterplan without either rescinding it or supporting it. We simply will not know where we are. In relation to the other matter, it is a planning function to come up with a brief, not the function of this Assembly.

1.1.3 Deputy E.J. Noel of St. Lawrence:

I am grateful to Senator Le Marquand as he has corrected many of the misinformed ideas that have been raised over the past 24 hours. But I am sorry to say that we have failed. We, in terms of the former States Members of W.E.B. and of S.o.J.D.C.; we, in terms of the Council of Ministers, be that the new and old. We have failed in terms of communicating the facts to our fellow Islanders and to our fellow States Members; the fact that the States' developing of public land owned by the taxpayer, in effect, is of benefit to all Islanders and the fact that ensuring that key players within our financial sector not only stay in the Island but expand their operations so they stay here for decades to come, securing much-needed employment. These organisations, many of which employ hundreds and in some cases over 1,000 employees, have choices. Like it or not, they are vital to our economy. They need our offering to remain competitive with those outside of our Island. I wish to make amends for our failings. I wish to show Members that this proposition is not warranted at this time, that the basis of its foundation in respect of Esplanade Quarter is set on sand and not on stone. The Constable of St. Helier has stated that his overarching reason for this proposition is to ensure that we have choices regarding the relocation of our hospital. I feel well-placed to comment on this matter. Many Members will know that until recently I was a States-appointed director of W.E.B. and a Minister for Treasury and Resources' appointee on the board of S.o.J.D.C. I am no longer in those roles, just to clarify. I was again, until recently, the Assistant Minister for Health and Social Services with specific responsibility for the estate portfolio. I now have responsibility for Property Holdings. I am passionate about the provision of a sustainable hospital for Islanders for generations to come. So let us base the decision today on facts. It is a fact that without exceeding the existing maximum height parameters on the Esplanade car park we simply cannot fit in the existing hospital on that site, let alone cater for the size hospital that we will require in the future. I have circulated to Members a couple of pages of diagrams and my apologies to them for circulating them quite late in this debate. Over half of the existing general hospital buildings are higher than 5 storeys and it is 5 storeys that is the suggested maximum on the Esplanade site. The parade block of our general hospital is, in fact, the equivalent of some 9 storeys, that is the same as Cyril Le Marquand House. So to fit the existing general hospital on the Esplanade site would require us to build above the maximum 5-storey target height and would diminish the amount of open amenity space available to both staff and patients. Now consider that due to the minimum size requirements for bed spaces to aid infection control, together with the need for single-bed units with en suite facilities clearly shows that the Esplanade site is simply not suitable without having to build a hospital that is a significant mass in terms of both of its footprint and its height. The maximum 5 storeys was something that the former Deputy De Sousa successfully managed to build into our recently debated Island plan. That was approved in June of this year so nothing has changed in the past 5 months. If we add to that that revised access would be required, additional parking on the site would be required, and so on, this would mean that a new general hospital that would be fit for purpose for the future, if it was to be built on this site, would require that we would sink the road because the existing car park site is just physically not big enough. But that is not the end of the story. We would still need to spend significant capital sums on the existing general hospital as well. We simply cannot wait until the new-build would be ready. So, in effect, we would be paying twice for some of the clinical space that we require. In today's world that simply is not acceptable. Deputy Young raised his concern that by doing this in Phase 1A and Phase 1B we would not be compliant with the approved masterplan. I beg to differ.

I believe it is compliant. One of the diagrams that I have circulated is a diagram that is readily available in the public domain; it came with the Channel Television's website. It clearly shows that what is proposed in Phases 1A and 1B is almost identical to the original masterplan. Two of the buildings have been swapped around to accommodate the tenants' requirements. Phase 1 does not stop the road from being dropped, nor is it dependent upon it. Phase 1 simply allows us to proceed with an offering to some of our key employers operating within our Island. Phase 1 provides an attractive offering to new inward investment into our Island. Phase 2 provides an attractive offering to new inward investment into our Island; inward investment that would create - using Senator Le Gresley's definition - "proper jobs" for all our people. I hope to be able to persuade Deputy Martin that no taxpayer's money will be at risk. Pre-lets, backed up by pre-sales will allow the States of Jersey Development Company to secure third party finance at no real risk to the taxpayer. There will be capital profits generated that will exceed in excess of £20 million and those funds will be available to be put to use to sinking the road. These funds and others calculated by our professionals on the latter parts of the masterplan will provide more than sufficient funding to sink the road and to provide the other benefits to the public realm such as the winter garden. However, that is a decision for this Assembly as we have already agreed. Should this Assembly decide that it does not wish to proceed with the sinking of the road then these funds generated will be available for other much-needed projects, even maybe towards building our new general hospital. Deputy Power, who was behind me, stated that there is no housing provision in Phase 1. Well, he is correct but there was never going to be a housing provision in this part of the masterplan. Housing, together with the winter garden, was going to be in the other areas that required the road to be dropped. The Deputy has also commented that there is no amenity space. Well, in this instance he is not correct. Phase 1A provides a substantial amount of outdoor amenity space, even a café area in a separate building between blocks C and D. Added to that, we currently have Liberty Wharf and therefore there is ample substantial amenity space to cater for the needs of all the workers and residents around that area. There are 3 sites that the key anchor tenants can choose from. Let them exercise their choice in an unencumbered way. Let the tenants decide which is best for them, for their employees, for their clients. We have an obligation; an obligation to get the best value out of this site for all Islanders. To do so, in the very first instance we should let the tenants decide.

[10:15]

1.1.4 Connétable J.M. Refault of St. Peter:

I wish I had pressed my light before Deputy Noel. Clearly our similar backgrounds have given us a similar take on this proposition. I will not go through his speech which was very closely aligned to mine unfortunately, but I just want to pick up a few extra points. I think one of the first things that becomes quite clear to me is that the Connétable of St. Helier does not appear to be against development on the Esplanade Square. In fact, he proposes development there and that it should be the hospital. In the very short time that I have been involved as the Assistant Minister for Health and Social Services with the hospital, I have already discovered that not only are the plans that Deputy Noel has circulated earlier on today very correct - the current building will not fit on that site - but also the requirements for a new hospital are quite significantly different to the requirements on our current hospital. Let me just go back a moment to one of the first interviews I had with the general manager of the general hospital. I wanted the utilisation codes of the operating theatres to see how they are being used. He said: "I can produce those for you but they will be of no use whatsoever because our intensive care unit is not big enough to keep them fully engaged. We have surgeons and hospital nurses waiting to do operations and they cannot do them because they have got nowhere to put the people post-operative care in intensive care." Clearly, that is an area we need to look at; increasing the size of the I.C.U. (Intensive Care Unit) so that we

can get the hospital surgeons working at the most optimum rate to shorten operation waiting times. Further to that of course, we all know about the superbugs that are now coming up and we hear quite often in the media about them and one of the biggest means of transmitting superbugs is by having hospital beds too close. We would not be allowed to operate some of our wards if we were in the U.K. (United Kingdom) because our bed densities are far too close. The general wards need to have much wider separation between beds. All of this requires extra space. If I can just ask you to let your mind drift forward into the future somewhat and place yourself down on the Esplanade, somewhere round about the Ogier Building, and turn around and look towards the sea. What you will see there potentially, if the hospital were there with the new requirements, a building of some probably up to about 8 or 9 storeys stretching *en masse* from Castle Street to Gloucester Street. No opening walkways, no thoroughfares, no open amenity spaces whatsoever, no view of the seaside at all; a building probably not too unlike the current Radisson Hotel, a utilitarian type of building. Is that what we really want for Esplanade Square? So, I have a great problem that I cannot really see the Connétable of St. Helier's motivation in bringing his proposition because he says he is not against development being down there. I really hope he will convince me of what his motivation is in his summing up. The one thing that does trouble me and I think Senator Le Gresley alluded to it - I think it was in his speech - about the Connétable turning down potential rates. Well, certainly when I was on W.E.B. we did a quick review on what the Esplanade Quarter would develop in rates yield and I just asked them to re-look at that for me as a favour yesterday. It would develop, when finished, in the region of £450,000 a year of rates returned to the Parish of St. Helier. Clearly, not all that goes to St. Helier. They will keep about £220,000 in their coffers per annum; the remaining £250,000-ish would go into the income support via the Island-wide rates. That would support 250 families at £10,000 a year on average in rates that the Esplanade Quarter would generate, on top of what is already being received in other development sites, which are currently in use and have tenants in the town area. That really underlies my frustration, in that I cannot see the motivation for bringing this. It is almost - and I am certainly not suggesting it - that the Connétable has a greater masterplan in his mind, which he has not been able to share with us yet and I would like him to bring that forward. One of the things I will be a little bit critical on, and I apologise in advance to the Constable of St. Helier, is the comments he made: "Well, we would not want a public car park underneath our bank buildings, would we? Just think about the implications of that." But it would be okay to put underneath our hospital, if that is down there instead. Is that an argument that really we want to be going down the road with? I do not think so. One last comment, just listening to generally some of the comments around the Chamber, is that there has been a lot of criticism about the Waterfront developments of the past, and quite rightly so. But the past is the past. Are we going to continue criticising things of the past and make us not look towards the future and see and impose upon them via our Minister for Planning and Environment that they do better in the future?

1.1.5 Deputy M. Tadier:

I am going to try and bring this debate back to where it should be; it seems to be going off into all sorts of tangents. The first thing I would like to do is remind every Member in this Assembly that we are here to represent the public interest. Now, that public interest might mean different things to each and every one of us but there have been calls, I think... and one of the tactics being used by opponents of this proposition is to undermine the legitimacy and the fact that the Constable of St. Helier is bringing this proposition at all. First of all, it is entirely his right to bring it - I do not think that is being questioned - but it is also a perfectly legitimate proposition because, we must remind ourselves, this is a piece of public land. We have heard a lot of argument saying that we should not be interfering in the planning process, secondly that we should not be treating the States of Jersey Development Company as a States department. I do not think that is what we are doing here today. My concern, for example, is not so much what S.o.J.D.C. do, it is the fact that this is a prime piece of public land which is being administered by the States of Jersey Development Company now and

whatever we build there is going to have massive implications for generations to come. We are talking about an 150-year lease here and so we are saddling the next 5 or 6 generations with a building on the Waterfront and until last week most of us States Members did not know what the plans were; we had not seen them because they are completely different from what has been proposed in the agreed masterplan of 2007 and 2008, which was then taken and lifted into the Island Plan. So Joe Public, apart from what appeared on the Channel TV website and some snippets in the *J.E.P. (Jersey Evening Post)* has no idea at all as to what is going on to the point at which Deputy Noel had to get us photocopies of the Channel TV website. So he is saying: "This has been on the Channel TV website", and he has circulated a printout to all of us States Members. Then he goes on to say that these 2 things are almost identical. They are not; I think we can see very easily that they are not identical. When I was younger I used to like to play spot the difference and I think here basically the difference is that is different to that and it is just one big difference, it is not the same. I am grateful to the Constable of St. Helier for bringing this proposition because he points out in his report that things have changed. The 2 documents which represented the masterplan and then the one which we were presented with only last week are completely different. There are valid concerns that should be raised and that are being raised because we are talking about phasing this building in. I think what we need to be aware of when we are talking about piecemeal development is that we want to know, and the Minister for Planning and Environment and the rest of us should want to know, that the scheme that we are going to end up with is the scheme that is in the masterplan, but it is clearly not. I think Deputy Noel, for example, also tried to dismiss the fact that the road is not a problem. The road is a fundamental problem. We need to know, as a States Assembly, what is going to happen with the masterplan, because it is fair enough to say: "Let us start building in an area and this is because there are already clients that want to move in". That is fine. I should say, by the way, I was very convinced by the very good presentation we had last week by Lee Henry, the finance director of S.o.J.D.C. I do not have any problem in principle. I think the arguments are quite sound that our businesses over here do need fit-for-purpose properties to move into. I think it is also necessary just for the sake of good debate to put to rest 2 red herrings which we heard yesterday, one of which was to do with funding, which I think the Constable of Grouville did very well to explain that the funding is not the issue here. These were normal transactions which do take place and I think also the Solicitor General laid that to mind. I think also the hospital is a red herring. We should not be focusing on whether or not to put the hospital on this site. I think it is more fundamental than that. Personally I do not think we should be putting the hospital on this site. There are many other places that the hospital can go; there are not many other places that a financial centre can go in Jersey. So it is not really about whether to have a financial centre here, although I am slightly uneasy - and it is a concern I raised last week - about building a lot of office space during a downturn when the future of certain parts of our major industry are at risk. That certainly needs to be questioned fundamentally. But nonetheless, what I think this proposition is to do with is that the devil is in the detail. As was said yesterday, the devil is in the lack of detail and that is what we do not have. We need to know how this is going to pan out. We cannot simply give the nod today and that decision will be a default permission to go ahead with the plans as they are, because we are not doing any favours to the public, we are not doing any favours to ourselves if we pass this today because we are leaving ourselves a hostage to fortune whereas if we take a brief hiatus, look at the plans and let us build something that we can all feel happy with and which can also keep our industry over here happy. I think that is the best way to do it, so we should be supporting the proposition of the Constable of St. Helier.

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

When I scanned through the order of public business before this sitting started, I was not expecting to speak but when the Constable of St. Helier singled me out for personal selection during his

proposition speech my brain immediately said to me: “Oh dear, you are probably going to have to say something now.” My immediate reaction was that I am probably going to be able to just stand up and agree with everybody who had spoken before me but after yesterday afternoon it became apparent that that was not the case. For me there was one sentence in the proposition which doomed it to failure. That was the last sentence which says: “... until the future of these sites has been determined by the new States Assembly.” I am not as young as I would like to be but I can still remember going to the old abattoir site for the purposes for which it was built. In 1982 the new abattoir site was opened and it seems to me that in the remaining 30 years this Chamber has argued about what was to happen to the site that fell into disuse. Only very recently have we seen it being used for any commercial purposes and I have to say that the public of this Island are fed up with looking at States-owned property lying empty all over this Island. The St. James’ site, the Girls’ College, the large part of the original St. Saviour’s Hospital and the La Folie site. With the La Folie site I get a sense of *déjà vu* with the old abattoir. It has been empty for far too long, no income to the States whatsoever; these sites are nothing less than a disgrace really and the public want to know why we are not making use of them as we should. Something must be done. The La Folie site; yes, I agree, a centre for cultural focus, public access, a restaurant, a pub, a hotel, maybe some housing. The problem is that we can agree with all those but we are not doing anything about it. I welcome the Minister for Planning and Development’s statement yesterday that he is going to come up with a masterplan for the area but we already have a masterplan for the harbour area. Members will know, or at least I hope they know, that I am committed to the regeneration of the harbour. I am committed to increasing the size of our marine leisure industry and that involves flooding, hopefully, making large marinas in the existing harbour and that involves moving commercial activity from the new North Quay to new facilities to be built at La Collette. It is a 20, 30, 40-year plan but it seems to me that because of the length and the size of the scheme it puts Members off making decisions to get on and start to do it. In reality it would be great for the Island to be able to reduce our freight costs and that would affect everyone on the Island. We could do that with a new harbour where we could bring in bigger boats. I fear that this proposition and that last particular sentence as I mentioned it is setting us back yet again. This House is not good at making planning decisions and that, I feel, is why we stood back or the House stood back before I was here and formed the S.o.J.D.C. to let them get on with it.

[10:30]

This House really has to start acting more professionally because if the private sector dithered like we do, then we would have no commerce happening in Jersey whatsoever. Every time we seem to come up with a sensible plan it is not very many months until we start to shoot it down again. We have set up the J.D.C. (Jersey Development Company) on our behalf to be big, to be bold and to take a few risks and to speculate, to accumulate on our behalf. Now is not the time to take a step back and to stop them doing that. We spoke yesterday about affordable housing. Certainly in St. Martin, as I know is going to happen in lots of other Parishes, we are looking at ways of providing affordable housing for young couples. We are doing that with Parish-led development. That means taking the developing bit, or the speculative bit, out of the development and selling houses on shared equity or whatever scheme you like to young couples for the cost of the construction. The J.D.C. is not very different from that in many ways. It is a company that this House has set up so that any profit made from the development can come back to us in this House to be spent on projects which are worthwhile. We are told there are 3 potential schemes for the tenant that we have lined up. The other 2 schemes are going to put a profit in a developer’s pocket. The third scheme, our own, should allow us to take some money out of the project to use on other things. I cannot really agree with some of my good friends who spoke yesterday afternoon, and I would just like to highlight a couple of them. I cannot agree with Deputy Martin when she is worried about

the potential tenants going bankrupt because if that happened we would not be concerned about a building lying empty on the Waterfront. I think the whole world would be in serious, serious economic problems. I cannot agree, really, with Deputy Power about the wasteland that he envisages at night time. I do not see that particular area, the area we are discussing, very differently from the area outside the new tourism building and I certainly do not have a problem with that in the evenings. It is an area where people work and we have to accept that at night people do not work and it will not be populated heavily. Deputy Young is, like me, a new entrant to this House and I think he is a huge breath of fresh air. I find his positivity fantastic and I admire him hugely but I would just say to him that, yes, this may not be the whole of the scheme; the whole of the masterplan that we approved, but I think we must accept in the economic times that we have and the economic times that we are looking forward to, or not looking forward to as the case may be, that we have to move along piecemeal and just do one thing at a time. We do have an opportunity here to move forward, to inject some money into the economy and provide facilities that we know are required and at the same time return some money to the public exchequer. Finally, the hospital. I cannot agree that the site would be suitable for a new hospital because I do not think it is big enough. If we do make the decision to relocate a new hospital to a greenfield or brownfield site, we should certainly in my view be envisaging bringing in a lot more of our outlying hospitals together in the same building, be that St. Saviour's, Overdale and other facilities that we have. If we build a new building we should look to the bigger picture and do the whole thing properly and I cannot see that we could fit all those facilities on this one particular site. In finishing, I was looking for an analogy that we might all understand and with apologies to the female members of the House I thought that football might be a good one to use. It is a new season. We have a new squad of players. We are a new team. We have a new manager. We are looking for some new tactics to win the league that we are playing in. This is our first test; our first game, if you like. It is very early in the game but I am terrified that we are just about to score an own goal. If I could finish by focusing on the £20 million that this scheme will return to the exchequer, I think we are getting a bit blasé about money. Twenty million pounds to me is an awful lot of cash. I know when we talk about hospitals or incinerators, or in my own case rejuvenation of new harbour projects, £20 million does not go very far but I would just remind the House that £20 million would allow Deputy Trevor Pitman to refurbish St. James' for the young people of the Island. At the same time it would allow the Minister for Housing to build 60 or 70 affordable houses for young people in the Island and there would still be change left for me to build my new primary school in St. Martin. Think seriously about it. Young people, young families and young children; that £20 million would allow us to do those things. I do not want the commentators on this game to stand back and say: "The States of Jersey snatched defeat from the jaws of victory once again" and I ask Members to think very carefully before accepting the proposition of allowing this States Chamber to take planning decisions in the future. Thank you. **[Approbation]**

