

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 20th JANUARY 2010

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[9:30]

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

**PUBLIC BUSINESS – resumption**

**1. Plémont Holiday Village: Acquisition by the Public (P.144/2009) – resumption**

**Connétable G.F. Butcher of St. John:**

For the same reasons given yesterday, the Planning Applications Panel are going to remove themselves from the debate.

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

Very well, members of the Planning Applications Panel will be withdrawing from the debate. The debate resumes on the proposition of the Connétable of St. Ouen relating to Plémont. Deputy Tadier, you were on the Bailiff's list from yesterday.

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

I think I drew the short straw. Nonetheless I will try and make some sense of this. This is a fairly difficult debate, I think, in particular for newer Members perhaps. Something that we knew was coming because during the hustings it was a very hot topic as we toured through the Parishes. It is not an easy decision, I think, to make either way. We have heard some very compelling speeches on both sides yesterday; first of all from the Constable of St. Ouen, latterly from the Deputy of St. Ouen, and it is good to see a bit of loyalty there; it is nice to see that the Deputy is fighting for his Parish. I wish often when I have brought propositions in the past to protect lands in St. Brelade I could also have the same support from my Constable and my Deputy. Alas, that was not the case. Congratulations to St. Ouen. But we are talking about vastly different sizes of land here. Indeed, the Chief Minister has given me food for thought, because I think he came out with some very compelling reasons as to why maybe we ought to avoid compulsory purchase. We know that on the one side we do have financial constraints at the moment. We also know that there is a level of uncertainty about the price of the land. There is a level of uncertainty about whether the land will gain planning permission or not. These 2 things going on simultaneously, I must admit, do make me rather uneasy, which I am sure is the case for other Members. But on the other side of the coin, we do know that there is great public feeling about the land at Plémont. We also know, I am quite sure, that if the land was completely blank today, the Minister for Planning and Environment certainly would not give permission for any kind of development on that land, and I think that is also a consideration to be made. What makes me even more uneasy is that it seems to be that we are presented with 2 options here, neither of which sit very easily with me, and with other Members, and with some members the public, I believe. I will explain what I mean. It is that on the one hand we are being told that we can go down the compulsory purchase route with all the possible litigation perhaps, depending on planning issues, with the unknown expense; but on the other hand if we do not accept this proposition today - if we reject it - it seems to me that what we will inevitably have is buildings on that land, and that is not something that I am happy with either. So, I think Members really should ask themselves the very basic question: what is it that we as individuals in the States, but also as a collective, want for that land. It is very clear to me: I would like to see Plémont restored to nature. Some Members will agree with that; other Members will not. I would say that we need to vote accordingly; and that is really the rub, because from what I have heard today if we reject this proposition then there will be buildings on Plémont. The only way I can see of ensuring that it is returned to nature is to support this proposition with all the uncertainty and perhaps with all the flaws that people have mentioned. I would like at this point maybe to ask the proposer, as was mentioned yesterday, whether he would be willing to take the parts separately, and he has nodded, so that is reassuring, because I think one way forward that I would like to see, as I have said, is to keep Plémont, return it to nature, without going down the route of compulsory purchase. The ideal situation would be for the States to negotiate in the

meantime for the purchase of that land and then, subject to a good price, an approved price, we could purchase the land and do that. I think I am going to keep this speech short, because that is really the rub of it for me. We are faced with a simple, in one sense ... do we want the land to be used for developers? It is very curious. I found it very strange to come into what used to be the lunchroom and immediately it is being put to very good use with a model of what the houses would look like at Plémont. We are being lobbied the very first day back by developers who want to show us their great plans for the land, and they do look pretty impressive. But there is no counter plan; there is no model there to show us what the headland would look like if it were returned to nature, with models of people walking their dogs with people riding horses around there, because simply obviously there is no money to be made in that. That is what it boils down to, does it not? This piece of land, the figure of £14 million has been bandied around. Of course we know that is a completely misleading figure and obviously any price paid would be significantly less than that. We can, on the one hand, agree to bring in a £100 million plus incinerator which we know will be defunct. It is not even a short-term investment because it will harm the health of our children. We know it is old technology. So, we are quite happy to spend perhaps 10 or 15 times more than that amount on Jersey's biggest ever capital spending to harm the health of our children, but we are not willing to spend perhaps £5 million to secure a piece of land in St. Ouen which can be enjoyed by the whole Island. This is really what we have to ask ourselves. So, really, I would ask Members who do want to see Plémont restored to nature, can we afford to spend a few million pounds to return it to nature and to the public in perpetuity? I think the answer must be yes.

#### **1.1.1 Deputy T.M. Pitman of St. Helier:**

Coming into the States I always hoped that my principles would see me endeavouring to support propositions such as this for, while I know some suspect that I wear a Che Guevara t-shirt under my suit - and I confess that I often do - it is nevertheless at least a green t-shirt, because I believe it is impossible for any politician seriously committed to ensuring our long-term future not to be supportive of environmental issues in developing policy; and this certainly is an environmental issue. I have to say that reading the proposition and the various comments, and listening to speeches so far, I find myself, like my colleague Deputy De Sousa, full of worries and as yet unanswered questions, questions which I hope the proposer or someone will answer. My one overpowering impression, however, on what I have heard so far is to be appalled at the realisation as to what total thrall this Government is in to the wiles and machinations of property developers. It truly is not good enough that we seem to go weak at the knees at the thought that these people might challenge any decision that we make. Where, I ask, is our backbone as Government? The issue of property developers brings me to the speech of the Deputy of St. Martin, and what a firebrand, I have to say. Indeed, listening to the Deputy's speech railing against those in government who think everything should be totally driven by money, wow, a case of the Deputy arriving at Glenaa by way of Damascus I thought when I listened to him. I agreed with every word, and I was even going to put it down as his best ever speech in the Chamber; certainly since I have been here. Unfortunately my impression was somewhat spoiled slightly when I took the trouble last night to check the town park debate on Deputy Southern's amendment to secure funding and found that the Deputy of St. Martin voted against it. So a road to Damascus conversion or a case of N.I.M.B.Y.ism (not in my back yard) as another Member stated? Well, I am willing to give the Deputy the benefit of the doubt, and I hope that is the case. I look forward to seeing the victor from the Council of Ministers very shortly. What about the proposer, the Constable of St. Ouen? Unfortunately I checked the order; he did not vote in that debate on the town park, so we will have to give his new found support to the people of St. Helier the benefit of the doubt as well; and I am pleased to hear it. Now, I have to say that a part of me also leans towards rejecting this, for in another excellent speech, Deputy Martin really made some very good commonsense points.