1.1.7 Connétable L. Norman of St. Clement:

Thank you. I just hate it and I think most of us do when a Member stands up and says, "I was not going to speak but ..." so it is with some embarrassment that I say: "I was not going to speak but ..." but there were a couple of comments yesterday which quite wound me up. Firstly Deputy Power, who does not want this project, this development to go ahead because parts of the City of London are a ghost town at night. I do not know when Deputy Power last went to the City of London, or which parts he frequents, but on Friday nights the last time I visited the City of London along with Senator Ozouf and the Lord Mayor of London let me tell you it was absolutely buzzing. If you want to see a ghost town, then I suggest the Deputy visits the centre of St. Helier on a Tuesday or a Wednesday or a Monday night. That is where you will find a ghost town. But that is not very important, is it? Neither is the shape of the road around the development important or the colour of the doors; whether the buildings have roof gardens. These are detailed planning matters and we are

not the Planning Applications Panel and neither should we try to be. In this place we must deal with the big picture. We must deal with strategy. We must deal with principles. Otherwise, as the Deputy of St. Martin was saying, we will be scoring own goals week after week. So what is the big picture? Firstly, unemployment is at a record high and here we have a project which will create hundreds of local jobs directly and secure and create others indirectly. That alone is enough to give the scheme the green light in principle. But there is more; there is much more. So many of the speeches we have heard during this debate make me think that some Members believe that we are still in the pre-2008 era but the world has moved on. The world has faced a heck of a lot of problems since that time. The crisis following the debacle of the sub-prime mortgage issue caused economic and financial turmoil throughout the world from which the world has yet to fully recover. Currently we have the eurozone crisis which is impacting on economies, again on a global basis, and we cannot pretend that we are immune from that. We have no idea how and when it will be resolved. One thing we do know is that it will take years; 2 years, 5 years, even 10 years, possibly. Again, when the world comes out of that, it will be a different place and we today in this Chamber need to do everything we can to ensure that Jersey's place in that new world is secure. The financial institutions upon which our economy and future wellbeing is dependent will be different too. They will have choices that they will have to make. I can see them at some time considering do they really need a significant presence in Jersey, Guernsey, Gibraltar and the Isle of Man or would it be in their best interests to consolidate in just one or 2 of these jurisdictions. If that happens then we have a duty to make sure that Jersey is the jurisdiction of choice. To do that we must ensure that the required infrastructure is in place and first and foremost in that is that office space of quality is an absolute prerequisite. Institutions do and will have choices. Locally they might choose to take up the Le Masurier's development; they might choose to take up a potential Dandara development in another place. But we know, we know now, today, with certainty, that some will take up the Esplanade development if we allow it to go ahead. Of course, if the Esplanade does not happen, the choice might not be Le Masurier's or some other local development. The choice might be Guernsey, the Isle of Man or Gibraltar; not what we want; not what we want to risk. So in summary, what we are looking at here, is a major development at no cost to the taxpayer; hundreds of jobs directly and indirectly; an opportunity to protect our economy now and into the future. Our choice is are these things more or less important than roof gardens, road layouts, colours of door and lack of people at night in the City of London. I think not.

[Approbation]

1.1.8 Deputy A.E. Pryke of Trinity:

Thank you. I will just raise a couple of points because I do not think my voice will last too much longer. I was Assistant Minister for Planning and Environment at the time when the then Minister for Planning and Environment commissioned a masterplan in the area, back in 2006. At that time there were many different thoughts on what should be there and if I remember rightly, one of the plans was a 14-storey block of whatever; 14 storeys. As you can imagine, I think it was as the time of the election, there was much public outcry about it and that resulted in the Minister doing a public consultation at the airport and then putting a masterplan in place. That masterplan was approved by the Assembly back in 2008 and as an Assembly we have the joy or whatever of going back to look at decisions that we have made. We are very bad at moving on. At the time it did include public parking places under office blocks and public realms. We must let the Jersey Development Company get on with it and get on with that job that we, this Assembly, set it up for. I will not rehearse the discussions that my previous Assistant Minister had about the new Jersey General Hospital but as has been proved, in its present state it would not fit into that area. Even if we did make it fit, it would be one huge block with lack of access because I would want to press for that road to be pushed underground because where can you have access to a hospital where you have to cross 6 lanes of traffic. It does not even make sense to begin with. Phasing that

development over the 10 years needs to happen as the Jersey market could not accommodate it all in one go. In all the areas we need to make sure that the town continues to be vibrant but also Liberty Wharf and Weighbridge Place. This is an exciting project, one that we should all embrace and look forward to, so that when Jersey comes out of its difficult financial times we are set up and ready to go. We must, as an Assembly, develop a ‘can-do’ attitude, not a ‘can’t-do’ attitude.

1.1.9 Connétable J.L.S. Gallichan of Trinity:

For some of the new Members I think there are 2 things we should not ever debate in this House and one of them is planning. We now have 51 people with different ideas. The other one, going back to when we had a debate on which properties should we sell throughout the estate portfolio, if one can remember that meeting at that time we had 53 estate agents. I would just make one little comment. It is amazing how everyone is interested in the Constable of St. Helier’s proposition on what we should have and what we should not have. When it comes to asking someone to sit on the Planning Applications Panel, it is amazing how very, very few people wish to put their names forward. [Approbation]

[10.45]

1.1.10 The Connétable of St. John:

My original proposition was for an upturn in the economy before we start it. I do not see that upturn. I do not see that upturn. I am not saying we should not be moving forward with our plans and the like but there is definitely no upturn in the economy and if somebody can prove me wrong I would accept it, but I do not think they can. This House has been very good in the past. We just have to look at our Waterfront as being 53, now 51 planners with the mistakes whether we look at the cinema; we have an empty cinema in town, others have had to close and we have one here where the buildings alongside it are vacated yet again and they have only been up several years. We have a swimming pool sitting on the top there, built in 1973-4, opened by Sir Robert Le Masurier. I remember it well because I was a Centenier at the time and he was late arriving for the opening of that particular pool because a colleague of mine did not recognise him as the Bailiff of the day. He made him park at the top of Mount Bingham and he had to walk all the way up to the Fort. Within 25-30 years we have closed that pool and we now have one that we have to support annually with a figure of roughly £300,000 a year. We are very good in this House at making big mistakes. Likewise we see the Radisson. I saw one very similar up in the Arctic at Svalbard in one of the Icelandic states and it looks identical to the one we have here. It is just something that they obviously build around the world at airports and docks and the like; nothing iconic about it. I am worried that the masterplan has moved on and we are not going to be having little cafés and the like to build this area up. That is of real concern, real concern. I am also worried that we have seen over recent months, and it has been mentioned in the Members’ Room, when were setting up the Jersey Development Company that we would be altering things around so the Jersey Development Company could operate. It was mentioned by various Members that certain senior civil servants of the day would be walking. For those of you who do not understand “walking”, they would have to move on - the golden handshake - or whatever. I am thinking of the head of Property Services and others and then the head of W.E.B. has just gone, and so forth, and all at great cost to us because there have to be settlements. Once again it is because the interference of politicians within the setting up of all the various departments. I have real concerns that we are not out of the big hole that has been dug by the finance industry and started off in America back in 2008. Just listening to the Governor of the Bank of England last week, he was making certain comments about the economy and the banks having to pull together and increase their funding for themselves, and it does really worry me that we are going down the road at this moment of wanting to move forward. I am in favour of moving forward in part. We have passed it in principle but we have a lot of

Jersey companies who are paying income tax here at the moment, good local companies, and we are trying to compete, Government, with these companies for the same tenants. I just wonder if that is the right thing for Government to be doing, competing and driving all the rents down because that is what will eventually happen. The anchor tenants for these properties, when will they really be starting to pay rent because the deals that will be put in place as with the former Abattoir site, show that we have put anchor tenants in but are those anchor tenants paying rent this year, next year or when do they really start paying a proper rent? I do not know. These are questions that really need to be answered. Will we be seeing a return from day one or will the rental start kicking-in 5 or 10 years down the road? These questions all need to be answered and I am not sure which way I am going to vote at the moment but I am not convinced that the Island is in a position to move forward because the upturn is not even on the horizon. I see us still dropping down this hole. When we are at the bottom, then you start to look at putting things in place but we do not know what the industry is going to require. We do not what the industry will require shall we say by 2013. That is the time we should be looking at things; possibly 2012, end of 2012, end of 2013, and building what is required at that time. It is all well and good for people to say we want this at the moment but we do not know whether these banks will still be in business. I am sorry if I am being pessimistic but I do have some real concerns and I am thinking of my children and my grandchildren; to do what is right for them. People of my age, we have seen, we have had the best, that the Island has had to offer and I sincerely hope our children can as well but I am being very cautious at the moment in the way I am thinking. Thank you.

Senator F. du H. Le Gresley:

Sir, could I seek a point of clarification from the last speaker? The Connétable has made great play about he sees no signs of economic recovery. Could he explain why he thinks or does not think that other developers are putting forward office developments? Do they not see signs of economic recovery?

The Connétable of St. John:

Other developers are playing with their own money and that does make somewhat of a difference. They have planned for this for some time. I do not believe we should be competing as a Government with local companies who are willing to play with their shareholders' money and obviously have the support of their shareholders. It is not for us to be playing with taxpayers' money albeit that in time we will get the money back but in the first instance I do not think this is the right move at the moment.

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

Thank you. It is a pity that Connétable Norman of St. Clement is not here. I was just about to say the same thing. I was not going to speak. There have been some very good speeches. Although I was not inclined at the start to agree with the Deputy of St. Martin, I was very impressed. To the role of this Assembly as a planning committee of 51 people, as an estate agency of hitherto 53, we now add the role of economic predictors. While I think the Constable of St. John is making some good points, of course the whole idea is that the market will be the judge and if the market thinks the economy is in a black hole or going to a black hole or not coming out of one, it will be the judge and that will be reflected in tenants' and developers' decisions, I would have thought. Are we going to sit here and make our own judgments as to the state of the world economy and on the basis of that a report will be delivered to Planning or to the J.D.C. who will then say on the basis of that judgment we will or we will not move with a project? What it shows is the absolute bane of this House which is its tendency to always try and micromanage. That is the bane and to that extent I totally agree with the man in yellow, Senator Le Marquand - in a very fetching tone of pale yellow I might add - I have to totally agree with him. That is the bane of this House. We

micromanage. I know why we are doing it. It is the ghost of times past, the ghost of W.E.B. that is basically driving a lot of people. They feel it made some unbelievably horrendous planning decisions. People believe... and I do not think the jury ever came back on this one. They believe that the appearance of a hotel, irrespective of the design that was chosen, but the fact that the hotel was put there was the result of various bits of political pressure at the time where you could see the agony of the then Planning Committee being played out almost in a very public way as it was inching towards a decision which quite frankly it probably did not ever want to get to. That in a way is what is behind a lot of what is happening today. We oscillate from one extreme to t'other. We oscillate from the extreme of trying to micromanage everything because we are so afraid of the influences that are at play when we are presented with the big picture. What I would I suppose ask the Constable to bear in mind, yes he has brought this forward and there have been some very good debate and it has brought some very good issues out but surely it is up to him and his confrères to say what is the context in which J.D.C. should operate. I did not vote for J.D.C. because I thought it was a leviathan that could easily run out of control. It would be even more detached than W.E.B. and in a funny sort of way by removing or trying to remove politicians from J.D.C. which had been seen as the bane of W.E.B., we reached the wrong conclusion because the bane of W.E.B. was not that there were politicians on W.E.B. it was the fact that all 53 of us wanted to be on W.E.B. with the politicians who were already on it. That is why the whole thing started to escalate in my view, out of control. What I would say to the Constable is surely it is his job - and he has enormously good credentials in this regard - to fight for his vision of St. Helier in concert with J.D.C. to say this is the context in which I want the plans to come forward. Some of it will emanate from the masterplan that the Minister has proposed for the La Folie part but that is how I believe it should be done. There is no doubt there is this feeling that J.D.C. is going to become or is becoming some out of control commercial organisation which is not paying proper homage to the kind of overall policy which we as a House want. It is our job to express that policy properly in a way that it can be understood by J.D.C. and by the public so that it can then go off and do its own thing. The idea that 51 of us will now try by blockage and obstruction, because essentially that is what it is going to boil down to... the idea that we should all try and do that because that apparently is not happening, I find very difficult to deal with and I would be most obliged if the Constable could address that issue. If he could tell us how we can get to J.D.C. the feelings, the aspirations, the vision, of this House so that they can work with it and so that all 51 of us do not have to be on a committee trying to manage J.D.C. Thank you.

1.1.12 Deputy J.A.N. Le Fondré:

I think we have gone off at all sorts of tangents and what I am going to do is start by agreeing with Deputy Noel oddly enough - even though we only agree on the occasional times - which is let the tenant decide and let the planning process run. What I keep coming back to is this: I do not think this is about the planning process. As far as I understand a planning application can be made by S.o.J.D.C. tomorrow. The Minister for Planning and Environment will determine it in the normal way and they can carry on. What this proposition says is about commitments to be made by S.o.J.D.C. not planning permits granted to. I think we have to keep coming back to that. To me the whole principle of S.o.J.D.C. is that it is a development company. If you like it is Dandara; it is A.C. Major; it is Camerons, but we own it. We are the client and the client - bearing in mind we own the land that it is being built on - has the absolute right to determine what goes on that land. We turn around and say this is the land, we want you to go and develop it and we want you to develop it in a certain way. That is what we have to get focused on. We have to distinguish between it is our land, we hold it on behalf of the public, we operate it and build on it correctly, we determine what goes on it versus this is what we want you to do and go away and do it.

[11:00]

In the past what has happened, we have just said: “Here is a bit of land, go and do what you want with it. That is where the whole thing has been mired down in the past. I sometimes get accused of being too negative and I am afraid I will come back to that later on in the speech, but let me start of a positive note. The positive notes are I am very pleased to see a Jerseyman as the M.D. (Managing Director) of J.D.C. I am even more pleased to hear what I understand the case to be regarding salary levels. I am very pleased to see the reduction, on what we were told, of retail on the site, as presented to us last week. That ticks a concern that I had with the site. But there are some ‘buts’, I am afraid. The question, in essence, is whether we still have a masterplan. Do we or do we not? Because the principle was that masterplan was endorsed by this Assembly. I am very grateful to Deputy Noel. As we all know, it is spot the difference. The big white blob at the top is what the States signed up to. I will come back to that later on, I am afraid. But in essence there the fundamental to achieving that is burying the road. That later comes on to what I shall demonstrate about financial risk. Financial risk is definitely a concern of this Assembly. At least half of the smaller blob is what we are being told Phase 1A will be potentially going to in a planning application. When we debated this back in 2008, just before the credit crunch hit, I am fairly certain Lehman Brothers was in existence at the time. But of the 2 concerns I had, I have to say, one was the impact upon St. Helier, particularly the retail side of things. We own the central markets and the fish markets; we are the landlord. I have always said that is the jewel in St. Helier. So what is the retail impact on all that part of town if we keep shifting stuff down there? Particularly at the time we were looking at significant tens of thousands of square feet of retail space going down there. The other concern was the financial risk of the project. Now, we have been given all sorts of assurances and studies that were done and we were sold a vision; a glorious vision promoted by Senator Cohen as the then Minister for Planning and Environment. That has been part of the problem of the Waterfront. We have had an awful lot of sales pitches. Then subsequently the gloss has come off. I do want to go back to what was held out to Members at the time. These are not my words; they are the words of Senator Cohen. He talks about the proposals combining local relevance and the very best of 21st century Hopkins architecture: “The old sea wall on the south side of the Esplanade will be dug out and exposed.” Well, that is fine: “The moat created will be filled with water and entry to the scheme will be via granite streets spanning the moat. Entering the scheme from the east, we will first arrive at a water theme square. We later on enter a colonnaded square the size of the Royal Square, surrounded on 4 sides by granite masonry arches in a sunken undercroft.” By the way, that is the bit that has been dropped now, because it did not work: “Continuing west, we enter the Winter Garden. This building is potentially of international status [these are the words in Hansard], glass walls on 2 sides, stretching the height of 3 residential floors providing an unbroken view of St. Aubin’s Bay and the Fort.” Again, a reference to the size of the Royal Square. Obviously, we have potentially apartments that might well be in a later phase: “620,000 square feet of state-of-the-art, environmentally efficient offices [de de de de]. These, of course, would be augmented by a multitude of mini piazzettas, smaller public space is shaded from inclement conditions by colonnaded-walkways.” Now, somewhat more of interest, particularly to St. Helier, the £75 million W.E.B. estimates, which will come out at the Esplanade Quarter must be invested in the rest of town. That is quite a big plus; £75 million, for urban regeneration: “It is not hard to imagine how much £75 million seed investment can change our town.” He then talks about the complex issue of burying the road. In essence the conclusion was you keep the existing road, you build a temporary road alongside it, to mitigate all the traffic implications and then you cover it over. Well, to build alongside you have to go to the north; that is into the Esplanade car park. Bearing in mind we are now talking about building part of that out as Phase 1A. To carry on, the then Minister for Treasury and Resources one day later in the debate says: “What are the downside risks? What are the financial risks?” No, we have a guaranteed minimum of £50 million. We have a guaranteed delivery of the road, whatever that road may cost at no cost to the States. On that basis we all happily went along and with various

reservations a lot us were swept up into the euphoria of this wonderful scheme. One month later, we then had the whole Harcourt issue and the scheme was being very rigorously defended. Again, the magnificent Winter Garden, nearly twice the size of Portcullis House upon which it was based. If we lose this scheme we will lose the granite arched colonnaded undercroft - the one that is now gone. We will lose our water theme square. I do not think we are worried about those. The emphasis again from the Minister for Planning and Environment back when he was originally researching all this and the importance of the Waterfront, the response was unanimous ... this was from U.K. international architects: "You will never succeed unless you remove the road that currently separates the old town from the new. You will never succeed." That was about getting connectivity. That was making the Waterfront, the Esplanade Quarter and integral part of St. Helier. Now, at that time I stood up and I am afraid by this time I cannot remember if Lehman's was on the front or not, but I was certainly getting a bit more gloomy and a bit more pessimistic. I promoted a scenario. I said: "Let us go forward to 2012 where the economic fund has changed very significantly compared with that of now in the middle of 2008. The credit crunch has reverberated onwards in conjunction with continued rises in oil, steel and cement prices [which by the way has happened]. The developer is in financial difficulty and is not reaching targets. The deal either has to be renegotiated or the developer goes bust. While negotiations are taking place the developer does go bust. There is no regeneration money for St. Helier. Now, that was a pretty bleak picture. I was taken to the cleaners on that one. Yet here we are now in 2011, we are talking about a second phase of the credit crunch. Would we 3 years ago have said: "We are having discussions now as to whether the euro is going to continue in its existing form and that could be a matter of weeks"?" That was not on the agenda then. The point is it is about financial risk and financial uncertainty. Now, on that basis, as I said, I think the financial risk to us as the client and to us as the public is relevant. That then brings us back to the proposition about contractual commitments and knowing what is being done in our names, on our behalf, by a subsidiary company that is 100 per cent owned by the States, which obviously the Minister for Treasury and Resources acts as shareholder in. So, the relevance of that is trying to get this debate down to, I think, 2 arguments. On the one side we are being told that the masterplan is being adhered to. That has been a theme that has gone through this debate over the last 24 hours. That means we are going to bury the road. On the other hand we are hearing that burying the road is not going to happen, because in which case the masterplan - that glorious vision - is dead in the water. So, that then encapsulates my concerns back to either the financial risk of the project or the other side, which is the issue of public trust and honesty in dealing with either us as States Members and the wider public. Now, what we were told at the presentation last week, and have been repeating the comments today and yesterday, is that the masterplan was approved by the States in July 2008 and has not been changed. Now, again later on there were undertakings given in relation to one of the debates ... and again to quote from Hansard, and this is Senator Le Sueur, who was obviously the then Minister for Treasury and Resources: "I hereby undertake to provide a report on the financial standing and the nature and security of the independent financial guarantees to all States Members before any legally binding development agreement is signed." One month later, roughly: "Given the magnitude of the deal, the Treasury will commission an independent external valuer to give a view on the contract itself, on its financial appraisal, on its commercial appraisal and its building appraisal and it will make that advice given to me available to States Members, basically before the contract is signed." Now, that report, I believe, is the one that is being referred to in this Assembly as the Trowers & Hamlins report, part of which includes a report by a firm called King Sturge. In essence, that report states that the scheme, as endorsed by the States - that is the big white splodge, i.e. the masterplan and burying the road - will have a negative value, a loss, of £50 million. Okay? Now, it is very easy to resolve that by the way, in case people disagree, the answer is to release the King Sturge report, at the very least, unabridged, to the States, so you can make your own mind up. One can have all sorts of arguments over bonds and guarantees, but if something is not viable you are not going to get a

bond. Members may remember yesterday I asked the Solicitor General briefly on viability assessments. Any financial institution issuing a bond or a guarantee to effectively provide insurance to us over any default risk by a developer is going to check the viability of the scheme. So, if the viability of the scheme is not there, you are not going to get a bond. If you like the equivalent is trying to get a house insured that the insurance company knows is going to burn down. Your premiums are going to be pretty high I would suggest, probably at least the value of the house. So, far from delivering £75 million or £50 million to the States plus the road, their overall masterplan - which is burying the road - will lose £50 million. It is not viable. Now, that seems to have been known since about 2008. We have persisted in the fiction that we are still going to bury the road, but of course this will be subject to further States' decision, that is what we have been told, and of course we are just going to phase great things through now. Obviously, there is the minor thing it has cost us £1 million to get to the point of designing an unviable scheme. So: "At a later stage, we can decide on the road." Well, to be honest, that is rubbish. The road is unviable. I believe, including the other infrastructure costs, it will cost between £80 million and £120 million to do. I think, to caveat that number, some of that cost is the underground car park. Therefore, when that vote comes back to that, who in their right mind is going to support that? So, if we do not do it the masterplan is dead and then we are back into piecemeal development. That comes back, right back, I think, to the principles of planning, the principles of masterplan and the principles of connectivity of the site. So, if you do not bury the road, you have to go back to looking at how you connect with the Waterfront, with town, in some other form. That will look significantly different to what has been agreed. Therefore, that is why from that perspective, I would say if we are going down that line, the States should be seeing the scheme because it would be different to what we have previously endorsed, and we were asked to endorse it and sign up to it. Particularly, as has also been referred to, the planning obligation agreement, which is a contractual document ties us in as landowner, and these things go with the land, ultimately, into providing the infrastructure. The infrastructure includes the road. At the moment that has not been changed. Deputy Power and Deputy Young specifically addressed that point yesterday. I would also hope I do not have to remind Members that Deputy Young is fairly qualified to talk about planning matters given the fact that he is a former chief officer of the department. So, it is not about the planning process. It is not about us making a planning decision as to whether we are going to have green roofs or not, it is going back to us as representatives of the public and the contractual commitments that we may or may not be being signed up to. So, yes, pre-lets are definitely a normal commercial transaction. But the argument is; do we have a masterplan or do we not? Because there are 2 different decision processes going on there and 2 different amounts of risk. I will just say as an aside, because there are obviously 2 parts of this proposition, I do agree with the Constable of Grouville on part (b). I am very sympathetic to his remarks. I am ambivalent on that part of the debate; I have not made up my mind on that one. But my key comments are indirectly at the Esplanade Quarter part of the proposition. Senator Ozouf made some comments, which I did want to pick up on. Just to clarify, the proposition by the Deputy of St. John to defer burying the road was lost. It was not approved by this Assembly. He stated there was no issue with public car parking. Again, it is not the be-all and end-all of the argument. It is a bit of a red herring. I would have to say, without going into the details, that when tensions are high - and we are talking global complex and that type of stuff - banks of certain nationalities take certain steps to hide their nationalities, wherever they are. My understanding is that there is a reluctance among certain nationalities to have public car parking under their buildings. But, the key thrust of Senator Ozouf was house space was vital for the finance industry and that there was significant demand. Now, I certainly agree with a number of speakers that the provision of good quality office space is important to the future of the finance industry. Let us get that straight. I also agree that a £100 million project would be a significant fiscal stimulus to the economy. Let us agree on that. That then comes down to we know there are competing schemes. I

do not really care about which one gets what, but at the end of the day it does beg the question: “Does the fiscal stimulus need to be provided by us at this time?” It is also correct, as I have said, to then say that the tenant should decide where they want to go. We should not be seeking to manipulate them into one decision or other. That is a planning permit; that is a planning decision. It is not about contractual commitments; that is a different level.

[11:15]

What I would like to do is read the following letter. This is from the Waterfront Enterprise Board to the Planning Department. It says: “The directors of W.E.B. have asked me to bring to your attention our serious concerns of the potential mismatch of supply and demand of Grade A commercial office space over the next 10 years, particularly along the Esplanade and Broad Street. We estimate there is a potential supply of circa 1.4 million square feet, that is shown in the letter. However, we also forecast that potential demand from existing Island based occupiers of circa 540,000 square feet.” That, in this letter from our subsidiary company, signed by the then managing director of W.E.B., is basically saying they recognise that there is an oversupply or projected over supply of around 900,000 square feet, if all the applications were to be developed.

Connétable D.J. Murphy of Grouville:

A point of clarification, please, Sir? What is the date on that letter?

Deputy J.A.N. Le Fondré:

19th May 2011.

The Connétable of Grouville:

Thank you.

Deputy J.A.N. Le Fondré:

I have talked about Deputy Noel. I am not going to get dragged into hospitals and footprints and that type of thing. The point is, we do not yet know what the - maybe we do or do not know - nature and size of the hospital is. For example, does all the administration need to be in that building? For example, the footprint on the diagram he has done includes all surface car parking. I am not going to get excited about that; it is about commitments. I know Senator Le Marquand talked about breweries and paper bags, but again I think the key thing is we have had so many sales pitches in the past. We have been bought so many pints of beer, if you like. But, it comes back to we are not a planning committee. This debate is not about the planning process. It is about the role of this Assembly in determining the use of its land before it gives it to the developer to do it. It is about knowing what a subsidiary of ours is signing itself up to and what the risk is. So, to be clear, as I said, this proposition does not prevent J.D.C. proceeding with the planning permission, which is good. No problem with that whatsoever. This proposition, as far as I can see, does not impact upon P.77/2009, which the States have approved, which has supposedly frozen development until economic conditions improve. Bearing in mind the last statistics that came out, I cannot really see that economic conditions have improved. When this masterplan was endorsed by the States we were sold a vision, an architectural vision, a risk-free vision, of a return of £75 million or perhaps £50 million for the regeneration of St. Helier. I am afraid, certainly in the current climate, we were sold a dream; I think we were sold a pup. Within about 3 months of those promises there was an emergency meeting called by the advisers appointed who said at best the scheme might have broken even before the financial downturn, but the revised projection showed a £50 million loss. So, it is about financial risk. That has always been my concern. Therefore, either we are continuing to support a scheme that is financially a bust or flush or we are not being honest and we are going to end up with a different scheme to that held out to States Members and the public. That

is why I think we need clarity and that is why I think we need clarity before the contractual commitments are made. As I am not going to touch on the hospital, I think to be honest for all of those reasons, I hope people have listened, I am saying it is about risk, financial commitments and integrity in dealing with what has been portrayed to us and the public and where are we. I believe we need to clarify and to be honest as to what the overall scheme now looks like. I certainly think the Constable should be supported in part (a). Thank you, Sir.

1.1.13 Senator A.J.H. Maclean:

I would say to the previous speaker: "Be bold." I would say to many other Members: "Be bolder." As Minister for Economic Development I have to say that over the last day and a bit that we have been debating this particular proposition I have become more and more depressed. We are here - I am here - to support the local economy. It is a difficult climate that we are living in at the moment. Make no mistake that by supporting this proposition we will not be supporting the economy and we will certainly not be supporting local jobs. The Connétable of St. Helier made a persuasive argument in support of this proposition. He is, I am sure Members will agree, a very skilful orator. But I am sure he realises - or perhaps does not realise - the full consequences of what he is proposing. I will come back to those consequences in a moment. I am going to start by talking about what our silver-tongued Connétable did not say yesterday. He did not tell Members about his dream that Esplanade Quarter should not be built on at all and that he would like it to be a park. Maybe if St. Helier got the benefits of the rates that would be something that would persuade him to change his mind about the particular development. He did not tell Members about his long held opposition to W.E.B. and now S.o.J.D.C. Those organisations - now obviously one organisation, newly branded, with new leadership, new local leadership I am glad to say - was set up to be commercial, set up to act in our best interests in a commercial way, set up with property professionals. I think that we in this Assembly need to give more confidence to organisations that we establish and we populate with those type of professional individuals. I would like to focus on some facts that support my view that this proposition must be rejected. Our economy is being buffeted by some of the most severe global recession factors that we have seen since perhaps the 1930s. That is exactly why we must not stand in the way of this particular project. We need every possible advantage if we are to attract new businesses to the Island and give confidence to those who are already here. Confidence is, after all, the key. Allowing investment in Esplanade Quarter is one important way to give our economy a boost and an important advantage. We need to attract new business to the Island; business that will help the economy to diversify and to grow; businesses that will protect and create employment. Make no mistake that supporting this proposition will harm the economy and will not give the necessary confidence that we need at this time. We have a number of large highly respected and well-known global companies who are wanting to set up and expand their businesses in Jersey. They have confidence in Jersey. Do we want to do something that is going to risk damaging that confidence at this time? Those companies want state of the art, modern, light, tailor-made buildings, which will suit their needs. Esplanade Quarter provides all of this. They want buildings with low operating costs, efficient floor plates, parking and no compromise on the use of space. Esplanade Quarter provides all of this. If we approve this proposition today we will, at a stroke, be taking away one of the sites where these international companies have shown interest. That is the point. This is just one of the potential sites that are available. We should not be taking away the choice that the market wants. The wider choice, the better and more attractive it makes Jersey by having greater choice. Despite what others have said, there are potential problems with several other sites. But that is not for us to speculate on. We do not have the full facts or, for that matter, the expertise. That is exactly why, as I have just said, the J.D.C. was set up. They are the ones with the expertise. If you have a dog you do not bark yourself. Let businesses decide where they want to invest and what their business needs are in terms of the building location and specification. We should be doing all we can to remove barriers

to investment and to growth. We should be giving confidence to business by making quick and clear decisions that signal Jersey is open for business. That is why we set up the Jersey Development Company, to be commercial. Let me dispel some of the myths. There will be no financial risks to the States by allowing this to go ahead. Pre-let agreements we have are put in place before one brick is laid. This is a perfectly normally commercial arrangement. It happens all the time. If there are no interested tenants there quite simply will be no development. Removing the toxic soil makes the site slightly more challenging. But it has been included in the projected costs. At no stage will we lose any of the parking places currently on the site. There are no problems with having public spaces currently on the site. There are no problems with having public parking under banks or any other business which may be located there. This site, if it is not blocked today, will be ready to build on in around a year. This project will generate £100 million of private investment, which will not cost the taxpayer of one penny. It will eventually return a minimum of £20 million to Jersey taxpayers. This House approved a Waterfront masterplan in 2008. Since then, of course, the economic situation has changed, quite dramatically. That does not mean that we have to throw all of these widely consulted plans out of the window. The Jersey Development Company have quite rightly taken into consideration the economic changes and are now rolling-out the plans which this House approved in carefully managed stages. I think that is perfectly prudent. It does not mean the rest of the development will not go ahead, including the public amenity spaces, including the housing and including all the other areas and points that Members have mentioned. The professional fees alone will add up to many hundreds of thousands of pounds. If we approve this proposition today those fees will be wasted. These plans to bring Phase 1 first is less ambitious to match the current economic climate and take into consideration new economic risks. This development will not cause any road closure issues and will not require bonds because of the pre-let pre-sale agreement; agreements that can include stringent penalties. These are normal commercial arrangements. Incidentally, the lowering of the road could, if we still wanted, be lowered at a later date and in the right economic climate. The road can only be lowered with the approval of this House. Some suggested that doing Phase 1 made the plan piecemeal. They then went on to suggest a hospital on the site. But, of course, no hospital was in the approved plan. Members who have spoken in support of the proposition have made their comments, of course, with the best intentions. But there is so much at stake here. Even the comments about luxury housing at La Folie with private moorings are simply not true. The Constable of St. Helier sat next to me at the Regeneration Steering Group. He made no mention of the fact that he was opposed to that particular development and for those reasons. La Folie by name, folly by nature. It is a large building in a very poor state of repair. In the distant past when it was a tiny fishermen's pub it struggled to make money. Yes, it would be lovely to turn it into a restaurant or a museum or perhaps another leisure facility. But how realistic are those options, particularly in this climate and particularly on such a valuable site? Indeed, where is the demand? Who would invest in it? It has been available, after all, since 2004. The facts about the plans for La Folie are that it would be turned into a range of small and medium sized fisherman style cottages and apartments ranging in price, not luxury, from £250,000 to £700,000. That is not luxury development. Incidentally it includes a walkway around it, so people can enjoy the harbour at the same time. I should also point out that funds generated from this development, from La Folie, will return to the port. They will not go into the general Treasury coffers. They are returning to the port and they will fund capital projects and marine leisure. Marine leisure - which of course the Connétable made a great play about and rightly so - is important. It did remind me, of course, it was only a few years ago that the Connétable himself was a supporter of the skateboard park. That did not particularly support marine leisure, being situated as it is right next door to the visitor berths, who have to from time to time suffer skateboards and other instruments being thrown over the side into the harbour.

[11:30]

St. Helier boat owners had their A.G.M. (Annual General Meeting) last night. I asked the Harbours Department who were represented at the meeting to raise the point about La Folie. I thought it was important. The Connétable said he has had many letters. Many letters all supporting the fact that La Folie should remain for small traders with the marine leisure industry. They had misinformation they had picked up. They thought it was going to be a luxury development, as we heard in this Assembly yesterday. When the facts were presented, the association made no objections. They understood, in fact, that small traders had been situated behind the now redundant La Folie pub. In 2009 they were moved. They were moved to more appropriate facilities along the way. That is exactly as it should be. We should look after our small traders and we should make sure they had the right facilities to be able to trade appropriately. The best use for this site has been considered by the Harbours Department. It has been considered by the shadow board set up to manage the ports. All of whom, together with S.o.J.D.C. see the benefits of this particular development. I have to say though there is more work to be done. The Planning Department has important work to do in this regard. They should be allowed to make and do the work they have to do in developing the briefs that are necessary for a development to go ahead. Again, it is quite simply not appropriate in my view that we should stand here trying to make planning decisions that the Planning Department need to make themselves. So, you see, we have had much rumour and much speculation in this debate on both parts. We in this House should not be trying to tie the hands of the new Jersey Development Company. We have created the S.o.J.D.C., which is charged to look after our best interest with our multi-million pound Waterfront and surplus property portfolios. That new organisation has a job to get on with, with its new local Jersey managing director. He and his team have spent the last couple of years working on this plan. They know the facts. They are the professionals. Let us put our faith in their professional judgment. They are the people who understand all the issues surrounding this project. We may have been debating it for a number of hours, but how can we possibly have all the necessary facts at our fingertips to make an informed decision here today? I, therefore, urge Members not to put obstacles in the way of economic development. I urge Members not to throw away years of planning. I urge Members not to waste millions already spent. I urge Members not to lose the vast investment this project will give our economy, the significant boost that it will give to our economy, to its businesses and of course the jobs. I urge Members to wholly reject what I consider to be a very damaging proposition. Not for a short-term delay as it does rather seductively suggest, but in reality this is going to be a far longer delay with far more damaging consequences. Thank you, Sir. **[Approbation]**

The Bailiff:

Yes, one more Member wishing to speak? Can I just say, we have now had 22 speeches and the arguments on each side seem to have been well rehearsed. I do hope that any Member wishing to speak has something new to say.

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

I will be brief. The Minister for Economic Development has spoken quite well, but I was a bit concerned about a couple of things he said. He spoke about diversifying the economy. Yet the development to which this projet refers does the exact opposite. What happens if the very fluid world economy that we are now witnessing changes, as it may well do, to the extent that this building that we are talking about becomes in the near future no longer required? Does it end up being shuttered up? Who knows? What Ministers, I think, are really persuading us to do is to enter into without really knowing the end result the piecemeal development of the kind that has blighted the Waterfront to date. So, we do have a reason to be concerned. When I hear about the proposals for La Folie site that only reinforces my concern, after all, I think that we do need to remember that we are accountable for the public for the actions of the J.D.C.