[9:45]

Who could argue with the fact that many residents of St. Helier who have waited so long for this succession of governments now to make a town park a reality, would be absolutely overjoyed to wake up to housing with a green aspect included in the latest designs put forward by the developers' architect. They are really quite impressive, you have to concede. Yet, what I really need to know, and hopefully the proposer or the Minister for Treasury and Resources - I do not know if he is allowed to speak again - can give me the answer. What assurances could be given if the application to develop was accepted, that this 70 per cent of land to be returned to the public really would guarantee that the likes of ordinary Joe Public really could just roam at will, take the kids, the dog, the picnic, *et cetera*? Because that is a concern, I think. It certainly all sounds very good. From the other side of the coin I would also like to know, because I am not yet clear on this, if we do support the proposition, what is the probable knock-on effect of what might, as a result, be sacrificed? As I say, I have heard the proposer talk about the town park, and as a representative of St. Helier I would hate to see - and I would not accept seeing - one cast aside to provide the other. Finally, and Deputy Tadier has beaten me to the punch a little, let us just remember that without the incinerator contract fiasco, and even more so the massively overpriced incinerator itself, this proposition really would not present us with such a dilemma. As I think of it, I too would like it noted that I would like the proposer to consider taking those votes separately, because I think it might be the difference between getting what he really wants eventually and not, although I understand his frustration - he probably wants to get this done and dusted, and I think that is quite understandable. So, those are my concerns. They may change the way that I vote, dependent on the answers given. Yet, full of this, I am still minded deep down to support the proposition, if for no other reason than to send a warning shot to developers and speculators that we are the ones to decide on the way this Island is developed in the future on behalf of the best interest of the Island's people, both this generation and those to come in the future.

### **1.1.2 Deputy J.A. Hilton of St. Helier:**

Like previous speakers, I too supported propositions to investigate the possibility of the States acquiring the land at Plémont for the benefit of the public. I supported them because I believed the States had a duty to do so. We will only have one opportunity to influence the eventual outcome of this site. Not to at least try and find a solution would have been wrong in my opinion. I understand entirely why some Islanders think we should go ahead regardless of the cost to the public, but I cannot support that view. Even though my heart is saying yes, my head is saying no. It seems to me the process the Constable of St. Ouen has adopted is fundamentally wrong for all the reasons the Chief Minister set out very clearly in his speech yesterday. My instinct about compulsory purchase is that it is not the best way to proceed, not least because once it is started there will be no turning back. I am a great believer in process and feel, if you get it right at the outset, everything else will fall into place, without the States getting hopelessly bogged down in the mire and expense of litigation. It may be, when the planning process is complete, the States can once again resume negotiations with the owner in an attempt to come to an agreeable solution. In an ideal world I would support the purchase of Plémont for the public, but before we can get to that point of knowing whether it is possible or not, the owner has an absolute right to have his application considered by the Planning Panel. It is with great interest I read the comments contained within the document that was distributed to States Members yesterday. Not surprisingly, a large majority of the comments left in the document were written by parishioners of St. Ouen which, considering the exhibition was held in St. Ouen, was to be expected. But what rather surprised me, according to my calculations, was that 28 parishioners supported the plan for development proposed by the owner and 9 objected, all of whom were recorded as being parishioners of St. Ouen. So, contrary to what has been reported in the media, it would seem at least as far as those St. Ouen residents were concerned who visited the exhibition, the majority do support the proposal. In summary, I cannot support this proposition, but hope if this proposition does not have the support of States Members today, the Council of Ministers will still try to broker a deal when the planning process is finalised, which they can bring back to the House for further consideration by the States Assembly.