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

I was not intending to speak in this debate, but there have been some excellent speeches. I would like to particularly compliment Deputy Le Fondré who I thought gave a brilliant speech. He went through many of the issues. I think one of the things that has really concerned me ... and I have been in this House for 3 years and for the benefit of the new Members you are going to hear an awful lot of sales pitches, some really brilliant sales pitches from Ministers who have in the past been used car salesmen, estate agents, all sorts. They are very good at making a sales pitch. The truth of the matter is that many of these pitches are over-blown. For example, we have just had the Minister for Economic Development telling us that it is absolutely essential for the economy at this time that this particular development goes ahead. We have already heard there are far more schemes in the pipeline which will also provide top quality office accommodation for people. Therefore, if this scheme does not go ahead it does not mean to say the other ones will not and the £100 million of investment in the economy and the jobs that are going to be created will not be created. So, it is fallacy that. We are being told that we should accept the vision that things have not really changed. The masterplan was a holistic concept, which as Deputy Le Fondré has told us about, all the elements were going to be there. There are many things that many of us would wish to see in the Island. What we are being offered is a piecemeal development that has seemed to come forward very, very quickly at short notice, because of these other developments and the need to get in quick before they do. We are also being told, for example, that we should let the tenants decide where they are going to go. Well, okay, let us say we give permission and they go ahead and bring this development in. We are going to get a £20 million return. I wonder how much of that £20 million we will get, because each of these developments will be fighting for the same customers. The Minister for Economic Development was telling us we had all these blue chip companies who want to come and invest in Jersey. The truth of the matter is no there are not at the moment. If you have been attending the briefings we have had, it appears to be one major financial firm that exists in the Island at the present time, but is looking at amalgamating all its separate offices in one site. It does not have to be on the Esplanade, it can be in Broad Street or one of the other sites. So, you are being over-sold here. Just to give you an example of that those Members who were here during the e-gaming debate, for the benefit of those who were here and for the new Members, this is what you do get. We were told it was absolutely essential we brought in e-gaming in the Island because we needed to increase the bandwidth, we had to increase the links we had with the rest of the world and so on and that we were falling behind Guernsey and everybody else. Well, I attended a presentation on Monday night with the directors of Jersey Telecom with a number of other States Members; fascinating. What I learned was, we have plenty of capacity at present time. Got more than enough; we are not even using a fraction of it. So, all the sort of things we were being told months ago about e-gaming, to my mind, were totally false. We were being over-sold the importance of it to our economy. I might say by the way that I was impressed by the Jersey Telecom presentation. I do think I will be supporting the "Gigabit" proposals, but for different reasons. I believe, after I had gone through it and seen the evidence that it is worthwhile supporting. However, we are getting so much - I was going to say verbiage - sales pitch. If the F.S.A. (Financial Services Authority) in the U.K. were looking at what we are hearing from some of the Council of Ministers, they would be fining them in the same way they have just fined HSBC for misselling various financial products, because they really are overdoing it. I would ask you to consider first of all if we do delay this thing, as the Constable wants ... we know the economic climate is not wonderful. Nobody knows where we are going to be going in the future. I have been accused of being the voice of doom in the Assembly, because I have been highlighting many of the hurdles that we are going to face over the next few years. All the economic evidence I see is we could be looking at 3, 7 or 10 years of difficulties going forward. Nobody knows. If we delay the development of that site, which I think is a very valuable and important site, and if we do think our future is in finance, once we get over this particular hurdle, then we have a fantastic site that we can

develop as a whole, not as a piecemeal, throw together something so we can get in before the competition. I would ask you seriously to support the Constable of St. Helier on this particular proposal. Let us just step back, watch what is going on in the world for a short while. The S.o.J.D.C. can still develop their plans going forward when the conditions are right. Let the private developers take the risk at the moment. Thank you, Sir.

1.1.16 Senator I.J. Gorst:

I think perhaps I should start with an apology to Deputy Young. I think it was perhaps that the Assembly yesterday forgot to show its traditional appreciation when he made his maiden speech. **[Approbation]** I am pleased we put that right with the Deputy of St. Martin. Each of us has a view about the Waterfront; the good, the bad and what can only be described as the ugly. None of us wish to make the mistakes which we perceive have been made on that site and in that area again. That is absolutely right, we should not in that respect, I hope, repeat history. I wanted to make 3 simple points. The first one is that I believe that tenants and businesses should be allowed to decide. As Deputy Higgins has just outlined and as other speakers, although they are speaking in favour of the proposition, also agree, that those tenants and businesses should be allowed to decide. If this particular site is not developed, we must be clear that they will decide on another site. We cannot today say with certainty which other site that will be or where that other site will be. We, of course, hope that it will be here within our community, but we cannot say that with certainty. It is not, in my opinion, a matter of competition with the private sector. It is quite simply we have set this body up to develop this particular area of our community and they should come forward with what are appropriate development opportunities on this site. That is what I believe that the States Development Company are now proposing. We should not decide for them. We should not be dictating to those financial services businesses in our community which we think is the best between the available sites. They should be allowed to do that. That is absolutely right and proper. We should support the financial services industry in any way that we can when they come to make that decision. We can be rest assured that the Jersey Development Company will, of course, not develop even this first phase if there are not pre-lets in place, if tenants and businesses do not want to occupy the buildings that they will be proposing. That is our safeguard. That is one simple issue in my mind. The second is planning permission. Other Members have said that we are not a good planning committee and 51 people do not make a good Minister for Planning and Environment. Others have said that they believe that this proposition if it were to be accepted would not stop a planning application being made. Technically that may indeed be correct. But I believe that it would put the States Development Company in a very difficult and strange position, should we as an Assembly say: "We do not want this phased development. We do not want this building to go forward" for them to subsequently - the shareholder having said do not do something - to put forward a planning application for this site. Should they do that, it would be a political decision for them, and we are supposed to be removing politics from the development of this site, it would then place the Minister for Planning and Environment in a very difficult position as well, because he would be legally required to determine such an application in the full knowledge that the States Assembly did not support him in that decision. It would place us in rather a strange place and it is a place I do not believe we should be placing the States of Jersey Development Company in. That is a simple issue too. The third simple issue is that this is exactly the type of fiscal stimulus that the F.P.P. (Fiscal Policy Panel) talked about when they gave us their updated report on the economic conditions that we are facing as a community, not direct input of tax payers' money into our economy, but bringing forward proposals and developments as quickly as possible so that we can stimulate the economy almost third-hand. So, that is what I want to say about part (a). Part (b), the site around La Folie and Les Galots was discussed as part of the Island Plan earlier this year.

[11:45]

I know that, because I had an amendment, although I was out of the Island when it was discussed, to the Island Plan to designate part of this area for community use. That community use, I suggested, should be for the sea cadets and for the rowing club. I am grateful to the Member who brought forward that amendment in my absence and I am grateful to Members for their overwhelming support that part of that area should be for community use. Why do I raise that? First of all let me say I do have, or have in the past had, a slight conflict of interest, serving as a member of the committee of management for the sea cadets. I no longer do that. I believe it is absolutely, critically important that we do resolve the problem of where the sea cadets are going to operate from in the future. They are currently occupying a site at Fort Regent, which is not fit for purpose, which requires quite a large investment to bring it up to fit for purpose use. That would not be a good use of money. We need to resolve this problem once and for all. There are 2 wins. There is a win for the sea cadets going down to the shoreline and there is also a win for future regeneration and redevelopment of Fort Regent, which I believe also needs to be a priority for us to tackle over the next 3 years. The Minister for Planning and Environment is right, he should be allowed to prepare his development briefs for this area, obviously, within the wider context of the whole marine area down there. I fear that the wording of this proposition might mean that once again his hands are tied. We should not be doing such a thing. On balance, and I recognise the difficulty as I said when I started, that we all have preconceived ideas about what should happen at the Waterfront. But on balance, I believe that this staged approach we can accept, because I think that most of us agree with what is being proposed on the Waterfront and some of the changes that need to take place down at La Folie and another day is the day to make the decision around the sinking of the road. Commitments have already been given on that and future development. So, I ask that we do not stand in the way of this necessary work, this necessary fiscal stimulus. The desire of business and Financial Services Industry to move to modern fit for purpose buildings. I ask Members on balance to reject both parts of the Connétable of St. Helier's proposition. Sir, thank you.

Deputy J.M. Maçon of St. Saviour:

Sir, if I can pose a point of clarification to the Chief Minister, please? The Chief Minister said that we would be putting the S.o.J.D.C. in a strange position if we were to go ahead and say that we do not want them to go ahead with the phased development. But with the undertaking that this Assembly made in the adoption of P.77/2009, have we not already put them in that situation? Therefore, I am seeking a point of clarification from the Minister about how he feels we are not in that position with adoption of P.77. Thank you, Sir.

Senator I.J. Gorst:

I know that the Deputy circulated an email last night. I do not have it in front of me, so I cannot confirm one way or the other. But I understand that that was in relation to the developer that was in place at that time. That developer is no longer in place. I might be misinterpreting that.

Deputy J.M. Maçon:

I would pass it to another Member, but I did read it out that, yes, it did in the first part talk about a Harcourt development at the time, however it did go on with an "and" clause and the other proposals to the development. So, it was not developed as specific, it included the whole development. Thank you, Sir.

Senator I.J. Gorst:

If it helps, P.77 says: "To agree that the development of the proposed Esplanade Quarter and the areas of the St. Helier's Waterfront, including the sinking of the road, should be deferred until there is a significant improvement in the economic situation in Jersey." It does not mention any individual development company at all. It was adopted.

The Bailiff:

I am informed by the Greffier that in fact the proposition was amended and you were reading out the unamended form.

Senator I.J. Gorst:

Sir, I think I was responsible for the amendment.

Deputy J.M. Maçon:

Sorry, to interrupt. The amendment did go in, but it said the Harcourt development came in before the “and” of the rest of the proposal. So, that it was the Harcourt development and everything that was on that site.

The Bailiff:

This is a point of clarification which, so far as I am concerned, has clarified very little. So, I suggest we move on. Does any other Member wish to speak? Very well, I call upon the Connétable of St. Helier to reply.

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

Before I get underway, I suppose I take an interest now that I have the chairmanship of Privileges and Procedures to see how the States operates. Maybe it is also because I am sitting closer to the Senatorial benches and this whole business of when you speak, which Deputy Southern mentioned earlier on, when you put your finger on the button clearly needs to be looked at if we are going to manage our affairs in perhaps a more open way. That is an aside. I am just going to whiz fairly quickly through the main contributions. I will probably not speak about everyone. So, apologies if I do not mention them all. It has been a very interesting debate. I think it has been certainly well-worth having. It is the first major debate of the new Assembly. I think those new Members who took the plunge and got those maiden speeches in early deserve to be congratulated, even if I did not agree with both of them. **[Approbation]** It has also been interesting because I think it strayed almost perilously close to the old way of doing things. There were a few remarks which I thought went a little bit close to the personal. But it has been pretty well controlled. The Minister for Treasury and Resources perhaps did not get off to a good start when he suggested I had no business being on the Regeneration Steering Group anyway. There seemed to be some problem that I was *ultra vires*. Certainly I was invited, I had all the paperwork and I turned up. Whether I will be invited again remains to be seen. **[Laughter]** He accused me of scaremongering on the issue of parking under banks. Well, I picked that up during one of the last debates on the original scheme. I think I remember being reassured it would not be a problem, because the public parking would not be going under the finance houses in the original scheme. It would be going under the public areas. Indeed, when I mentioned it to the new managing director he agreed with me and he said it was not ideal. So, those are not my words, those are words that are ringing in my ears, because I had the meeting with him only a couple of days ago. No Member has referred to the fact that if we allow a phased development like this then these new blue chip clients are going to be in a building site at least for some of the future, because if it is true that we are going to develop the rest of the Esplanade Quarter, then it is going to be a building site. I understand from the look I had with the managing director that even the first unit, which they think they may have a tenant for, that will go ahead and then the other units in Phase 1A will be built subsequently. So, there is an issue about it being a building site for those new clients. I wonder whether that will prejudice whether we get them or not. The Minister also asked me how far I want to go. Several Members asked this. I will perhaps deal with my vision at the end, because I do not want to do it more than once. The hospital perhaps was unfortunate that I raised that. It was just one of the uses that this land could be put to. Of course, it is in the report which accompanies the proposition. It is not the major plank of my argument, as one of the speakers says. It is simply one of the possibilities that the States may wish

to look at. That is in the fifth paragraph of my report; one potential use and there are, of course, others. We were also told by the Minister for Treasury and Resources and by a few other Ministers that if we do not go ahead with this we may lose a key player in the financial services industry. This is the kind of gun-to-the-head tactic that I have heard many, many times. I remember hearing it when I brought a rescindment proposition. It never got debated. I rue the day that I tried to stop the leisure pool. I wrote a carefully researched proposition and was persuaded, being a young Member - very wet behind the ears, I think - that all would be well and we would lose this major investment in our tourism industry if we did not go down this road. How wrong I was. That clearly financially has not stacked-up at all. I do not believe that we will lose a key player if we decide to take a short ... Members should look at the proposition. It says: "Until the future of these sites has been decided by the new States Assembly in 2012." It does not say in 20 years' time. It says next year. I think there are good reasons for doing that. The Minister for Planning and Environment, as did several other Ministers, said that we have a masterplan and it has not changed. Well, I thought Deputy Young in his maiden speech dealt very well with that - perhaps the best comment - on the fact that we are not anymore talking about the masterplan adopted in 2008. I am indebted to Deputy Le Fondré for his well-researched speech and the fact that he went back to Hansard. Let me tell Members, just because it is in Hansard does not stop it being hot air. **[Laughter]** The fact is that vision that was sold to us; it really has evaporated. I spoke to the managing director about this undercroft. That has gone, because that required the retail to make it work. That is why it has gone. A lot of that initial vision that was sold to us has, I am afraid - and it is inevitable with changing circumstances - been lost. But the Minister for Planning and Environment is still, he says, going to oppose the proposition even though it would seem to me that as Minister for Planning and Environment for him to come back with a revised masterplan for the Esplanade Quarter, as indeed he said he will do for the La Folie site, will be absolutely in his interest to do that. I have already referred to Deputy Young. Again, I think he did a great maiden speech. He took us back further than the Esplanade Quarter debate to the Waterfront 2000 - a public inquiry was involved in that; very interesting. The vision of a united Waterfront, united with the old town. I thought that was very valuable, because there is a real risk here - Members have said there is no risk - a very real risk, that we will never link-up the Waterfront with the town if we embark on a phased development of this site. He said it was an integral part. He raised the question several members referred to: "Is there enough money to cover the road if we start on a piecemeal development? What is going to happen to that £20 million?" Several Members of the Council of Ministers said they want it for the hospital or they want it for the capital programme. It will not be available for the road. Deputy Young said we should pause to ask the Minister for Planning and Environment how the overall scheme will deliver the links. That is the Minister for Planning and Environment saying that, not me. Deputy Martin talked about speculating with taxpayers' money. At this point there were mutters to my right. It is not going to cost us anything. It is, of course, a very valuable piece of land indeed. We have already expended huge sums of money on creating it. To go back to Mark Twain, we have made land. It is not cheap to make land. It is a very valuable asset. One of the key points I have been trying to make - I tried to make it in my report, I tried to make it in my speech - was that if you do not absolutely have to use a piece of land right in the heart of town, why use it? Why not bank it and keep it in the bank until you really need it? That was an argument I remember the former Member, Dick Shenton, made about the whole of West of Albert. He said: "Let us grass it over and keep it for the future; maybe 20 years, maybe 50 years and see what the community of Jersey wants to do with that in the future." There are many people who think he was right. Deputy Maçon made perhaps the most significant contribution to the debate; an excellent speech - short. He asked a question which I do not think has really ever been asked in the time I have been in the Assembly, which is what happens when the States agrees to do something? We know we have a register of laws, because we know that when we pass a law that goes on to a book and there is a list of them and you cannot then break

them. What the States is very good at doing is agreeing to do something and then forgetting all about it. Deputy Maçon very helpfully followed up his speech with an email to Members last night. He took us back to a couple of previous debates - he did not go back 20 years, perhaps just as well or he would be looking very haggard this morning - and he reminded us that only this year we voted against a phased development. So, what are we doing now? Before that, of course, we took a different decision. The answer to his question, and he did say what does that mean, as far as I understand it, I stand to be corrected by you, Sir, or by the Attorney General, the States can simply ignore their decisions. And they do. If he has more spare time, I would encourage him to go back through Hansard and find out how many decisions we have made, how many important decisions we have taken, which we have simply disregarded.

[12:00]

I think there are probably quite a lot. Deputy Power has painted a rather dystopian vision of the future of this area with the disappearance of the public realm; and of course he was not talking so much about the retail as the fact that with those public areas you bring a place to life. It gives me a chance at this point just to correct something I said in my report, and I do apologise because I think in the beginning of my report I was rather rude about all of the provision on the new Waterfront. I said it is all rubbish and of course it is not, and I try to correct that in my second paragraph where I say that individual components offer a number of high quality and much needed facilities. The reason I want to say that is I only recently had a look at the Chart Room which has been provided as part of Castle Quay, and what a fantastic and generous piece of covered open space that is for the public and I encourage Members to have a look at it when it opens. But to go back to Deputy Power, that is what he is worried about, that if you simply put these office blocks on Phase 1A of the masterplan you are not going to have a Chart Room created as part of a planning obligation. You are not going to have the restaurants; okay, some of them are empty at the moment at Castle Quay but I am sure they will find occupiers soon. He is concerned about that but what the Deputy is really concerned about I think is the danger of a piecemeal approach, the danger of throwing out the old masterplan is that you do not have that holistic vision that the former Minister for Planning and Environment sold to us. The Constable of Grouville spoke next; I do not think he needed to declare an interest as a former member of W.E.B. particularly but he said we could put the hospital elsewhere, such as on the former J.C.G. (Jersey College for Girls) which of course is earmarked for housing and that I believe is a building which is moving forwards soon. But his opposition to part (b) seemed to me illogical because like the Chief Minister who spoke last, he said he wanted to see the Sea Scouts accommodated. I am going to take these in separate votes but let me just deal with the Sea Scouts issue and I am going to turn to the Chief Minister's remarks on this as well. If you do not support part (b) of this proposition, in other words you allow commitments to be made to develop the La Folie site for housing you shut down the options for the relocation of the Sea Scouts. While La Folie remains on the drawing board, while it remains in the gift of the Minister for Planning and Development to include it in his masterplan, it can be used as one of the solutions for the accommodation of the Sea Scouts. If we build houses on it I am afraid the people who are going to suffer are the rowing club because I have been to see them, they contacted States Members, I went down, had a quick row, bruised my knuckles terribly; and the message that came out from the rowing club is: "It ain't broke, don't fix it". The rowing club is working extremely well at the moment and they do not want to be relocated. If you develop La Folie then you are going to shut down the options for the development of that part of the Waterfront. I now come back to Senator Le Gresley and I struggled a bit with his speech, he wants us to treat our development company as any other private company; at times he sounded a bit like an apologist for the development company. There is surely a difference between S.o.J.D.C. and every other business. A couple of Members referred to it; the Constable of St. John talked about a local

company that pays taxes and employs local people. The fact is that a number of local firms are working on providing the offices that we are in this race to provide, they are working to do that and so it is not quite the same. It is a bit like the utility companies, they are at arms length but people get upset about the fact they have to pay such high bills and they look at us as States Members and say: "Well I thought you owned the telecoms, I thought you owned the water company." I feel the same about S.o.J.D.C.; yes, it has been put at arm's length; yes, it should be allowed to act independently; but it is using States assets and those assets belong to the public so it is not simple to say that we have got to have a level playing field and treat them like everybody else. Senator Le Marquand suggested I think that I should be calling for a rescindment rather than a delay. Well I have certainly thought about it but I thought a delay was a better option, I thought it was less damaging to the scheme; but he deprecates the ability of the States to develop sites. He says we could not get our way out of a paper bag. Well that is interesting because if you look at W.E.B. and now S.o.J.D.C. are they that much better? Well, they have done some very good work but I am not sure. Deputy Noel spent most of his speech on the hospital and that was very interesting because we have not had a debate about the hospital yet, but I merely mentioned it as one of the possible uses of the site. He said there is no risk, no costs; although he did mention W.E.B. have already spent £1 million to date on it but that is probably mainly salaries.

Deputy E.J. Noel:

A point of clarification there, I did not mention any figure to do with the cost to date, that was another Member.

The Connétable of St. Helier:

I take that back, it was said by one of the Members arguing against me but I must have put it in the wrong place in my book. Okay, the Constable of St. Peter wanted to know about my motivation, he seemed frustrated about it and he wanted to tackle the criticism of the Waterfront, and I agree with him. I think there are parts of the Waterfront which are really excellent; there is some fantastic public art; there are some marvellous spaces to take your families down there and I would endorse that. The Deputy of St. Martin in his maiden speech really wants to get on with it, he says the public are fed up with empty property and he referred to St. James and J.C.G. and so on and I agree with him; but the public is not fed up with the Esplanade Quarter, they really like it. I do not think anybody has come to me and said: "Constable, it is such a crying shame you have left that car park like that; those trees are getting bigger and the rabbits have come in." I have not picked up any impatience from the community when they park their cars in an above ground car park and the sun is shining if it is a nice day and they can hear the birds and it is a really nice space. I do not pick up that frustration and what I am saying here is the private sector is willing to develop the office space that we agree we need so why are we developing a very useful, very practical, very popular car park when we do not need to. The Constable of St. Clement, as the Minister for Economic Development did later - but the Minister was more silver tongued if I can repay the compliment - they both stressed the importance of this scheme to the economy and I thought Deputy Higgins dealt with that very neatly when he said that this business is coming and if it comes into the private sector's developments, all well and good. There is still the same economic stimulus, there are still the same jobs, there is still the same revenue into the exchequer and there are still the same rates into the Parish. So, again, why not let the private sector provide the facilities that we all agree we require for our financial services industry to prosper? Deputy Le Fondré I have already referred to, his speech was extremely well researched and I think he, like Deputy Higgins, is suspicious of the sales pitch. He can sit and listen to our silver tongued Minister for Economic Development and then he can take it apart, and Deputy Le Fondré I thought did it really well. Deputy Le Hérissier said we are micromanaging and I ask the Assembly, is it micromanaging to want to stop a blot on the landscape? Is it micromanaging to question what happened to the masterplan? Is it

micromanaging to want to have a breathing space so that the new Assembly can take a fresh look aided by the masterplans of the Minister for Planning and Environment to take a fresh look at how we are going to use crucial and strategic pieces of land in the town? A few other Members spoke, I am not going to go through them all. I have referred sufficiently to Senator Maclean; I do not believe that a vote for this proposition is damaging confidence in Jersey, I really do not. There is a clear date on the proposition, there is private sector interest in providing these; I think what may be driving this is, I gather, the Planning decision on one of the other schemes is due in a week or so and that worries me because if part of this Assembly is going to make a planning decision in a week or so on one of the competing sites then the decision we make today could have some impact possibly. I do not know but certainly it maybe adds to the call for a further delay. Senator Maclean did say that he sat next to me at one of the meetings of the steering group; I do not remember who I sat next to, and he said it is not true, I did not mention it. Well I am afraid we just have to agree to disagree. I distinctly remember recording my concerns about what was being proposed for La Folie. It is true I did not refer to Esplanade Quarter at the time, in fact when I wrote the proposition - as I think I said yesterday - my proposition began with La Folie and I wrote that first. It was then that I thought: "Hang about, what happened to the masterplan?" That is when I put a second part in it. So I just want to finish by saying what my vision is, it is spelt out in the report, albeit briefly. It says that there are other uses for the site, the second paragraph towards the bottom of the report; and the third argument on the last page says: "The Esplanade is hardly being wasted in its current use." I think that is the key phrase. Spurred by Deputy Maçon I went back into Hansard and I read what I said the last time we debated this, and I will not repeat it, but I went off into I think what you call a peon of praise for the Esplanade car park and I described it: "What a wonderful place it is for people using St. Helier." I also noted on the website of the *Jersey Evening Post* among many comments, almost all of which were saying leave the Esplanade car park alone, there is a rather nice little poem; I am not going to read it because I do not think we are allowed to read poems but I would recommend Members to go to the website. There is a rather nice poem about how nice it is to use the Esplanade car park in its current form. One final thing of course, no one came back from the Council of Ministers to say what happened to the £75 million; it was referred to by a few Members but one of the key points of the masterplan was that it would deliver money into the old town to regenerate St. Helier. Reference has stopped being made to it; I noticed this the last time we debated the Constable of St. John's propositions and then at the beginning of this year I said I put the Council of Ministers on notice; if they are going to start digging up bits of the Esplanade Quarter to create bits of the masterplan then bits of money must flow back into the old town. Well I still have not seen that but let us hope that the Council of Ministers - if this does proceed in a piecemeal way - that their commitment to put money into regeneration will be made good. I would like to take this in 2 parts if I may and I ask for the appel.

The Bailiff:

Very well then, the appel is called for in relation to the proposition of the Connétable of St. Helier and we will take vote on paragraphs (a) and (b) separately, so the first vote will be on paragraph (a), which relates to the Esplanade Quarter. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 20		CONTRE: 28		ABSTAIN: 1
Senator A. Breckon		Senator P.F. Routier		Deputy R.G. Bryans (H)
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator A.J.H. Maclean		
Connétable of St. Lawrence		Senator B.I. Le Marquand		
Connétable of St. John		Senator F. du H. Le Gresley		
Deputy J.A. Martin (H)		Senator I.J. Gorst		
Deputy G.P. Southern (H)		Senator L.J. Farnham		

Deputy of Grouville		Connétable of Trinity		
Deputy J.A. Hilton (H)		Connétable of Grouville		
Deputy J.A.N. Le Fondré (L)		Connétable of St. Clement		
Deputy S.S.P.A. Power (B)		Connétable of St. Peter		
Deputy S. Pitman (H)		Connétable of St. Mary		
Deputy M. Tadier (B)		Connétable of St. Ouen		
Deputy T.A. Vallois (S)		Connétable of St. Brelade		
Deputy M.R. Higgins (H)		Connétable of St. Martin		
Deputy J.M. Maçon (S)		Connétable of St. Saviour		
Deputy G.C.L. Baudains (C)		Deputy R.C. Duhamel (S)		
Deputy J.H. Young (B)		Deputy R.G. Le Hérisssier (S)		
Deputy S.J. Pinel (C)		Deputy of St. Ouen		
Deputy R.J. Rondel (H)		Deputy of Trinity		
		Deputy K.C. Lewis (S)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy of St. John		
		Deputy J.P.G. Baker (H)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy of St. Peter		

The Bailiff:

Then we move on to Paragraph (b) which relates to La Folie and the Greffier will open the voting.

POUR: 26		CONTRE: 21		ABSTAIN: 0
Senator A. Breckon		Senator P.F. Routier		
Senator S.C. Ferguson		Senator P.F.C. Ozouf		
Senator F. du H. Le Gresley		Senator A.J.H. Maclean		
Connétable of St. Helier		Senator B.I. Le Marquand		
Connétable of St. Mary		Senator I.J. Gorst		
Connétable of St. John		Senator L.J. Farnham		
Connétable of St. Ouen		Connétable of Trinity		
Connétable of St. Martin		Connétable of Grouville		
Connétable of St. Saviour		Connétable of St. Clement		
Deputy R.C. Duhamel (S)		Connétable of St. Peter		
Deputy R.G. Le Hérisssier (S)		Connétable of St. Brelade		
Deputy J.A. Martin (H)		Deputy of St. Ouen		
Deputy G.P. Southern (H)		Deputy of Trinity		
Deputy of Grouville		Deputy K.C. Lewis (S)		
Deputy J.A. Hilton (H)		Deputy E.J. Noel (L)		
Deputy S.S.P.A. Power (B)		Deputy A.K.F. Green (H)		
Deputy S. Pitman (H)		Deputy of St. John		
Deputy M. Tadier (B)		Deputy J.P.G. Baker (H)		
Deputy T.A. Vallois (S)		Deputy of St. Mary		
Deputy M.R. Higgins (H)		Deputy of St. Martin		
Deputy J.M. Maçon (S)		Deputy of St. Peter		
Deputy G.C.L. Baudains (C)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy R.G. Bryans (H)				
Deputy R.J. Rondel (H)				

[12:15]

APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS

2. Nomination of members of the Overseas Aid Commission

Senator P.F. Routier:

Sir, would it be an opportune moment for me to nominate the Members for the Overseas Aid Commission, from which I was unfortunately detained yesterday?

The Bailiff:

Yes, and we did agree to put that matter off. So that is nomination of 2 Members I think of the Jersey Overseas Commission. So would you like to make that proposition?

2.1 Senator P.F. Routier:

Yes, I am very pleased to make the nominations. I am also very grateful to those Members who have shown interest in the work of the Overseas Aid Commission and those who have offered to come on to the Commission. But it was a tough choice and I want to nominate the Connétable of St. Martin and the Deputy of Grouville as commissioners for the Jersey Overseas Aid Commission.

The Bailiff:

Is that nomination seconded? [**Seconded**] Under the law, election of States Members has to be on the nomination of the chairman and, therefore, this is not one of those cases where I can invite alternative nominations so Members must either accept or reject the chairman's nominations. The appel is called for then in relation to the nominations of the ... Connétable, are you asking for an appel on the 2 of them together or separately? Yes, the 2 of them together, very well, so if you wish to vote for them you vote pour, if you do not you vote contre. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 43		CONTRE: 1		ABSTAIN: 0
Senator P.F. Routier		Connétable of St. John		
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy of Grouville				

Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

PUBLIC BUSINESS - resumption

3. Medium Term Financial Plan: minimum lodging period (P.176/2011)

The Bailiff:

So now we return to the Order Paper and the next matter is P.176 - Medium Term Financial Plan: minimum lodging period - lodged by Deputy Southern. 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 that the revisions to Standing Orders that will be required following the adoption of the Draft Public Finances (Amendment No. 3) (Jersey) Law 201- should provide that the future Medium Term Financial Plan should have a minimum lodging period of 12 weeks; (b) to request the Minister for Treasury and Resources in consultation with the Privileges and Procedures Committee to take the necessary steps to give effect to the decision.

3.1 Deputy G.P. Southern:

Following on from what was a quite extensive debate - as I warned Members it might be - this one is fairly, I hope, straightforward and I hope I can guarantee to get everybody out in time for lunch. It is an administrative matter, it is a piece of housekeeping if you like. The current situation is that the Annual Business Plan cannot be debated unless it has been lodged for 6 weeks. We are about to move from an Annual Business Plan you get a go at every year to a 3-year Medium Term Financial Plan, locking ourselves into a scheme which limits what the House can do for 3 years. It will involve not only the Business Plan but aspects of the budget, how we pay for the Business Plan. So we are making a serious move from one-year planning to 3-year or 4-year planning, it may well be in the end 4-year planning; and that is something I believe cannot be done in a hurry. In particular what I worry about... and I know because I have tried and believe me, Members of the House, please accept my word when I say it is almost impossible to properly scrutinise the Annual Business Plan in the timescale that is provided now. I say almost impossible because for 2 years I have tried it and I have managed it but it is exhausting and it is very hard work and it is very compacted in timescale, those 6 weeks are intense. Now the Minister in his response - and I will

just go on to the response, I will not be making 2 speeches - in his amendment has accepted the argument I think that it is very difficult to do in 6 weeks and he is very pleased to be able to come to amend my proposition, not 12 weeks but 9 weeks. So he accepts the argument, the principle that scrutiny is vital to what we do, especially if we are committing ourselves to 4 years; but he believes it can be done in 9 weeks and not in 12. His argument is: "This is very difficult at the other end of the process for me to make sure that I can prepare the Medium Term Financial Plan and my officers can do it." I will not accept his 9 week amendment because I do not believe it is sufficient and I will tell you a single reason why it is; because if one looks on page 5 of his amendment at the chart there what we are talking about is the difference between his amendment and my proposition, 12 weeks and 9 weeks, is the difference in 2012 for the first opportunity but it applies to every year, between the lodging on the 3rd of July and lodging on the 24th of July. This is the key argument; lodged on the 24th of July. The States have already stopped sitting or that is the last sitting, what happens? Where were you on August 25th last year? Have a think. On holiday, lots of us are, with relief we escape. If we do not escape in August we usually do not get a chance to get away at all. Officers are aware of this, officers sometimes go in July. What it means is that if you want to amend what is a significant and major piece of work that commits us to 4 years you have got July 24th to the end of August to lodge your amendments. That is not possible. Officers in the various departments are not there or they have delegated their responsibilities to others; Ministers are not there; Assistant Ministers are often not there; Scrutiny teams are often not there; their officers are often not there. It is damn nigh impossible, if I may use that word ...

The Bailiff:

No, you may not.

Deputy G.P. Southern:

I may not. It is extremely difficult to get that major piece of work done and most Scrutiny Panels do not manage it. If we do not manage to scrutinise a 4-year plan properly, what are we doing? I would argue that we should not be here; we should pat it on its way through and say: "That is the way we do it." But we can change the schedule. It puts a greater load on the Minister to make sure his plan is delivered 3 weeks earlier than he says he can do, on 3rd July. At least that gives us opportunity (a) to read the thing because it will be a big document and if necessary scrutinise it, call the Ministers in, in July when they are still here, examine their arguments, let us see if this is the only way or if we can tweak it. If we need to scrutinise it, then we can do it and we do that in an appropriate timescale. It sounds like something that is trivial but it is not, it is at the very heart of the way we have got things set up and the difference is the difference between 3rd July - which I say just about gives us enough time to do a proper job on this - and 24th July, which I would argue in 9 weeks does not allow the proper timescale. It does not allow for us to do our jobs. That is the argument, how Members vote is up to them. I propose that the 12-week lodging period is the appropriate timescale in which to operate on a Medium Term Financial Plan, which will encompass and dictate our work for 3 or 4 years.

The Bailiff:

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

3.2 Medium Term Financial Plan: minimum lodging period (P.176/2011) – amendment (P.176/2011 Amd.)

The Bailiff:

Then we have an amendment lodged by the Minister for Treasury and Resources and I will ask the Greffier to read that amendment.

The Greffier of the States:

Page, paragraph (a), for the words “12 weeks” substitute the words “9 weeks”.

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

There is a considerable measure of agreement between Deputy Southern and myself. I think that this was the subject of a previous proposition which was also the subject of amendment and there has been substantial discussions around this. There is no doubt that the Medium Term Financial Plan is going to be one of the, if not perhaps the most important debate that this Assembly in the next 3 years will hold. We absolutely agree with that. For the first time the Assembly is going to set 3-year cash limits for all States departments and I would represent that in a world of chaos where other jurisdictions are struggling to deal with their public finances we have a picture of stability and certainty. With no debt and no deficits we are able to deal with the turmoil in the world uniquely, unlike other places, and I believe that the move to a 3-year financial plan will even strengthen the position in terms of our public finances and I absolutely agree that it is important that that decision, when we vote on the 3-year financial plan, is taken with all appropriate information and all appropriate scrutiny and advice. So that we absolutely agree with. The difficulty is that the process for the Medium Term Financial Plan is in a juxtaposition next year between the Strategic Plan and the Budget, and that is a practical issue which the Treasury and my officials have to deal with. Of course the Strategic Plan, the Medium Term Financial Plan and the Budget are all taken as a number of work streams, which are taken in parallel and they are worked on together; but unfortunately the final decisions in relation to the Medium Term Financial Plan can only be taken after the Strategic Plan has been taken, and in fact in some ways I perhaps should not be the only person standing up to defend it because the actual lodger of the Medium Term Financial Plan is the Chief Minister, if I may recall his knowledge of the Public Finances Law. We have a strange situation where it is the Chief Minister that sets expenditure limits. But I have to say that if tradition is followed it is the Treasury that does most of the work, as the Chief Minister will know; it is done in his name and of course he has to sign up to it, we hope, with the blessing of the Council of Ministers as the law sets out; but the work is done by the Treasury. I would ask Members if they would not mind turning to the appendix of my amendment because they can see the sequencing of the debates. The Strategic Plan, which will I hope be resource-intelligent, will have financial implications set out in it. That debate will happen on 29th May, and it is the period after the Strategic Plan debate, before the Medium Term Financial Plan that is lodged; that is the critical time that we then have to deal with the finalisation of budgetary cash limits. I have to say to Members that there simply is not going to be sufficient time to properly set cash limits with all of the sequencing of the Council of Ministers discussion together with the printing and all the arrangements, the writing-up, it does not happen in 5 minutes; the Medium Term Financial Plan takes weeks of work and it must be right in terms of its presentation. I accept that 6 weeks for such an important plan was not long enough; on the other hand the 12-week limit I am afraid is not going to be possible. I simply say that because the other difficulty that we have, as Members will see from the appendix is the fact that after Medium Term Financial Plan is lodged and then debated in September then we have to get on with the Budget and that is even more important in terms that you simply cannot lodge the Budget, you cannot deal with the finalisation of the Budget until you have got the Medium Term Financial Plan; and there just simply is not enough weeks in between the 2 positions. What I will say to the Assembly is that we will of course do our very best in order to publicise early drafts of what is going to be in the Medium Term Financial Plan. If it is possible to do that, as we have done previously with Business Plans in July, then we will do so, and indeed there has been an established precedent of sending to the Scrutiny Panels the draft numbers that the Council of Ministers are working on. Indeed, that is probably the appropriate way to ensure that the Scrutiny Panels are armed with as much information as possible in advance of the actual lodging of the matter for debate and I will undertake - and I hope the Chief Minister will stand up

and also say - we will undertake to give as much early information of what is in the draft of the Medium Term Financial Plan as possible; as we have done in the past.

[12:30]

Nine weeks is a compromise; if we can improve on the lodging date of 24th July then certainly we shall do so and my aim would certainly be to finalise the Medium Term Financial Plan by the second week of July. That would be my aim and it may well be that the Medium Term Financial Plan debate would slip after 25th September. If I may say, I know Deputy Southern addressed almost the amendment in his opening remarks. He is right to say that people are on holiday in August but I am sure that if the Greffier could speak in this Assembly he would say that inevitably with most of the debates that we have and most amendments they always come in very late so allowing early lodging, I am afraid, is not going to normally mean that there is going to be amendments coming early because I think all Members know that amendments are done at the last minute and I understand that. What I think important is to provide a flexibility that the Medium Term Financial Plan is lodged as soon as possible in July; I cannot commit to do it on 3rd July, and that debate is taken as late in September, albeit there is a problem in terms of the lodging of the budget after it. Nine weeks is a compromise, we will do our very best to improve upon it and we will undertake in order to give sight of drafts of the Medium Term Financial Plan early, and I hope that 9 weeks is regarded as an appropriate amendment. It is a very long period of time, it only happens once in 3 years, and I make the proposition and ask for Members support for the compromise.