### **1.1.3 Deputy A.K.F. Green of St. Helier:**

Members will be pleased to hear, or at least I hope some will be, that I have fully recovered from choking on my cornflakes. When I first heard of this proposition, I was torn, I think like many Members; torn between the wish to put right a wrong and torn between the cost of doing so. Until yesterday, I sat well and truly on the fence; but people will be pleased to know overnight I have jumped off that fence. We have a unique opportunity in front of us to put right a wrong; a wrong of previous administrations - a previous administration that allowed the development on the Plémont site. The question I ask is: "Have we the courage? Have we the courage to do it?" This is not about N.I.M.B.Y.ism. This is about righting a terrible mistake of the past. This is not a once in a lifetime opportunity; this is the opportunity, I would suggest, for the rest of time. Everyone, and I think everyone, will agree that the development that is proposed is a great improvement; and so if you ask people what they think of the proposed development, they are going to say it is an improvement: "It is a great improvement." But is it good enough? I would suggest it is not. If we agree with this development, we are just compounding a previous error of judgment, not righting a wrong. One of the things I learnt in my years of management is that when you make a mistake, you do not continue to compound that mistake. When you get an opportunity, you learn from your mistakes and you put them right. We have an opportunity - an opportunity to remove this carbuncle and protect a special site, not for the Parish of St. Ouen, but for the Islanders and for all the generations to come. Let us take a quick look at our environmental record so far. We do not need to go too far. We just need to drive east along Victoria Avenue and have a look at what we see on the Waterfront. We see a very large power station. Oh, sorry; that is the Radisson Hotel. We see a Chernobyl-type structure being developed. Yes, that is a new energy for waste plant; a carbuncle of enormous proportions, on the edge of our Ramsar site, devastating our beautiful coastline. What a welcome for visitors; what a legacy for our children. We should hang our heads in shame. The Deputy of St. John asked yesterday: "Where are the people supporting this?" implying that we should only support things that are popular. Well, I will tell him where they are. They are sick and tired of our inaction. Regardless of whether it is popular or not, we should do what is right. Income tax is not popular, but we have it. I believe that many Members, those that have spoken and those have not or are yet to speak, have concerns regarding compulsory purchase and all that this will commit us to: the unknown cost and the years of legal wrangling. I have concerns that the Constable has had to bring yet a third proposition on this matter, despite the fact that 2 previous Assemblies have agreed on 2 separate occasions, and indeed instructed - as I understand it - those in office to negotiate a purchase. But nothing has happened. It seems to me that some Ministers and some civil servants hold this House in contempt, and no matter what course of action is agreed, they continue to do what they want to do, regardless. That is why we find ourselves here today. Of course many Members will be concerned about the cost. I am. The developer will be looking for a return on his investment, and there is nothing wrong with that. This Island needs people that create wealth, that create jobs, that pay tax; and the developer, I would suggest, is in this deal to make a profit, not for any idealistic or altruistic reasons, and as long as we understand that, we have got room for movement; we have got room for negotiation. We have land that is waiting to be developed. The States have land which is waiting to be developed, all over the Island, and in particular at the Waterfront. Surely we can agree a land swap. But, of course, to do so, we have to be proactive, we have to be creative, and we have to - dread on dread - talk to the developer. It is something that we appear not to be able to do. Some people might say we are selling the family silver. No, we are not. We would be swapping a valuable piece of land for an invaluable priceless piece of land for the Islanders of the future, for our children, for our grandchildren. As it stands, many Members have concerns over this proposition; as I said particularly the compulsory purchase element. Given that this Assembly, or previous Assemblies, have agreed to obtain the site twice before, one way forward, I might suggest, is for the Constable to withdraw this proposition at this stage, regard this debate as a slap on the wrist for those who should have carried out this work before, and an instruction to get on with it, allowing him of course to come back with a proposition if they fail to do so. We need to have time for meaningful

negotiations to take place, reserving the Constable's right to come back. But this is a once ... once we vote on this, if we vote no, then Plémont will be developed and we will have lost it for ever.

#### **1.1.4 Connétable D.W. Mezbourian of St. Lawrence:**

I rise to speak really without trying to repeat what other people have said, but I feel that I want my voice to be heard on this proposition. Firstly, I need to support the Connétable for having brought not only this proposition but the earlier 2 that he has done, because it is his duty, I believe, as Connétable to be acting in this manner and doing his utmost to protect the headland at Plémont. I was elected on a mandate to preserve our countryside. I do not support rezoning of green fields. I voted against all the rezoning propositions a couple of years ago, and I also do not support the proposal within the Island Plan to develop the glasshouse site within St. Lawrence. I take this opportunity to remind the Minister for Planning and Environment - although he has withdrawn from the Chamber - that my opinion on that remains the same. I have already told him I am against the proposed development, and I repeat it again in public. He has given a commitment to the Constables that ...

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

Let us get back to the general business.

#### **The Connétable of St. Lawrence:**

Yes; I will do. Nevertheless, what I am doing is showing my green credentials. However, the timeline to bring us where we are today, as we know, started in 2006 when the States agreed that it would be in the public interest for the headland at Plémont and the surrounding associated land to be preserved as open space for the enjoyment of the public of the Island; and that is irrefutable. We have already agreed to that, and as has been said, the issue is the timing, as Senator Le Sueur said yesterday: "The timing of the proposition is not helpful." What we must remember is that following our decision that we should acquire the land, a planning application was put forward and subsequently refused by the Minister for Planning and Environment. They have now come forward with another application which is due to be considered, I understand, in the very near future. So, the timing of this is not helpful. Certainly, as the Chief Minister said yesterday, there must be something wrong with our system if it falls to the Minister for Planning and Environment to proceed with a compulsory purchase application and yet also be in the unenviable position of needing to make a determination on the application. It has been said earlier that if the compulsory purchase route is taken there is no going back, and we know that for certain.

[10:00]

However, I would submit that as soon as the concrete has been poured on Plémont there is no going back. So, what we want to do is reach middle ground between compulsory purchase and acquiring the land as has already been agreed by the States. So, that brings me to the proposition itself, whereby the Connétable has already been requested to take the vote separately so that we may have the option of voting in favour of section (a) which is to approve, subject to the availability of the necessary funds, voted by the Assembly, the acquisition by the public of the site known as the Plémont Holiday Village. We have heard that the valuation of the land cannot be determined before the planning application has been decided upon, so it seems to me quite clear that what we must do is support the Connétable by voting in favour of (a) of his proposition to approve, subject to the availability of the necessary funds. That is the first step. After that the planning application will be decided and we will be in a position to go forward and negotiate to acquire the land. To sum up, I was at the public meeting on Friday at St. Ouen's Parish Hall and the overwhelming impression was that those present want the land to be acquired for the public, and of course we have seen the comments in writing from others who viewed the exhibition, and quite rightly so. They should be allowed to give their thoughts on the proposals. However, one thing I do recall at the meeting was that the architect said that, I believe, there had been no discussion by the States

with them to propose a valuation. My understanding, from what he said, was that the architects themselves had come up with a valuation based, as we know, on the Bal Tabarin compulsory purchase, and they had then approached Property Holdings to find out whether that valuation would be realistic, so I am still of the opinion that no one has actually sat down with the architect acting on behalf of the owner. So, just to summarise, I am totally in support of the Connétable's attempts to acquire the land for the public. I ask that he take the propositions separately so that we can vote on item (a) and I do urge the House to go with him and to finally give the approval to acquire the land, subject to the availability of the necessary funds, and that, I believe, is a debate for another day. Thank you.