The Bailiff:

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

3.2.2 Deputy M. Tadier:

I probably should have let Deputy Southern go first but I am sure he does not mind. I just think that speech was one of the most bizarre I have ever heard. The reasons for the 9 weeks as opposed to the 12 simply were not clear there at all. I keep on getting these text messages during States sittings from a number, I have no idea who it is, and I think he has hit the nail on the head with this one, and I will paraphrase it because in the current format it is probably not appropriate to be read out but it says: "Given the Senator's record of doing what he wants there must be a 12-week lodging period for the checks and balances to be in place." I think that rings a bell because what we heard from the Senator, he is trying to give us assurances saying that he will do his best to lodge it by the second week of July, so it is all finalised by that point but the first point is he cannot give that assurance. If we stick with the 9-week lodging period then I think it is going to be 24th July which is basically the fourth week of the month. That is what Ministers will do because they are under pressure like everybody else and if they do not have to do something and if we do not have to do something until the deadline, the deadline is that date, it will not happen because that is the way the States work, that is the way we work under duress. So to have an assurance that it will be done by the second week of July, which is between the 7th and the 14th, simply begs the question if the Minister is so sure that he can do it by the 7th or 14th July why did he not put an amendment in to say we can do this in 11 weeks or we can do it in 10 weeks, which is what he is trying to give an assurance of. So I think we need to have this 12-week period, and to simply say that if we grant another 4 weeks that is not going to incur any more amendments, it is not going to give Members more time; there may not be more amendments but it will certainly give all of us a bigger heads-up and make sure that we have had more time to read through it because we will probably have it on our desk when we come to the States sitting. We will be aware that it has been lodged and it will not be in the back of our post box perhaps after we have been on holiday. So I think it simply makes sense, I think this is a commonsense amendment; we have to go for the 12 weeks, not the 9

weeks, because I certainly know, as a States Member who has struggled sometimes to read in depth all the propositions that do come in over the summer - especially when they are of such importance - we do need that cushion of the extra 3 weeks because we are, after all, moving to a 4-year Business Plan from a yearly Business Plan, so we are simply doubling the lodging time from 6 to 12, we are not increasing it by 4 times which arguably we could do but of course that would not make sense.

3.2.3 Deputy G.P. Southern:

I think 3 simple statements here; I just want to draw attention to Members who have served on Scrutiny and know what the task is to remember what it is like and how much demand it makes on time, and remember what happens in those holiday times and how difficult that is. Secondly, we were told by the Minister it is simply not possible to get these extra 3 weeks, not possible. Can I suggest to Members that what we do is look at that first date on the table that the Minister has drawn our attention to 29th May for the States debate of the Strategic Plan; latest. How about we take another 3 weeks off the Strategic Plan and debate it hopefully at the beginning of May. Can we not work out a Strategic Plan between now - we have already started on it, we have had one meeting - and the beginning of May? Is that impossible? I do not believe it is. So what you do, there is no problem at the far end, the far ends are pretty fixed, at the end of the year those debates have to be gone a certain length of time before the end of the year. You have to do the Annual Business Plan or the Medium Term Plan before the budget. That is fixed. But what we can do, let us work a bit harder now, get the Strategic Plan in 3 weeks early and the whole thing falls into place, it becomes 12 weeks and perfectly possible to do and we get that vital element - scrutiny - at the far end. Alternatively the Minister says: "I will do my very best" but what you did not hear: "But I will not be told by this House" because that is what the 12 weeks says, do it by then, not do your best to do it by then, do it by then. The fact is that all the previews that you can get to Scrutiny are useful but not the key element of what happens. Ministers make policy; if any Scrutiny Panel gets in the area of making alternative policy it is doing something wrong. Ministers make policy, we hold the Minister to account and scrutinise. So seeing an early draft is one thing and might be useful to set your brain going but it is not Scrutiny, Scrutiny comes when the plan is delivered. That is when you scrutinise, that is when you hold the Minister to account for what he is doing. That is the reality. So the fudge that the Minister is offering: "I will try my best and I will get you an early copy" et cetera, does not work because that is not the way the system works, we are not there to do alternative policy as it is evolving; we are there to see what happens and to hold the Minister to account and to scrutinise it fully and properly in the right timescale. So not "not possible", perfectly possible; we just shift the whole thing 3 weeks early, that means doing the Strategic Plan a little bit more efficiently. That is all I would say at this stage.

3.2.4 Deputy P.J.D. Ryan of St. John:

In a previous life I was responsible for chairing the Corporate Services Scrutiny Panel and I have a great deal of sympathy for what Deputy Southern is saying. We did have a reputation and I have my members of the Scrutiny Panel at that time to thank for getting through quite a lot of work on quite difficult deadlines. But I have to say that the one thing that I and my members found the most difficult bar none was scrutinising the Business Plan, so much so that regrettably we had to put it on one side on more than one occasion and I do not think that is healthy, I really do not. In my current life I am a member of the Executive and I sympathise with the Minister for Treasury and Resources; I know that our officers have to work very hard to get all this stuff in place. The States of Jersey Law changed the major set piece debate - and I think quite correctly - from the Budget, as it was 6 years ago, to the Business Plan. The Budget is less of a set piece in debate now, it is more involved with deciding how we pay for what we decide to spend. There is a separate debate to be had as to whether that is totally desirable because we end up deciding what we are going to spend

first before properly perhaps considering how we are going to pay for it at the same time. But what I would say is this: it is very important to scrutinise the Business Plan properly, it has not been achievable I think in the past in the right way, but I do wonder - and I would address this to Deputy Southern and to the Minister for Treasury and Resources - is this not a case for sending to the new Privileges and Procedures Committee to take a view on in fact what the right calendar of events should be? The problem with that - deciding here and now - is that I am not sure that all sides are being looked at in the full round and I personally would suggest that the Constable of St. Helier and his new team could come back very quickly in the New Year. This is not a difficult thing to establish; we could then have a view from them very quickly in the New Year and make a decision based upon that. So my request would be to Deputy Southern to allow the Constable of St. Helier to have a look at this properly and report back very early.

3.2.5 Senator S.C. Ferguson:

I have spent the last 6 years, 3 on P.A.C. (Public Accounts Committee) and the last 3 on the Corporate Services Scrutiny Panel and I endorse everything that Deputy Southern says. We do not always agree on a lot of things but on this, yes, I am absolutely in agreement with him. The other problem is that - as I think might have been mentioned - this is going to be a significantly larger Business Plan than usual because it is going to be for an extended period. So really we are having difficulty with a single-year plan, and to have a 3- or possibly 4-year plan is going to be considerably more difficult. It would be nice one year to have August off: those of us without young families may not want to travel with the school children but we would like the option. The other thing is that P.P.C. (Privileges and Procedures Committee) I seem to remember was talking about looking at a spring election; now this may well call for more changes. At the moment we are just looking at one event, if we have a fairly hefty Business Plan next year then the odds are the following years it would be much lighter but that is perhaps being over-optimistic. But I think really at this point in time we are going to need every week of those 12 weeks.

LUNCHEON ADJOURNMENT PROPOSED

Senator P.F.C. Ozouf:

Sir, I am going to propose the adjournment. I have had a brief word with the Chief Minister just during the debate; we are sympathetic to understanding the problems of Scrutiny, it is the timing of the Strategic Plan and I propose to propose the adjournment and hold some discussions with the Chief Minister to see if we can find a solution.

The Bailiff:

Very well, the adjournment is proposed at 12.45 p.m. so we will reconvene at 2.15 p.m.

[12:45]

LUNCHEON ADJOURNMENT

[14:15]

Senator P.F.C. Ozouf:

Sir, may I indicate that over the lunchtime adjournment, I have met with the Chief Minister and discussed with the Treasury officials and officials from the Chief Minister's Department and I am pleased to say that I will withdraw the amendment [**Approbation**] but if I may, I am circulating to Members a timetable indicating how we will propose to deal with the 12-week period because in withdrawing the amendment, obviously you go on to support Deputy Southern's proposal. In discussions with the Chief Minister, we established that the Strategic Plan could be brought forward to 1st May. I would say to Members that that means a 6-week lodging period for the Strategic Plan and that would then mean that we would have sufficient time between 1st May and 3rd July in

order to complete the Medium Term Financial Plan. We will target a lodging date of the Medium Term Financial Plan with a debate of it 12 weeks later and if we do not achieve 3rd July lodging because either the Strategic Plan debate is later or we cannot achieve it, we will move the Medium Term Financial Plan Debate back to 25th September. Either way, I am pleased to say that we have found a way. We will not always be able to do this but we have listened to the clear mood of Members that they want 12 weeks and we found the solution to deal with the 12-week period and I seek ...

The Bailiff:

I think technically you need the leave of the Assembly to withdraw your amendment as debate on it has opened so you seek that leave?

Senator P.F.C. Ozouf:

I seek that leave.

The Bailiff:

Do Members agree to the Minister for Treasury and Resources withdrawing his amendment? Very well, that is withdrawn. So then does any Member wish to speak on Deputy Southern's proposition? The appel is called for, then, in relation to Deputy Southern's proposition. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 36		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator I.J. Gorst				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				
Deputy G.C.L. Baudains (C)				

Deputy G.P. Southern:

If I may add, Sir, what a joy it is to see proper inclusive consultation between Back-Benchers and Ministers for once. [Approbation]

4. Draft Pet Travel Scheme (Jersey) Regulations (P.178/2011)

The Bailiff:

Very well. Then we come next to the Draft Pet Travel Scheme (Jersey) Regulations 201-, Projet 178, lodged by the Minister for Planning and Environment. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Pet Travel Scheme (Jersey) Regulations. The States, in pursuance of Article 2 of the European Communities Legislation Implementation (Jersey) Law 1996, have made the following Regulations.

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

The legal movement of animals and their products between countries for economic or social benefit is controlled to mitigate against the spread of diseases which may affect humans, animals or both. Controls vary depending on the disease and the risk. In global terms, classical rabies is a very important disease because it can be transmitted from animals, mainly dogs and cats, to humans and is invariably fatal. In countries where controls are non-existent or inadequate, more than 55,000 people die of the disease annually. In the United Kingdom, quarantine was introduced as a rabies control method in the 18th century and together with implementation of other measures, led to the country being free of disease by 1902. There was a reintroduction after World War I but freedom from the disease was achieved again by 1922. Rabies quarantine for all imported dogs, cats and other mammals was in place for over 100 years until the year 2000 and required animals to be detained for 6 months in licensed premises under veterinary supervision. Six months was designated the quarantine period based on contemporary evidence that this was the maximum incubation time and has remained unchanged to date. Evaluation of the considerable body of evidence has produced a recent revision to the incubation period, which is now considered to be no more than 4 months. For very many years reflecting the health status and controls of the jurisdictions, there has been no restriction on the movement of dogs, cats and other mammals likely to transmit rabies between the U.K. and the Channel Islands and the Republic of Ireland. The same strict import and quarantine requirements are applied in Jersey as in the U.K. but without the necessary quarantine facility in the Island, pet owners wishing to import from any country other than the Channel Islands, the U.K. or Ireland had to arrange 6 months' quarantine in the U.K. In 2000, a significant change was made following the Kennedy Committee Report to the U.K. Government in 1998. The committee reviewed the quarantine policy and possible alternatives. The recommendation was that dogs and cats could enter from specific countries without quarantine if certain conditions, including rabies vaccination, were met. This was the basis of the Pet Travel Scheme which the U.K. introduced in February 2000 and is now familiar to many pet owners who travel to Europe and beyond and return with their pets. To continue the unrestricted movement of pets between Jersey and the U.K., the Pet Travel Scheme was adopted simultaneously in Jersey and has proved very popular with pet owners. In round figures, 6,000 dogs and cats have entered the Island under the scheme in the last 5 years. In the U.K., approximately 100,000 pets enter annually. To protect the Island's animal and human population, strict adherence to the scheme conditions has been enforced. In Europe, there has been a very significant decrease in the incidence of rabies following mass vaccination programmes and this, together with the U.K.'s review of controls and risks, contributed to a common E.U. (European Union) pet movement control which was

introduced by regulation in 2004. Recital 7 of the regulation considers the Channel Islands to be part of the U.K. for the purpose of the regulation. Since its inception, there have been no cases of rabies associated with legal movements of pets in Europe. Under the European regulations, some countries, including the U.K. and the Channel Islands, were allowed to have additional controls for a limited time. The additional controls include blood testing to check antibody levels after rabies vaccination followed by a waiting period and treatment against ticks and tapeworms to prevent the introduction of 2 diseases, which affect humans. With the expiry of these time limits and the conclusions of recent disease risk assessments, the U.K. Pet Travel Scheme conditions will change on 1st January 2012. To maintain Jersey's free movement between the U.K. and other Channel Islands and allow our pet owners the same conditions as U.K., the regulations have been drafted to ensure the new controls are in place. In addition to the controls for rabies, Jersey will align with the U.K. and implement controls to prevent the introduction of the tapeworm, *Echinococcus multilocularis*. This parasite of dogs and foxes can cause very serious disease in humans and has been expanding its range in Europe. Cats will not require preventative treatment, as they do not harbour the tapeworm. The requirement for pets to be treated against ticks will not be included in the amended scheme as risk assessments have shown the establishment of the brown dog tick, *Ripicephalus sanguineus*, in the U.K. population is negligible. There are many other routes by which the ticks may enter the Island, for example, in cars or on horses, which are not subject to control measures. All the controls to be put in place by the regulations, microchipping, rabies vaccination and tapeworm treatment, must be officially certified by a vet and pets will only be permitted to enter Jersey with an approved carrier. The carrier is responsible for carrying out checks to ensure compliance and my department will continue to audit the carrier checks. While continuing to protect the Island's human and animal populations, introduction of the changes will benefit Jersey's pet owners when they prepare their pets for entry to the Island under the scheme because they will not have to pay for blood sampling and will not have to wait 6 months before the pet is able to come into the Island. There will be a short period of 3 weeks' wait after vaccination when the pet can legally enter. While we are obliged to introduce these regulations in accordance with E.U. legislation, I am sure Members will agree with me that the changes will be welcomed by our pet owners and visiting pet owners who will continue to enjoy their companions while keeping the human population safe from the introduction of rabies and other diseases. With that in mind, I propose the scheme.

The Bailiff:

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

4.1.1 Deputy G.C.L. Baudains:

Yes, I welcome these proposals because looking at under the financial and manpower implications, I notice that as a sometimes pet owner, I will no longer have to wait 6 months or have a blood test before I return to Jersey.

4.1.2 Deputy S. Power of St. Brelade:

I would like to point out to Members that while I will be supporting this, there are some implications for animal owners that are not as clear as perhaps the Minister for Planning and Environment might have spelt out and that is under these E.U. regulations which we have to import, we cannot opt out, the actual protection for Channel Islands and, indeed, the 5 Member States that have the derogation, will reduce. The reason for that is that the onus will now be on owners of dogs particularly to treat their dogs for ticks and for tapeworm and to not have it supervised by a vet and that is an issue that I think some owners will have because they are not capable of doing that. So I have requested and I did have a meeting with the Minister for Planning and Environment and I did have a meeting with the States vet and there is absolutely nothing any resident of the

Channel Islands, the U.K., Ireland, Malta, Sweden and Finland can do about this because what in actual fact it does is reduce the level of protection. There is no way that we can ensure that an animal is treated with a proprietary tick and worm treatment. The vet then certifies this in the pet passport so I hope Members are aware of this. The Minister for Planning and Environment referred to the increasing incidence of tapeworm across Europe and it is an increasing incidence. It has spread from a number of countries right across a whole swathe up into Northern Europe where it never was found before. So with harmonisation within the E.U., we have to accept this and all I would say to Members and to those listening is to be vigilant and to be on your guard with your animal because the risk is enhanced. I make these few words because I am on the committee of the J.S.P.C.A. (Jersey Society for Prevention of Cruelty to Animals) and it is a frontline organisation that is to the fore and does wish to work with the Minister for Planning and Environment and with the States vet and I thank them for their co-operation but be under no illusion that with this harmonisation, protection is reduced.

4.1.3 Deputy R.G. Le Hérissier:

I will resist the temptation, in case people think I am barking to engage in the customary and totally tedious puns. I wonder if the Minister could outline what are the precise differences between the procedures here and those that have occurred. Secondly, is he confident that entry into all the unauthorised little ports is, in fact, being controlled?

4.1.4 The Deputy of St. Martin:

I would like to thank the Minister for bringing this to the House. It is for those people who own pets. Obviously some of them find it very comforting to take their pets on holiday or take them out of the Island and be able to bring them back. There is no question that this will allow them to do that. My concern was that it is also allowing a huge number of other people the benefit of being able to travel with their pets at short notice. In the past, we have had mention of the 6 months. It is now going to be an injection, we have got to supervise it and 3 weeks and people can travel. When you look at the considerable list of places that people will now be able to come to the Island with their pets, it begged the question in my mind, is this going to have an impact on the resources of our States Veterinary Service?

[14:30]

I have spoken to the States Vet about this and she assures me that it will not but I would just like an assurance from the Minister to say that if the number of animals arriving in the Island because of the change in these laws means that the States are having to spend a lot more money in the supervision of the ferry companies bringing these animals in, that he will look at ways of making sure that it is not Jersey people, *per se* the States, who pay for that and that it would be the pet owners themselves.

The Bailiff:

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

4.1.5 Deputy R.C. Duhamel:

The questions from Deputy Baudains and the Deputy of St. Martin were about impact on resources. I am advised by the officers that there will not necessarily be any increased impact on resources. The vet does conduct spot checks on the certification that has to be in place and it depends on the numbers obviously of applicants that are being checked and there is no indication at the moment that every particular passport is going to be looked at and, indeed, the Customs and Immigration do similar things for humans. Deputy Le Hérissier is barking mad I have got here, yes, that is fine. Differences between here and the U.K. We are no longer going to have blood tests and the 6-

month wait. There is no tick treatment and there is no tapeworm treatment for cats. Unauthorised ports, yes, the ports of entry are authorised by the Minister and you cannot come into any ports that have not been given that certification, so it is not about cats and dogs landing anywhere on the beaches or coming in through back doors, so to speak. We had one other one, and it was from Deputy Power, and he was saying that he was not happy that the scheme which was being administered in the light of the regulations that are coming through from the E.U. were sufficiently capable of looking after our pet health or human health. One of the difficulties that Jersey has, of course, is in implementing health schemes which are, of their own, required to reinvent the wheel in health terms and to do the research that is required against the prevention of diseases from scratch. We do as an Island rely quite heavily on other mainland authorities and the E.U. for the background side of the work that is undertaken and, as far as I am concerned, I am quite happy that that is the case until such a time as the Island invests in its own medical scientific research which, of course, would cost even more than the monies that we have got available in our 'rainy day' fund. Tapeworm treatment for dogs is compulsory. I think there was an indication from Deputy Power that it was not. Cats will not be involved because they do not carry the tapeworms and I think the other point was about ticks and it is mainly the exotic ticks, which are the hardback ones. They can come into the Island through different routes and it will be totally impractical and disproportionate for us to employ systems to try and work out whether or not some ticks had come in on the bottom of car tyres or whatever if cars had gone to a foreign country and things like that. So I think, all in all, I am quite happy that the conditions for following the U.K. and the E.U. in terms of veterinary health for animals is being followed and those are the 2 authorities that I think we should be going with. I move the principles.

The Bailiff:

Yes, all those in favour of adopting the principles, kindly show? Those against? The principles are adopted. Deputy Young, this is a matter which falls within your Scrutiny Panel. Do you wish to have it referred to your panel?

Deputy J.H. Young of St. Brelade (Chairman, Environment Scrutiny Panel):

No, Sir, but I would like, with your permission, just to make a comment to explain the reasons. I find myself in a situation where this was lodged before I got elected and I have only just recently taken on that position. I think there is a principle in future that all new and secondary legislation should be timetabled to give the Scrutiny Panels the earlier option to look at it. But in this case, clearly, to ask to do so now would prevent pet owners... put them out of the system, as it were, from 1st January 2012 which is unacceptable and given the fact that this is a part of E.U. rules, as confident as I am about the Scrutiny Panel, I think to review the E.U. legislation would be a step too far. **[Laughter]** So my suggestion is no, Sir.