### **1.1.5 Deputy D.J.A. Wimberley of St. Mary:**

It is an important debate because it raises fundamental issues as one or 2 have pointed out already, and I am going to focus on 3 things, really. The first is the attitude of the States - which I think is in question here - about everything really. What is our overall stance? Also on the price, which is clearly a key element in this whole debate. People have expressed worries about other priorities and obviously this is right, and they are legitimate worries but of course the degree of the worry - the extent of that worry - depends on the price that we end up paying. The third factor is the moral issues surrounding the determination of the price because it is not in a vacuum that you determine the price of a piece of land. By the way, please let us drop the sectarian walls that I sense under the surface between town and country, and even between Parish and Parish. This is not a Parish issue. I note that the 3 representatives, well 2 representatives from St. Ouen and a Deputy who lives in St. Ouen have all spoken in favour, but that it not the point. Nor is it the point that 140 people went to the Parish Hall in St. Ouen and expressed, very largely, a view that we should take steps to acquire this land. That is not really the issue either and I would refer Members to the Line in the Sand as a more representative, as a wider version of what the public are saying to us. Just a few words about the price to get Members in the right frame of mind, although I will return to the price. We have been given this figure of £14.7 million, or over £14 million in media terms and that is a scare figure. That is designed to stop debate and when Deputy Hilton expresses her worries that in the consultation document that BDK have given us, that the majority of people who went to their exhibition in St. Ouen, which was around 70 people I think, that the majority of them said they would rather see it developed than acquired. In the back of those people's minds was an enormous price tag that had been put into the public domain by the people who do not want to do it. I really do have concerns about this management of public opinion. We read in the Chief Minister's comments on page 3 that Jersey Property Holdings have put a value on the land at current use, of less than £3 million. I have never seen that figure of less than £3 million in the paper or heard it on the radio, and of course that raises questions about the nature of the way we engage with the public. We tell them £14 million, sorry, we do not tell them, I beg your pardon. It gets around that it is £14 million. It is put out there by the developer and it is not challenged, and that £3 million figure I assume has been around for some time. I asked the question, as I was asked to do in writing last night, and I have not had the reply so I do not know what date that was found, but there you go, £3 million. I think we should bear that in mind as we go forward in this debate. So, I will turn to the attitude of the States in general. I believe that we should, as an Assembly and as a society, raise our horizons and some others have referred to this sort of area. Jersey is a good place to live by and large. There are qualifications to that, of course. There is some way to go on issues of equality for example, but by and large it is a good place to live and we should be striving to make it better. Yes, we do look after the roads, we do run a school system, we do have a fire service and so on. We run the ordinary facilities of civilised life, but when it comes to our heritage we quibble and wobble. When it comes to the town park it takes 12 years to get anywhere because fundamentally it is seen as an option. It is seen as something that exactly would make life better but it is not essential, and when it comes to our landscape, as in this case, we talk about compromise. We talk about, well, pity but where do we have to go? When it comes to Fort Regent, which will be coming up later, we could focus on the potential. We could focus on the fantastic provision of sporting facilities up

there, about the ramparts and the potential of the ramparts, and the views and the gardens, the historical interest. We could talk about gathering all the stakeholders together, the States leading, putting in plans to shape the place and involving everyone, but what do we hear from the Ministers? "We have not got the money." Cautionary note on this proposition, we probably cannot do anything. How depressing and what a lack of ambition that displays to the public. Jersey, one of the wealthiest places on the planet. Jersey, one of the wealthiest places not only in financial terms but also in the assets and talents of its people. We have an amazing range of voluntary activity and sporting and cultural life. From a community of 90,000 it beggars belief. I have had visitors staying at our house and they say they just cannot believe it, there is just something on every night. There is indeed, and that is in a small community. Yet we have this mantra filtering through into the back of our minds: "We cannot do it. We must be cautious, we have not got any money." For the avoidance of doubt, I am not advocating profligacy and other Members have spoken about the incinerator, but of course there are other aspects. We should not be indulging in subsidising things if that is avoidable. There should be prudence in the public finances, we have to have a war on waste. We should take intelligent decisions to save money. Prevention in the field of crime or in the field of ill-health is cheaper and better than cure, but I am deploring the lack of ambition. I would say to Members that the problem does not lie with the States Members. They voted twice to do this, as the previous speaker the Constable of St. Lawrence has pointed out and others have too. We voted for this to happen but it does not happen. The Council of Ministers has been instructed by previous propositions to explore all options and nothing has happened. It is pitiful and there is a paralysis here which we have to explode. We have to go past this to a better way of doing things. Before moving on to the question of cost, I just want to say a few words about the proposed development and I must say that when I went to the offices of BDK - or it might have been Image PR, wherever it was - the tea was the best tea I have ever drunk, so congratulations. It was very good. I am a bit of a fussy about the quality of the water and the quality of the tea, but it was good. However, to get back to the issue at hand, the exposition of the plans by the architect was very persuasive. The 30 houses all in granite, in their little clusters - it was persuasive and I came away having some doubts, I must confess, particularly when he was talking about the amount of land that would be going to the public because the whole development had been shifted to the south. But I have had another sort of take on this because, in fact, of the model downstairs which has taken over what used to be our lunch room. There is this vast model of the proposal and I must say, if you look at that model and you think about this little cluster of what are not Jersey farmhouses, they are Jersey suburban pastiche farmhouses stuck in the middle of nowhere on a cliff, it does not make any sense at all. It is completely out of place and if I imagine riding up there with my group of cyclists, although I do not do that anymore, but I used to, and there is this weird piece of suburban pastiche Jersey in totally the wrong place. It does not stack up even in aesthetic or planning terms, but you may say that is a personal opinion. So, is the proposed development appropriate and what would be appropriate? The first point of course is Plémont itself. Plémont, one of Jersey's greatest treasures and to suggest, as some have done, that this is a sort of private park for the St. Ouennais is ludicrous. I have been to Plémont beach on a Sunday afternoon and it is packed with Islanders from everywhere, and visitors too. It is a wonderful place. I would just add to this matter of the importance of landscape, that at the Culture Conference, which I think the Minister attended, the representative from the Isle of Man spoke about a survey which was done among Manx people, and what came out of this survey about their heritage was that the most important aspect of their culture, to the Manx people, was their landscape. That was the thing that came top of the poll. We should not underestimate the importance of the landscape to the people of this Island, and you only have to remember the images of the Line in the Sand.