The Bailiff:

I am sure the E.U. will be very relieved to hear that. **[Laughter]**

Deputy S. Power:

I do not want to have a disagreement with the Minister for Planning and Environment but under a presentation that I attended ...

The Bailiff:

I am sorry, Deputy, you have spoken on this, the principles have just been adopted. You are not about to make a second speech, are you?

Deputy S. Power:

No, I was just going to say that there is no compulsory tapeworm treatment.

The Bailiff:

Very well. Now then, we come to the individual regulations. Do you wish to propose them *en bloc*, Minister, although I should point out to Members there is a corrigendum in Regulation 11. The word “is” should be replaced by the word “are” because it is plural rather than singular but apart from that, do you wish to propose them *en bloc*, Minister?

Deputy R.C. Duhamel:

Whatever Members think.

The Bailiff:

Very well. Are Regulations 1 to 13 seconded? **[Seconded]** Does any Member wish to speak on the individual Regulations? All those in favour of adopting Regulations 1 to 13, kindly show? Those against? They are adopted. Do you propose the Regulations in Third Reading, Minister?

Deputy R.C. Duhamel:

I do, Sir.

The Bailiff:

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

Deputy J.H. Young:

Can I just say that if there are comments similar to what Deputy Power has got, I am happy for the Scrutiny Panel to pick those up after the adoption of regulations and, if there are any aspects, to bring them back.

The Bailiff:

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

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. John				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				

Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				

Deputy J.A. Hilton (H)
Deputy J.A.N. Le Fondré (L)
Deputy of Trinity
Deputy S.S.P.A. Power (B)
Deputy S. Pitman (H)
Deputy K.C. Lewis (S)
Deputy M. Tadier (B)
Deputy E.J. Noel (L)
Deputy T.A. Vallois (S)
Deputy M.R. Higgins (H)
Deputy A.K.F. Green (H)
Deputy 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. Martin
Deputy R.G. Bryans (H)
Deputy of St. Peter
Deputy R.J. Rondel (H)

Deputy R.C. Duhamel:

I would like to thank Members for their interest.

5. Draft Telecommunications (Amendment No. 2) (Jersey) Law (P.179/2011)

The Bailiff:

Very well. Then we come to the final matter of public business, the Draft Telecommunications (Amendment No. 2) (Jersey) Law - Projet 179/2011 - lodged by the Minister for Economic Development and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Telecommunications (Amendment No. 2) (Jersey) Law. A Law to amend the Telecommunications (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

This amendment to the Telecommunications (Jersey) Law 2002 is intended to enhance the powers of the J.C.R.A. (Jersey Competition Regulatory Authority) in a proportionate way and to increase its flexibility and hopefully its efficiency. Jersey's current regime for regulating telecommunications is broadly satisfactory and it is comparable with other jurisdictions in terms of regulatory powers. However, an examination of the operation of the regulatory framework has resulted in suggestions that there are some specific additional powers that could make the J.C.R.A. a more effective regulator of the industry. Considerable research has been conducted in this area. The Economic Affairs Scrutiny Panel investigated the then proposed privatisation of Jersey Telecom in 2006 and recommended that a comprehensive review of the capabilities of the J.C.R.A. be carried out to include its skills base, resources and legal powers. Following this recommendation, in July 2007, Oxera completed a review into the subject entitled *Possible Sale of*

Jersey Telecom: Additional Analysis. A conclusion of this work was that the regulator needed to have appropriate intermediate sanctions to deal with operators who might contravene their licence conditions. In considering this recommendation, I have noted the existing powers of the J.C.R.A. under the Competition Law and those of comparable regulators in the United Kingdom and elsewhere. In line with the recommendations of both the Scrutiny Panel and the Oxera Report, LECG, a global consulting and expert services firm, and also law firm Charles Russell were commissioned to conduct a further review. They considered the J.C.R.A.'s regulatory powers, resources and functions as a telecoms regulator within the Jersey market and produced a report examining the efficiency of the J.C.R.A. in the telecom sector and making recommendations for improvement. The LECG recommendations form the basis of these amendments to the Telecommunications (Jersey) Law 2002. These amendments will streamline the law's consultation procedures, provide the J.C.R.A. with the ability to impose financial penalties upon operators in breach of a licence condition and provide a mechanism to formally clarify the regulator's powers of direction through licence conditions. The first effect of the amending law is to grant civil powers to the J.C.R.A. to impose penalties on licensees if they are found to be in breach of one or more of their licence conditions. These penalties could be up to a maximum of 10 per cent of the turnover averaged over 3 years. Currently, the only sanction available to the J.C.R.A. is the power to revoke a telecom licence if an operator does not comply with its licence conditions. The only other options include undertaking civil litigation or recourse to the criminal law. In practice, the J.C.R.A. can only try and persuade its licensees to conform with their licence obligations because withdrawing a licence may not be realistic and litigation may not be applicable. Other telecommunications regulators have the power to enforce fines up to a maximum of 10 per cent of turnover for breaches of licensing conditions and those include Ofcom in the U.K. and the O.U.R. (Office of Utility Regulation) in Guernsey. The 10 per cent turnover maximum fine is the same as the sanction available in the existing Competition Law. To date, the maximum fine imposed by the J.C.R.A. under that law is in the region of 2 per cent. It will allow the J.C.R.A. a measured and effective response to licence infringement and should act as a deterrent in situations where an operator might believe that the J.C.R.A. will be unwilling to withdraw its licence leaving no incentive for the licence conditions to be strictly adhered to. It is hoped, of course, that no financial penalties will ever be applied and that the very existence of such powers will discourage operators from breaching their licence conditions. If penalties were to be imposed under the amended Telecommunications Law, then the funds will not go to the J.C.R.A. as this might induce a rather perverse incentive to the most stalwart of regulators. Instead such fines will go to the general revenues of the Treasury. If an operator receives a penalty from the J.C.R.A., they will be able to appeal to the Royal Court against the penalty. The second effect of the amending law is to clarify the ability of the J.C.R.A. to ensure that operators follow its directions by resolving an ambiguity in Article 16 of the law. At the moment, while conditions imposed as part of a licence may imply that the J.C.R.A. has the authority to direct licensees, this is not explicitly stated as it is in the telecommunications law in similar jurisdictions such as Guernsey and the Isle of Man. To resolve this, the amendment would introduce the provision into Article 16, which would expressly permit the J.C.R.A. to include conditions in licences that it grants, which would require operators to follow its directions. The third effect of the amending law is to revise the manner in which the J.C.R.A. is required to consult upon its regulatory conditions in order to make it more flexible and more efficient. The J.C.R.A. is obliged to undertake public consultations on a wide range of subjects, including decisions that it makes as a regulator. Currently, if it runs a consultation on a regulatory decision and receives feedback from the consultation, it may decide to slightly modify its decision in light of points that have been raised. This is a perfectly reasonable thing to do and indeed there will be little point in having a consultation on a decision unless the option to change it was open.

[14:45]

The problem at the moment is that if the J.C.R.A. changes its decision in any way in response to feedback from a consultation under Article 11 of the current law, it is then required to begin the consultation process again more or less from scratch. Apart from the obvious problem that this diverts resources from other potentially more significant matters, this also means the consultees are expected to respond to 2 or even more separate consultations on the same decision which may have changed only in a very minor way. This kind of repeated consultation can create apathy among respondents and could reduce the overall effectiveness of the consultation in general. In addition, there is no evidence to suggest that the J.C.R.A. has avoided making changes to its regulatory decisions. It must be recognised that combining a statutory requirement to conduct consultations with potentially significant resource implications if the responses are accepted does not introduce an incentive for a regulator to consult but then to ignore the responses, particularly where resources are limited. The amending law in line with recommendations of the LECG Review will modify Article 11 so that the J.C.R.A. will have the same discretion about whether to issue fresh notifications when a change to a decision is made. It will be able to start a new notification in cases where it feels that the proposals have changed so significantly that consulting again would be of benefit but it will not be under an absolute obligation to do so. To summarise, the amending law does not revolutionise the regulation of the telecommunications market in Jersey but will provide the J.C.R.A. with important additional flexibility and powers to bring it into line with regulators elsewhere. I therefore propose the principles.

The Bailiff:

Are the principles seconded? **[Seconded]**

5.1.1 Deputy G.P. Southern:

All of a sudden, I have realised what a jolly good day I am having. As the chairman of the Economic Affairs Scrutiny Panel which first recommended this particular change, in particular the power to impose fines for breaches of conditions was recommended, as the Minister said, some 4 years ago: 2007, 5 years ago. The second thing that reminds me is how exceedingly slow the wheels of Government do indeed move. But nonetheless, not only have I won a vote 36 nil just briefly a short while ago but I went at lunchtime into Social Security and managed to achieve an immediate payment for a client of mine to make sure that he can look forward to a happy Christmas, because he had run out of money having been made unemployed 6 weeks ago, but I returned to the House and realised that the effort that I put in and my panel put in all those years ago finally comes to fruition. What a good day.

5.1.2 Senator A. Breckon:

I do not want to spoil Deputy Southern's Christmas in any way but I was on that panel and I do not share his views **[Laughter]** and I say that for a reason, in that I am not happy to share his blanket support because what we are doing is we are giving power to the regulator to fine people. The question is who regulates the regulator? I say that for good reason because it is powers to fine the licensee and if the J.C.R.A. makes a mistake, who fines them? The answer is nobody does and I say that because quite recently, Sir, you will be aware, sitting in another place, there was a judicial review where a telephone operator challenged a decision of the J.C.R.A. and whatever the term was, the J.C.R.A.'s decision was struck out and it was to do with whether there was an appropriate consultation or not. The reason I say that is because there are things in here about consultation and variations of that in different Articles so, as I say, I for one, Deputy Southern aside, am not prepared just to give this blanket support. The question I would ask of the Minister is, when LECG and others gave this opinion about the powers that should be given to the J.C.R.A. to increase what they can do, was that done before the judicial review or was it done after because if it was done after, it may be a way of circumventing another challenge to an operator who may feel aggrieved

by a decision and I know commercially an operator did lose a substantial amount of money and was not able to get it back from anywhere; or was it done beforehand? I would like the Minister to answer that.

5.1.3 Senator P.F.C. Ozouf:

One of the principal conditions that the decision for 'Gigabit Jersey' is likely to yield when I hope to be in the position of signing the additional capital for Jersey Telecom, one of the principal conditions will be that the new fibre network which will be available to all businesses and Islanders is accessible to third party telecommunication providers at not only the accessibility arrangements but at a reasonable cost. I would say that while I am representative of the States for the purposes of the Jersey Telecom shareholding, I think that this piece of legislation is absolutely vital to ensure that the fibre optic arrangements are going to be able to be dealt with appropriately by the J.C.R.A. I do not entirely agree with Senator Breckon about who regulates the regulator. I think in his remarks he explained that all decisions of the regulator are appealable by the Royal Court and the court will consider whether or not the regulator has been reasonable and, of course, ultimately, it is the Minister for Economic Development that appoints members of the board to the J.C.R.A. so there is no sense that the regulator is unaccountable. I think this is a welcome move forward, as Deputy Southern and I will remember we were both on the same side of that particular debate in relation to Jersey Telecom and the need to properly regulate and to give the regulator teeth and I welcome this legislation and will be voting in favour of it despite the fact that it does have some difficult issues for Jersey Telecom to deal with in terms of their responsibilities.

5.1.4 The Deputy of St. John:

Well, all those years ago - 5 years - that particular Scrutiny report was with a backdrop of the privatisation of Jersey Telecom and I think that most of the recommendations were made in that context and it would be silly to think otherwise. How times have changed. Now we are thinking of investing large sums of money by one mechanism or another into our still wholly-owned telecoms operator in the interests of the public and in the interests of developing perhaps economic diversification *et al.* But I would just like to ask one question. The most likely scenario in the future would be that the J.C.R.A. might want to impose fines on Jersey Telecom for not co-operating with the other telecoms operators and giving access to the infrastructure that we are going to invest in. I do not think it is very likely, certainly from past experience, that the J.C.R.A. would want to be imposing fines, from what we have seen, on the other telecoms operators. So we are really talking about the powers that the J.C.R.A. has in relation to Jersey Telecom. I would just like to ask one question. If there was to be a large fine ever applied to Jersey Telecom, what would happen to its dividends that it was going to pay to the States?

5.1.5 Deputy J.H. Young:

Not knowing the background that led to the Scrutiny Panel's recommendations, I feel in some difficulty here but looking at it at face value, I do not have reservations about the power to fine and I would like the Minister to please advise the Assembly whether that brings the J.C.R.A.'s power into consistent line with other regulators. I may be wrong, I may be out of date and stand to be corrected, but I do remember in the financial services industry, there has long been a debate about whether the regulator has power to fine and I do not think that has yet been done, but I may be out of date. But I still have concerns about it particularly because that is a very powerful mechanism and, of course, I am comforted by the fact that there is a Royal Court appeal but, of course, judicial reviews and the like are very expensive pieces of work. So I have got those reservations and I would very much like to hear the Minister's reply to that, please.

The Bailiff:

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

5.1.6 Senator A.J.H. Maclean:

I am delighted at this festive time to be able to cheer up Deputy Southern. I was also very pleased that he was so enthusiastic and he is absolutely right. He did a splendid piece of work as chairman of the Scrutiny Panel at that time back in 2006 and in all seriousness, the Deputy makes a very valid point. I think he commented on the fact that it has taken so long. He is not the only one who has commented on the time that it has taken and it has been too long and I certainly, from my perspective, regret that but nevertheless it is better late than never. We are here now and I should say to Members that all telecom operators are broadly supportive of what is being proposed here. They understand what a level playing field is and the need to have a fair and equitable arrangement and this is certainly making the J.C.R.A. as a regulator more efficient and more effective. Senator Breckon raises some quite pertinent points in regard to who regulates the regulator but, of course, and it has been mentioned a moment ago by Deputy Young, there is an appeal process to the Royal Court and that is the appropriate course to have so there are safety mechanisms included as you would expect. He was also raising the point about the consultation period and how it works and the fact that, in a sense, this is loosening up the consultation process but consultation is about listening. There is no point having a consultation and then having a disincentive for the regulator not to listen because it realises it is going to be more expensive to have to start the consultation over again if it changes anything. This is a pragmatic amendment that is being proposed. The Senator also asked about the LECG Report. It was published, in fact, in 2009 so it was some time ago and that ties in with what I have said a moment ago with regard to Deputy Southern, this has taken too long. So, indeed, the Senator may feel it has just come out and is out of date as such but it is not. I thank Senator Ozouf for his comments and he is absolutely right. These powers are important, particularly in light of the potential investment in Gigabit Jersey. It is important that the regulator has the appropriate powers and that third party access is important in the Telecom sector. The Deputy of St. John asked the question about the fining and where the fines go, I think he said. Clearly, we want to avoid fines and I know the regulator is keen to avoid fines. The purpose of having the power here is as a deterrent and I would certainly hope that that will be the case, but if there is a fine, the fine goes to the Treasury. I think his question was around the dividend. I mean clearly depending on what the fine was, potentially the profitability of the business could be affected in a worst case scenario but this is a deterrent. It is not intended to generate revenue from fines as such. Finally, Deputy Young and his concerns about the fining process as well. He is right, there have been discussions for some time about giving the J.F.S.C. the ability to fine and, indeed, that is something that is not in place at the moment but may well be in due course because there are certain merits and I am supportive of the principle. What I can say to the Deputy is that in the U.K., Ofcom have the ability to fine. In Guernsey, the ability to fine exists in a similar way, so we are coming in line with other regulators and, of course, the Competition Law in Jersey also has that ability in place as we stand. So there is nothing revolutionary in what is being proposed. All we are simply doing is bringing the J.C.R.A. into line with other regulatory bodies, making it more effective, more efficient, we hope, in terms of undertaking its important duties in the Island. I maintain the principles.

Senator A. Breckon:

I did ask a question of the Minister that he has not answered, if I may. I did ask the Minister when the report was produced and bearing in mind that the judicial review had shown flaws in due process and the J.C.R.A., if he was still comfortable with bringing this forward.

Senator A.J.H. Maclean:

I thought I answered that question. The Senator asked when the LECG Review was produced which was 2009 but to answer the second part of his question, am I comfortable with it, yes, I would not have brought it forward if I was not.

The Bailiff:

The appel is called for, then, in relation to the principles of the draft law. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 39	CONTRE: 1	ABSTAIN: 1
Senator P.F. Routier	Senator A. Breckon	Connétable of Grouville
Senator P.F.C. Ozouf		
Senator S.C. Ferguson		
Senator A.J.H. Maclean		
Senator B.I. Le Marquand		
Senator F. du H. Le Gresley		
Senator I.J. Gorst		
Senator L.J. Farnham		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		
Deputy J.A. Martin (H)		
Deputy G.P. Southern (H)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy J.A. Hilton (H)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy J.M. Maçon (S)		
Deputy G.C.L. Baudains (C)		
Deputy of St. John		
Deputy J.H. Young (B)		
Deputy S.J. Pinel (C)		
Deputy of St. Mary		
Deputy of St. Martin		
Deputy R.G. Bryans (H)		
Deputy of St. Peter		
Deputy R.J. Rondel (H)		

[15:00]

The Bailiff:

Very well. Now, Deputy of St. Martin, this comes under the Economic Affairs Scrutiny Panel. Do you wish it to be referred to your panel?

The Deputy of St. Martin (Chairman, Economic Affairs Scrutiny Panel):

I think the short answer is no, Sir.

The Bailiff:

Yes, chairmen of Scrutiny Panels do not need to feel obliged to follow the example of Deputy Young. [Laughter]

Deputy G.P. Southern:

The long answer is also no, Sir. [Laughter]

The Deputy of St. Martin:

If you would like the answers slightly longer, I will do so, Sir. [Laughter]

The Bailiff:

No, no, no, I would not. [Laughter]

The Deputy of St. Martin:

Can I just agree with both the Deputy to my left and the Senator, of course, that (a) it has taken far too long to get to the House but (b) it does show that Scrutiny eventually can get their act together and get things effected.

The Bailiff:

I was about to say that the tradition so far since Scrutiny was introduced is for the panel chairmen simply to say no if that is what they mean but they may say more if they wish. I am certainly not ruling that out. Very well. Now, in terms of the individual regulations, Minister, do you wish to take them all together?

5.2 Senator A.J.H. Maclean:

I will do, Sir. I have spoken on the key ones during the introduction and I am happy to answer any questions Members may have. It is relatively straightforward so it is 1 to 11.

The Bailiff:

Very well, you propose Regulations 1 to 11. Are they seconded? [Seconded] Does any Member wish to speak on any of the individual regulations?

5.2.1 Deputy J.A. Martin:

I feel reluctant because I did have to go out and make a work phone call. It is just a question on the new Article 19A, part 4 and 5. I am not sure if I am reading the wording wrong. Part 4 says it must not exceed 10 per cent of the turnover and that is the total if there is more than one penalty imposed but then it is 5 that worries me. Is it just worded wrong or is this would be a natural ... "The Minister may by Order prescribe the manner in which the turnover of a licence is to be calculated for the purpose of paragraph 4." Well, surely a turnover is a turnover. I would just like that explained a bit. Because it is in paragraph 4, does it mean that because there may be more than one imposed? I do not quite get why it would be by Order.