[10:15]

In planning terms, outstanding beauty goes without saying, and that would be violated by the proposals but the other aspect is, and people have not mentioned this, is that there is a presumption against development if it is isolated and if people would then have to use their cars to get anywhere, and basically that is what they would, in practice, do. It is pretty well as far away as you can get from anywhere and in 1998/1999, I think, a proposal was rejected for precisely this reason - that it was contrary to sustainability. The real reason that this development might be considered to be appropriate, is our population policy, one of the little elephants in the room. The corollary of this endless bringing more people into the Island is that it is, in fact, appropriate to build anywhere and if it is Plémont, it might as well be somebody else's field, as the Constable of St. Lawrence pointed out. It is sad that this is where the policy leads us, but that is where we are. But the question remains, of course, whether Plémont is an appropriate or right place to put a development. I sum up this whole section about the appropriateness of putting this development, or something similar - but we will talk about this proposal on Plémont - is to imagine your reaction to the statement: "Let us build on Grosnez." Why not, it is just a piece of gorse with a very nice view of other islands and the Paternosters are beautiful. "Oh no, you cannot", is my instant reaction and, I suspect, that of everyone here and everyone listening. You could not build on Grosnez, so the issue is why not? What is the difference between Grosnez and Plémont? The difference is, of course, one thing. Plémont is owned by Mr. Speculator, in the form of Mr. Hemmings and I will come on to that now. In the context of the issue of price we are talking about how much should we be thinking in terms of, and this is vital to the whole proposition and to its success, is how much are we talking about? All our ideas have a price, most of them do, but what is the appropriate price? Now, if we look at Mr. Hemming's credentials ...

**The Bailiff:**

Please do not refer to him, Deputy ...

**The Deputy of St. Mary:**

I beg your pardon, the developer, okay, the owner of the land, the landowner, I beg your pardon. But I think it is important to put this in context, because later on the moral decision is, are we acting in the interests of the public or in the interests of the landowner? Of course it is an old chestnut, but we do have to face it in this case. I will quote the *Sunday Times*. Now, normally if you go Googling and you find something written in the *Sunday Times* you might take it, not necessarily as gospel, but on this occasion it is the results for the rich list and if you listen to the level of detail, I think these guys writing this have actually been writing the rich list for quite a while. They have a bank of information which they update and it is pretty solid, so the unnamed landowner who has a 28 per cent stake in Preston North End, has seen his fortune fall 71 per cent in the last year. This is dated April 2009. He was a right-hand man to Sir Fred Pontin at his holiday camp business and helped to assemble a management buyout ...

**The Bailiff:**

Deputy, I am not sure how relevant this is. This is an individual who you certainly are entitled to make the point about whether the landowner could or could not sell more cheaply, but ...

**The Deputy of St. Mary:**

Yes, that is ...

**The Bailiff:**

That is right, but I do not think going into personal information about his business.

**The Deputy of St. Mary:**

Fair enough, I will just take the one sentence which is completely relevant, which is - 2 sentences: "He sold Pontins to Scottish and Newcastle for a large share stake. He must love Pontins as he quietly bought it back again for less than £30 million in 2000." For less than £30 million in 2000,

that is the whole of Pontins. Right? Not Plémont, but the one in Blackpool and the one in ... all over Britain for £30 million. A nice little number and he did not buy them as going concerns. He bought them as a property investment and that is the point, is it not? When you connect up and relate the issue of the public interest with the issue of the landowner's interest in this case. It is not, as somebody said, somebody who wants to contribute to the economy of the Island. He is worth a quarter of a billion and we are matching his interests ...

**The Bailiff:**

Deputy, I am sorry. I must insist. You cannot go into personal information about a person who is not a Member of these States. You are entitled to make the point that, simply in broad terms, he is reasonably wealthy and there we are, but it is not strictly relevant to the issue here. What is being proposed is that this be purchased at whatever market value the property has and it is the same market value whether it is owned by a wealthy man or a not wealthy man.

**The Deputy of St. Mary:**

Yes, Sir. I will come to the issue of what the value is and I am sketching in the background, and it is relevant to the moral issue which faces the Assembly about the public interest versus the private interest. It would make a difference if he was worth a few million. It does make a difference that he was a billionaire and is now a quarter of a billionaire. I do think that is true. Now, if we look at the comments, which I think BDK should be applauded for giving us all their written comments at their exhibition and the thread of comments in the *Jersey Evening Post's*, because a couple of them are extremely interesting in this context. Comment 6 on the *J.E.P.* thread: "Just give Trevor Hemmings back what he paid for it ..." I am sorry. Sorry: "Just give the owner ..."

**The Bailiff:**

Deputy, I hope you are not doing this deliberately.

**The Deputy of St. Mary:**

No, I am not doing it deliberately, Sir. That is what he says and I have got a ring around his star, I found the quote: "Just give ..."

**The Bailiff:**

Please abide by my rules.

**The Deputy of St. Mary:**

I will do, yes, Sir. "Just give the landowner back what he paid for it plus any legal fees and maybe plus 10 per cent." That is just one of the comments and another one which is relevant is just to show that out there, there is a current of feeling around this question. The other comment, I will not read it out in full, but what it points out is why do we not simply tell the landowner to tidy it up? To tidy up the site and if we do not have the powers to do that as they would in the U.K. (United Kingdom), and as he would, because this particular contributor owns land in a National Park, then maybe we should have those powers, although I do believe that we do have those powers to tidy up. The reason I quote those 2 comments on the *J.E.P.* site is to show that there is a different perspective on this matter, to preface the question of price. We know that the contrast, and it is in the Council of Ministers' report, the contrast is between the £14.5 million or so, which the landowner is holding out for, and the less than £3 million minimum value which is the current use value. The Council of Ministers rightly refer to this danger implicit in compulsory purchase and of course the proposer has to take this on board and deal with it somehow. The third bullet on page 2: "The process of compulsory purchase will permit the public to acquire the property at a price which would be determined by an independent board of arbitrators, and then they mention the issue of fees, and the arbitrators will use, presumably, the current custom as a guide. My question is who does this protect? Does it protect the landowner, or does it protect the public? That of course comes back to the issue, does it have planning permission or not? This is the issue, is it not?"

What is the price? The report of the Minister for Treasury and Resources makes it absolutely explicit. Until such time as the long-time use can be established and recognising that the owners consider its value to be that of a development site as opposed to a natural open space, it is not possible to report on an accurate value of the site. That is the point. We do not know, so what can we do to influence the value of the site? Now, I have read in one of these reports, or I have certainly heard in speeches, that we have to allow the planning permission to go ahead and then we will know the value because we cannot use the planning process to influence the price. But, on the other hand, we are happy to effectively allow the planning process to influence the value in the other direction, and I want to echo the comments of a previous speaker. Maybe we should start acting like a government. It is the rights of the landowner, who in this case bought the land purely as a speculative investment, compared to the right to enjoyment of the public and why do we not do the right and decisive thing? We could calculate the value of Plémont as part of his £30 million purchase of Pontins, divide up that asset and estimate how much he actually paid for Pontins. We could add inflation and perhaps his fees and negotiate on that basis. Why do we have to negotiate on the basis of an inflated value? Why do we not show that we mean business? A word on the actual wording of the proposition. People have commented on this and some have urged the Constable to, certainly take the 3 paragraphs (a), (b) and (c) separately, but to major on (a) and try and go soft on (b), but (b) does not instruct the Minister for Planning and Environment to use compulsory purchase. It asks us that he be empowered to acquire this land through compulsory purchase. In other words, it gives him the option, paragraph (b) gives the Minister of Planning and Environment the option of using compulsory purchase in the context of paragraph (a), which simply says get on with it like you have been told to do twice before. So, I just thought that needed to be made clear, that we can vote for (a) and (b). I wanted to change the terms of this debate. I think the price is about us taking control; the public, it is about us taking them with us and I think there is a willingness out there if we were to show leadership, as the Deputy of St. Owen pointed out, if we were to show leadership on this there would be a willingness to join and chip-in with the funding of this. I did a bit of research at the Line in the Sand and, I will not go into the details, but I did ask people without prejudice various questions, one of which was would they be willing to put their hand in their pocket and by a bit of Plémont for £100, and the vast majority said that they would, provided the price was right, 2 said. Provided the price was right, which is fair enough, you know, provided that the States are not stupid. So, let us dump the negativity and let us show some ambition and I just want to finish - I had a letter from a constituent last night, and this letter just sums it up: "We are writing to you because we have done all we can as individuals to try and save the Plémont Land in question. We have done all we can as individuals, it is over to you now. You lot in the States. We have attended the public meeting that took place at La Société. We signed the National Trust petition. We took place in the Line in the Sand. This is the only voice that we have, but as our elected States representative we can only ask you to speak on our behalf. Despite how good all the many modifications to the recent proposed plans for Plémont may be"... and of course that is influencing people here... "we feel very strongly that this is a once in a lifetime opportunity that the Island has to preserve some of its natural beauty and wildlife, which will be lost for ever should the recent proposed plans, or any future revised building plans, go ahead on this land in question. How sad it will be for the Island's population of visitors and future generations if our Island's natural beauty is allowed to disappear to developers. We hope that you and our politicians will listen to the 'people' who feel so strongly and who turn out as our only means of being heard, with our silent protest to developers for our Line in the Sand." I could not have put it better myself.

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

To an extent I do not disagree with many of the points that have been made in a number of speeches up until very recently, I shall say. But I shall cut my speech fairly short because I think Deputy Hilton has made a number of the points earlier, particularly on compulsory purchase in terms of what I was going to say earlier.

[10:30]

What I would like to say is I would like to re-emphasise the point, I do not think... this is to be fair to the Connétable of St. Ouen, this is not just a Parish matter, it is an Island matter and it has been noted previously, it is a very important matter to bring to the States. However, I have to say that I agree with the Chief Minister that now is probably not the time to go down the compulsory purchase route. Land, as also has been said already, can always be negotiated separately, but compulsory purchase route I do not think is the way to go at this time. It is a head versus heart matter. My heart would dearly love to vote for acquisition, and in an ideal world I would love not to see it built upon, but my head says that at this time and these circumstances, I think we have unfortunately greater priorities and cannot really afford it. So, from that perspective I will not be supporting the proposition today.