5.2.2 Deputy M. Tadier:

In a similar vein, I know that the Minister did explain that the reason the 10 per cent of turnover was adopted was because it mirrors what is in place in other jurisdictions. I wanted to ask why it is based on turnover rather than on profit because, of course, turnover is not necessarily representative of how successful a company will be in any one given year. Obviously, if there is a narrow profit margin, that would obviously be a greater penalty for a company which may have had to invest quite a lot in a particular year for a small profit whereas if you are fining on the basis of profit, that seems more equitable. So if the Minister can just comment on that.

The Bailiff:

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

5.2.3 Senator A.J.H. Maclean:

With regard to Deputy Martin, it is an average of 3 years, just to be absolutely clear on that, but it can be specified by Order if need be but there is no particular reason why that would necessarily be the case. With regard to Deputy Tadier, in other jurisdictions, the process of using turnover is the one that is chosen. It is a stronger measure clearly because there are ways in which a particular operator could indeed manipulate its profits and clearly turnover is the most consistent and appropriate way to do it. Hence that is the reason that was chosen and it is in line with other regulators.

The Bailiff:

Very well. All those in favour of adopting Articles 1 to 11, kindly show? Those against? They are adopted. Do you propose them in Third Reading, Minister? **[Seconded]** Does any Member wish to speak in Third Reading? The appel is called for in relation to Third Reading. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 42		CONTRE: 1		ABSTAIN: 1
Senator P.F. Routier		Senator A. Breckon		Connétable of Grouville
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator L.J. Farnham				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy J.M. Maçon (S)				

Deputy G.C.L. Baudains (C)				
Deputy of St. John				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

Very well. So that concludes Public Business. We then move to arrangement of public business for the next sitting and I invite the Chairman of P.P.C. to speak to it.

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

Our business is as on the consolidated order paper with the addition of P.173/2011 Draft Criminal Justice (Miscellaneous Provisions) (Jersey) Law which is moved to 17th January and also P.174. I believe the Chief Minister also wants to make a comment.

6.1 Senator I.J. Gorst:

I wanted to indicate to Members that under Standing Order 89(2), I, on behalf of the Council of Ministers, shall be asking for an in-committee debate to take place on 31st January on what will hopefully then be the draft Strategic Plan. I will not obviously be in a position to lodge it or present it until 16th January and therefore it will be a shortened time period but just as a matter of courtesy, I wanted to confirm that that is what I am intending to do and that is for a half day's in-committee debate at 31st January sitting. But I will formalise this request, as I am required to do so, when we start to sit on 17th January.

Deputy M.R. Higgins:

If I may, P.166/2011 is down for 17th January. I would like, with the permission of the Assembly, to put it back to 31st January.

The Bailiff:

Right, you want to defer that one. Does any other Member wish to say anything on the proposed order and do Members agree to take on 17th January all the matters listed there except for P.166/2011 with the addition of P.173/2011 and P.174/2011? Very well, thank you very much.

CHRISTMAS GREETINGS

Senator P.F. Routier:

When I first realised that the honour of offering Christmas greetings on behalf of the Senators was to fall to me for the first time, I thought to myself where have the last 18 years gone. It is an occasion where you think about what has passed. So I think this is a season where we do think about other people and what has happened during perhaps this last year. We give thanks for what has happened and we also prepare for the future. When we focus on the earlier part of this year, we have seen some dramatic life-changing events around the world, which have tested communities and Governments of many countries. Japan, which suffered severe earthquakes: as we know, some Members of our Assembly have relatives in that part of the world, they had resultant nuclear

emissions there. There was also the Arab spring uprisings which have shaken the Middle East and are still affecting the region today. Then there are the floods that have tormented Far Eastern countries and Central America, making many people homeless and having to cope with water-borne diseases and, of course, the droughts of Africa have again left thousands of men, women and children hungry. Nearer to home, Europe is struggling with trying to balance their finances. Governments and communities around the world are facing up to the need to change the way they live. I make no apology for starting my comments with a reminder of what is happening in the world we share and the world we belong to. While we as States Members need to work to protect and enhance the lives of the people we serve, we also hopefully recognise that our position in the wider world is very privileged and we have a great deal to be thankful for. In saying that, I know that this new Assembly of enthusiastic new and some not so new Members are rearing to get started on meeting the needs of our own Island community. There will be significant challenges to be faced but, as I always think, where there are challenges, there will always be opportunities. I am confident that with the new spirit of consensus, and we have seen it here today, we can all achieve some real progress for our Island community. On behalf of my fellow Senators, I extend Christmas greetings to you, Sir, and to Mrs. Birt, to the Deputy Bailiff and Mrs. Bailhache, to the Attorney General, the Solicitor General and to all of your families. I am sure Members will want to join me in thanking all the Crown Officers for your endeavours in attempting to keep us on the straight and narrow in our deliberations. During this last year, we have said a fond farewell to our previous Lieutenant Governor and I was fortunate to meet Sir Andrew and Lady Ridgeway yesterday and they send their greetings to you to wish you a Merry Christmas. Of course, we have eagerly welcomed the arrival of our new Lieutenant Governor and Lady McColl. It is a privilege for me to have the honour of extending the first Senator's Christmas greetings to His Excellency and to Lady McColl. I do hope that they find their time among us rewarding. There are times in this Assembly when we all need guidance, support and, on occasion, comfort. During those times, we are fortunate to be blessed with the words and actions of our Dean. I would particularly like to express our thanks to the Dean for his support to this Assembly. These last few weeks, we have had elections and then more internal elections and we now have a new Chief Minister and a new Council of Ministers together with their Assistants. We have new Scrutiny committees, P.A.C., P.P.C. and members of those committees. I have to say I am really, really optimistic about the future of this Assembly. Acknowledging that there are some real challenges ahead of our community, I do believe that if we are all prepared to grasp the opportunity to work together, then I am sure we will go a long way to meeting the needs of our Island community. **[Approbation]** Of course, the success of the States is not solely down to elected Members. The Greffier and his team in Morier House are, I am sure our Members will agree, real stars and we owe them a debt of thanks. **[Approbation]** We are, of course, also supported by the excellent law drafting officers and civil servants who work tirelessly and advise us in all of the departments in which we work. The ushers, whose dulcet tones announce the arrival of the Bailiff and together with their quorum-counting skills, carry out their duties with a real sense of occasion. Our new tea ladies have a real technique of displaying and I am afraid rationing the biscuits. **[Laughter]** As States Members, we have a duty to express our policies clearly. I would like to thank all the media for the occasions when they do report correctly **[Laughter]** and in wishing them a Happy Christmas. I would particularly like to wish the comment writers a Happy New Year **[Laughter]** and hope that they do find some positive matters to comment on. **[Approbation]** With this new Assembly, we are able to have a fresh new beginning and on behalf of all the Senators, may I wish all Members, their families, and everyone associated with this Assembly a Happy Christmas and a productive and peaceful New Year. **[Approbation]**

The Connétable of St. Helier:

Looking around the Chamber at all the new faces still finding the experience of being a States Member strange and exciting - perhaps slightly less exciting and slightly more strange after 2 days - I am struck by the diversity of this Assembly. For how long we do not know of course; every 3 years we seem to be asked to remove the Constables but there have been 3 categories of Members since time immemorial, Deputy Le Hérissier can probably tell us exactly when, though their identities, of course, change. The Constables have been part of this diverse Assembly for longest. The Senators are, after all, relative newcomers. One of Jersey's strengths is, of course, outside the Chamber, its diversity, and we have been welcoming immigrants for centuries, persecuted Huguenots, exiled poets from France, Italians, Bretons, Madeirans, Poles, the list goes on and on, all of whom have contributed to the variety that makes Jersey special. **[Approbation]**

[15:15]

Returning to the Assembly briefly, it is regrettable perhaps that there has not been sufficient representation of our immigrant communities in the States or, indeed, sufficient representation by women but that, of course, may change. The year has been marked, particularly for the Constables and the Honorary Police for which we are responsible, by the tragic events of 14th August in Victoria Crescent. Judging by the sympathy and generosity of Jersey people expressed towards our Polish community, and judging by the enormous number of hours put in by the Honorary Police across the Island to support the States Police, Jersey's response to this domestic tragedy has been deep and united. On a recent private visit to Madeira, I had the opportunity to visit the residential home in Ribeira Brava partly funded by the Jersey community through the Side-by-Side charity. What a wonderful facility we have provided over there and it proves that we do indeed look after our community. While, of course, we cannot keep Jersey special unless we control immigration, there is not room for everyone who wants to live in this precious Island, we benefit enormously in economic, social and cultural terms from being a diverse community. I would like on behalf of the Constables to thank everyone who contributes in a paid or voluntary capacity, whether they are Jersey born or have adopted Jersey as their home, for the running of our Island and to creating its diverse cultural and social identity and to wish them all a Merry Christmas. I would like to extend this greeting to you, Sir, and Mrs. Birt, the Lieutenant Governor and Lady McColl, the Dean and Mrs. Key, the Deputy Bailiff and Mrs. Bailhache, the Attorney General and Mrs. Le Cocq, the Solicitor General and his partner together with all the staff in the Greffe and the Law Officers' Department, to Stuart, Paul, John and Dean, the ushers, and Cathy our tea lady and I would like to thank Members for contributing yesterday to a surprise gift for them that they will be getting shortly **[Laughter]** and our colleagues on the Senator benches and those on the Deputy benches together with the media and we would like to wish everyone our very best wishes for a Happy Christmas and a healthy and fulfilling 2012. **[Approbation]**

Deputy R.C. Duhamel:

As Minister for Planning and Environment, there is not a lot you can do about the weather **[Laughter]** but I am working on it and following the unseasonal weather we have had just recently, I must admit I am not feeling very Christmassy. I do not know how I would do if I were an Australian politician - barbecued turkey on the beach while having a swim and all the rest of it - but for me I am one of those I think who is dreaming of a white Christmas and I do not really start to get Christmassy until the snow is starting and you are cuddled up against a nice fire. So what was I going to say? **[Laughter]** It is customary to wrack my brains and come up with something novel or try to and I thought I could do no better than perhaps to start off with a small anecdote and anecdotes at Christmas, a lot of them are Christmas crackers and have probably fallen out of a Christmas cracker but I will start there because I think there is a message. A family had twin boys whose only resemblance to each other were their looks. One was an optimist and the other a

pessimist and just to see what would happen one Christmas, their father gave every imaginable toy and game to the pessimist and placed a huge pile of horse manure in the optimist's room. On Christmas morning, the father found the pessimist crying surrounded by all his new gifts. "Why are you crying?" the father asked. "Because all my friends will be jealous. I will have to read all of these instructions before I can use this stuff and the batteries will eventually all run out", said the pessimistic twin. When he went into the optimist twin's room, the father found him dancing for joy in the pile of manure. "Why are you so happy?" he asked. The optimist then replied: "There has got to be a pony in here somewhere". **[Laughter]** I have been accused by some Members of the House, in particular the Member sitting in front of me, of being an incurable optimist and I must admit this new House is filling me with optimism and some optimism that I have not had for a long time. I think these last 2 days have shown that there is a new spirit of goodwill. I do not know how long it will last **[Laughter]** but it is at least present and certainly with the speech deliveries, they have all been done in good humour and I think we have managed to make a good start in kind of healing the rifts between both sides of the House. Whether or not my optimism continues because I am still looking for Deputies to come on the Planning Applications Panel, I do not know but maybe. I still live in hope. The other thing is that we have a new fairly young Chief Minister, only 42, and I am told that is the age at which you certainly know the answers to life, the universe and everything, so with a Chief Minister with that omnipotence, I am sure we are going to do a good job together. So Christmas, it is just around the corner and, as some Members have said, it is a time for families and making time for your families, reflecting on what has gone on in the past and making resolutions for the new year to do things better. We have all got our own way of looking at things and by working together, I think we can do a better job perhaps than we have done in the past. So I would like people to spend their Christmases not putting on too much weight to turn into the standard heavyweight politicians that we all become sitting on these very comfortable seats but to give some reflection as to how we can all pull our weight and unite the 3 estates of the States. So I would like to offer the best wishes for Christmas and the new year from the Deputies' benches to our Senators and our Constables, to you, Sir, and your lady wife, to the Deputy Bailiff and his wife and the Governor and his lady wife, to the Attorney General and the Solicitor General and their partners and wives, to the Dean, his wife, the Greffier, the Deputy Greffier and, of course, the Assistant Greffier **[Laughter]** who is not here, the Viscount, the ushers, the tea lady, all the staff and anybody else that I have left out. Enjoy yourselves at Christmas and we will be ready in the new year to make the wave. **[Approbation]**

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

Now just a moment or 2 on behalf of the real Back-Benchers in this place, the Attorney General, the Solicitor General and myself, we do want to thank the Members for a year of great debate and commitment. I had 2 guests in the public gallery this morning who are both from New Mexico and I just had lunch with them and I asked them what they thought of our standard of debate and they said: "We are American. You guys are so much better at it than we are" which I thought was praise indeed because I think sometimes the Members of the House beat themselves up far too much about the standard of debate and commitment that goes on here. There is no truth in the rumour that the Solicitor General, the Attorney General and I have become devotees of *Strictly Come Dancing* to such an extent that we are from January equipping ourselves with scorecards **[Laughter]** so that at the end of every speech, we can flash them up **[Laughter]** and if we do, I do not want to be the role of Alesha Dixon. May I also just say, Sir, that in this season of goodwill to all men, I want to thank the Assembly for its adoption of the Canons of the Church of England in Jersey back in January and I can report that they have now gone through the Privy Council and form part of the custom and tradition of our Island. Please do not let Members beat themselves up about length of time that it takes them to process things. The original Canons were written in 1623 and the process of renewal started every bit of 20 years ago so the Church looks at this Assembly

and thinks that this Assembly works with remarkable speed. **[Laughter]** It does just give me cause to say that I agree totally with everything that the Senator, the Constable and the Deputy have said about the very difficult situation in which the world finds itself and, of course, because we are preoccupied with events in the eurozone and will there be a single currency and all of that, we are tempted to forget those who find the very idea of having a currency worth having a strange and elusive dream and where simply having enough food for them and their families for this next week is about as far ahead as they can look. Jersey has every reason to be proud of its record of *per capita* charitable donation and to see that foundation built on in increasing generosity following the example of those first wise men. My friends in the gallery asked me what the Prayer meant. French is not something you get in a big way in New Mexico; Spanish, yes, but French, no, and as best I could I translated over lunch and it just struck me that as we face the future, the gifts of wisdom and prudence, unity of heart and a determination to maximise the wellbeing of the people committed to the care of this Assembly, all things for which we pray every time we meet, are needed every bit as much as we face 2012 as they have been in this last year. The Deputy talked about the weather and as Minister for Planning and Environment, he did not quite have responsibility for it. I have to say to him that the previous Lieutenant Governor, Sir Andrew Ridgeway, always remarked that if there was a great public event, if the weather was fine, the credit went to him. If it was bad, I had not been praying enough. **[Laughter]** It just remains, Sir, for me to wish all Members, and those who support the work of this House, God's richest blessing at Christmas and throughout 2012 and to thank them for their camaraderie and their friendship. **[Approbation]**

The Bailiff:

I have always been assured by Members that when they are in the coffee room, they can hear everything that is going on in the debate. Well, following the kind remarks of the Connétable of St. Helier, that assertion is about to be put to the test in relation to Cathy's present. If Cathy is surprised by her present, then I fear that some Members have perhaps not been telling me the full picture about what they can or cannot hear in the coffee room. But I would like to thank all Members, Senator Routier, the Connétable of St. Helier, Deputy Duhamel and the Dean for their good wishes, which are very much appreciated. As I have said on previous occasions, chairing the Assembly is not perhaps as straightforward as one might think. With 51, as it now is, strong-minded individuals, it is inevitable that during a politician's career, he or she will face rulings from the Chair with which he disagrees perhaps strongly but I am always appreciative of the spirit in which Members accept rulings and certainly, so far as the Chair is concerned, and all of those who sit here, our sole intention is to conduct proceedings fairly and impartially as best we can. It seems a long time since this occasion last year. Perhaps it has something to do with the fact that the States this year sat on a record number of days. The previous record was 60 days; that was in 2009. This year we have sat on 63 days and that includes the longest ever single debate, namely that on the new Island Plan which was debated for just under 40 hours. But the States has nevertheless taken a number of very significant decisions during the year. Clearly, it is subjective in a way to pick out particular matters but I would like to mention just these. There is, of course, the Island Plan itself, which will determine how the Island is developed for the foreseeable future. There are the new long-term care provisions so that people will have access to funding if care is needed in their old age.

[15:30]

There is a Control of Housing and Work Law, which is intended to address the issue of immigration. There is a Freedom of Information Law, which is intended to increase the information available to the community and to the public and there was the decision to raise the

State pension age to deal with the changing demographic situation. Now, whether you voted for or against these measures, what is undeniable is that they are all extremely important matters which will have a major impact on our community as we move forward. So the States can look back with satisfaction that it has addressed a number of important issues. I know that one of the issues that Members have commented on previously is the low electoral turnout and to that end, 2011 was an important year because it was the first occasion on which, except for 6 Senators, there was an election when the whole Assembly was up for election on the same day and this appeared to pass off I would suggest very successfully, and our thanks are due to all those who conducted the electoral process so efficiently in that regard and we now have 16 new Members following that election. Another way of raising awareness about what takes place in this Assembly is through our young people and I am delighted to say that the primary school visits have continued to take place. I understand from the Greffe that through the Cultural Development Officer with the assistance of the Greffe, some 966 Year 5 children have attended from primary schools as well as some from secondary schools and, of course, the Youth Assembly so I commend all those involved in this because it really will help, I think, in making young people more aware of our system of government and what takes place in here. **[Approbation]** Now, the States depends on the hard work of so many people behind the scenes and tributes have already been paid but I would like to endorse them and first of all there is the States Greffe. As I say, every person who has spoken has mentioned them but I would like to endorse in the strongest terms I can my admiration of the work which the Greffier, the Deputy Greffier, the Assistant Greffier and all of their team undertake. We are all very fortunate that their expertise and their efficiency is great. **[Approbation]** But there are others, of course. The Viscount's Department, the Deputy Viscount is regularly here, they play an important part, the ushers, the chief usher and his team, 2 of whom are up in the gallery. We really do very much appreciate the assistance that they give and they keep the Assembly running smoothly with invariable good humour. **[Approbation]** I too would like to thank the Law Officers for their attendance here and the expert legal advice which they give to Members when Members want that and to the Dean for all that he does to help us in our processes. **[Approbation]** I know he is not able to be here this afternoon but I also would welcome His Excellency. He has shown great interest since his arrival here and I know he is settling in extremely well. **[Approbation]** So on behalf of myself, the Deputy Bailiff, all the officers of the States, thank you all very much. I return the good wishes. I hope you have an opportunity to relax with your families, recharge your batteries for what lies ahead and I hope you have a very Happy Christmas and New Year. **[Approbation]** So that concludes the business of the Assembly which will now close and reconvene on 17th January 2012 at 9.30 a.m.

ADJOURNMENT

[15:34]