#### **1.1.7 Deputy R.C. Duhamel of St. Saviour:**

Who would be a decision-maker? Well, it looks like we all would except for the Planning Applications Panel and the Minister who are outside the Chamber. I am wondering whether I should be out as well, because with the environmental hat on as part of the remit that goes with the job of Assistant Minister for the Environment, one would expect, would one not, that any issue for the acquisition of further land to be put back to natural vegetation or whatever, would be automatically supported. But, for those who have conducted a search among the voting patterns of the Members, you will note that on both occasions I did not vote for the public to acquire this particular site. I think it is only fair to explain my reasons and to explain the relevance of the voting pattern expressed on those former 2 occasions, and perhaps how I might be voting in this particular instance. We have heard from the Constable of St. Ouen - and he was reporting something that was most eloquently said, at the public meeting that I attended at the St. Ouen's Parish Assembly, by a parishioner - that to remove the blot on the landscape and to replace it with a further smaller blot on the landscape was a nonsensical policy. Well, it might well be so but Professor Rorschach knew quite a lot about blots and the art of determination as to what qualifies or quantifies a particular blot has to be deliberated upon and tied down. In fact, we have personality tests which go to show that the whole process is one of subjectivity based on what you see as a blot, and what you do not see. To knock one particular statement on the head, it is not apparent in my mind that the proposals to replace what some might consider to be a blot on the landscape with a smaller development, where two-thirds of the land has been given over to natural vegetation, would constitute a similar type of blotted development that the Pontins Holiday Camp is deemed to be by some Members. It is all, in my mind, about how we define our terms of reference in order to sift through all the information and evidence, to weigh-up in the best planning terms, what is the right way to go and to try and make sense of the thing. In my time on Planning, a number of years ago I did suggest to the organisation - the P.&R. (Policy and Resources) Committee - that we had at the time that perhaps a better way of dealing with the opportunities that might arise from time to time, in terms of the public acquiring particular pieces of land for strategic purposes, might well have been to have established a fund for that particular purpose and a policy to go with it, which would say in no uncertain terms the conditions that would have to be met in order to make requests to draw upon those monies. Now, at the time the suggestion was not taken up and indeed we lost, or the Island lost, valuable opportunities to acquire the Sacré Coeur buildings which could well have been used for further development for a fire service or a police service. Those proposals did not go ahead and we had follow-up proposals to place the replacement buildings for those 2 facilities on the Waterfront. Since then, the Waterfront land has been deemed to be too expensive to be developed for that type of infrastructure purpose and we are left with the requirement for, perhaps, a new police station somewhere else, in a place that has yet to be identified, and perhaps a bettering of this provision for our fire service. It is about thinking ahead and it is about strategy. It is about looking forward and placing yourself in position - as all the best chess players do - several moves ahead of the board so you know what is coming up. We do not do it. When it is suggested that we

do it, we still do not do it. So we end up with unsatisfactory, in my opinion, debates which cannot really be set in context and have to be voted upon in an unsatisfactory way, which generally means that we have to support propositions or not in emotional terms. I think that is wrong, because I quite like to make decisions based on the evidence and to rationalise, as far as I am able to do, bearing in mind that we all have different experiences to bring to decision-making and we are all going to come at the problems from slightly different angles. But unless we bed the decisions into an overall framework I think we are leaving ourselves open to perhaps making poor decisions which cannot be justified. I think that is wrong. We owe the Island a better class of decision-making. Going back to the planning time, we did have a policy as well for bad neighbour relocation. That was pretty much the same thing. So there are a lot of uses in town areas and elsewhere where particular businesses have been set up and they do have an environmental knock-on effect in terms of being seen to being detrimental to the residential qualities and the visual amenities and all the rest of it of the people living close to them. So rather than having *ad hoc* debates in this House to determine whether or not a particular bad neighbour use should be extinguished or not or relocated, we allow the planning committee of the time to develop a policy whereby those decisions could be taken by the officers who had the experience and the expertise to determine such things backed up by a political body to give support. So it is the framework that I think is all important. Personally, with a green hat on, I would love to buy all of the green land in the Island. I have said this on a number of occasions. But what would that mean? To purchase all of the greenfields for agriculture at the moment would cost at agricultural prices, say £5,000 a vergée, we are talking about an asset value of £150 million. What a good purchase, particularly if we could build on it, perhaps. I say that with a tongue in cheek. But what would be the value? Well it would certainly be higher than the £150 million, which may be a better place for our strategic rainy day monies to be invested. But you have to take these things and balance them. That is the difficulty of the job of wearing the environmental hat and indeed being in the planning business. It is a question of balance. That balance is made easier by having policies as strategies that allow you to knit all the decisions that you will have to make into one overall plan. What constitutes a blot? If one goes to St. Ouen's Bay, personally I think the northern parts of the bay are absolutely delightful. But what have we done, in planning terms? We have the Milano Bars. The Milano Bars site was a run-down premises which Planning decided at the time - I was on the committee at the time - to ask the owner to knock down. So it does happen, because it was properly designated as being a blot. It was run-down. It was built on the coastline. So what did we do? We agreed at Planning that it constituted a poor development. We resisted the urge of the owner of the site to replace it with housing estates of fancy housing or an even bigger hotel or whatever, because we valued the proximity of that site to the coast. The coastal area in St. Ouen's Bay was part of the St. Ouen's Bay planning framework. So again you have a document to rely upon which sets out in black and white terms what we all consider to be important and then we work towards improving the area in those terms. So Planning asked for the Milano Bars to be knocked down. Unfortunately, we did not have the same luck with the Mariner Cottages, which were redeveloped for tourism purposes and subsequently came out of tourism, unfortunately. But there was a clear case for asking the owner of that particular site to do exactly the same thing that we asked for for the Milano Bars, but we did not do it. Again, we have an inconsistency of approach. One development is treated one way and another development is treated a different way, which was wrong, in my view. So what constitutes a blot? I personally think - and I think the Milano Bars is up for tender at the moment - why have we not got proposition set within the overall framework for our national park area? There are new proposals within the Island Plan to move the planning arguments and protections further on for these treasured green areas. Well we have moved from areas of natural beauty, to areas of outstanding natural beauty, to green zone designations, to double green zone designations and the latest thing within the Island Plan is to lump all of the double green zone areas which constitute, in essence, the coastal areas into a proposed coastal national park, with all the inherent protections that planning will be able to bring to bear in that area. If that happens and when the Island Plan is discussed in this House, if the

House supports that concept and we endorse the policies then that means that again we will have further restrictions, further qualitative improvements that can be made to the areas that we all consider to be worth saving or improving, which is a strategy game, it will be done within a context. Maybe then there will be a chance, if it has not been sold already or planning has not been forced because no States Member has come forward to put the Milano Bars site at a higher level than the built-on area that we have at Plémont for the Pontins Holiday site, higher up the list. We are stuck. There are qualitative subjective judgments that have to be taken for pretty well all pieces of land in the Island. I find it very, very difficult at this point in time to not support Plémont and allow perhaps the Milano Bars or other areas to be built on. What about Ronez? There is always going to be a context of overlap and conflict, if you like, between built-up areas and un-built up areas. Some Members would say that from an ecological point of view and an environmental point of view, the quarry at Ronez is something that constitutes a blot. But if you speak to the owners of the quarry, they have gone overboard, literally, to try and create environmental opportunities to soften the edges and improve opportunities for animals and plants within the area. So we have a balancing act that takes place between a commercial interest and the environment. That is fair. It is a judgment as to where you draw the line. I think that is where I have been coming from and going to. A lot of the arguments that I have been hearing yesterday and today tend to put the argument right at the edge of the scale, because emotive arguments right at the edge of the spectrum of argument are the ones that sound good and perhaps kind of tug at the heart strings and allow us to make decisions which we cannot properly rationalise. I think that is wrong. It certainly is not the way that planning looks at things.

[10:45]

I do not think it is the way we should look at things. There is a saying about subjectivity: One man's meat is another man's textured vegetable protein. Perhaps I have paraphrased wrong. That for me sums it up. There is more than one way of looking at these things. What makes the northern part of the coastal landscape more important than the coastal area down at St. Clement or Grouville? It seems to me that the east of the Island has suffered rampant development, if I can put it that way. That is probably using an emotive word, so I should not do it. We have got, in some terms, a de-natured coastal area which we are arguing in the north should be wholly un-built upon. But if you look at the number of buildings that have been built in the north - and they are dotted about - it is not as if the area is completely open. But we have had some arguments this morning suggesting that Plémont is an open development area. It is not. It has buildings on. It is licensed to operate for over 100,000 square feet of accommodation. That is just looking at the footprint of the site. If we translate that into housing terms, assuming that each house was 1,000 square feet. That says to you it is equivalent to 100 houses. We have had plans put in for more than that and less than that. The number of units has been whittled down and down. In my mind, there is an element of development on the site which in some Members eyes should be removed. I would agree with that. But it is a question of balance. The balance of replacing most of the site with open space and having a tasteful, in generally agreed design terms, of a small hamlet of houses is, I think, an acceptable compromise. But I would feel much happier if we could have a general policy of acquisition for any site across the Island, if indeed that is something that those Members who are supporting the wholesale knocking down of any development on the Plémont site are asking for. But I feel that they are not and they are making a special case out of Plémont without saying in absolute terms what makes the place that special compared to any other place. One final point, the proposition states in (a) that the States is to be asked to decide whether they are of opinion to approve, subject of the availability of the necessary funds voted by the Assembly, the acquisition by the public of the site known as the Plémont Holiday Village as identified, blah, blah, blah. Now, in choosing those words, I think the Constable of St. Ouen had highlighted his underlying reservations. Because had he thought - perhaps he will tell us when he sums up - that the acquisition of the site by the public should have been at any cost, then I do not feel that he would

have put in the extra words: “Subject to the availability of the necessary funds” which complicates the issue. If indeed, while being asked to approve subject to funding, in my mind that means that we have a bit of a problem, because if this House agrees to acquire the site, yet the necessary funds are not available, then what? We will have to go through the Assembly again and have another debate, but we will have done what we tend to do which is to decide on things incrementally. In my mind, that is not good decision-making. I think in this particular case there is a bit of a black and white issue as to whether or not we think in our minds of minds and hearts of hearts whether or not this Plémont site is at the top of the list of sites across the whole of the Island for general acquisition by the public, and this is the best site or the only site or the site that is on the table and unlikely to have dozens of other sites come forward so we can justify it as a special case to go and acquire. If we believe that (a) should really have said, to approve it full stop. Let us approve it and in its approval we will have to find the monies because we have given it our approval. There is a tacit assumption that if you approve something you are going to find the monies to do it. Pretty much what has been said about the request of the Minister for Planning and Environment to come forward with compulsory purchase of houses is really saying the same thing. I think the way it has been written - I did not write it and I do not know whether advice was given by the Greffier or not as to why it had to be framed in this particular fashion - leaves question marks in my mind that I think the proposer thought that perhaps generally it is a good thing to do as some Members have said. But in these hard times perhaps if the monies are not forthcoming then that will be the end of it. Nevertheless perhaps the Constable will be seen to have done his duty in representing the views of those who would wish for it to be bought at any cost. I think in those terms, I cannot approve (a) because I do not think a special case can be made for the Plémont site. We are not talking about all of the Plémont site, we are talking about the third that has been proposed to be built upon. Two-thirds under this proposed deal will go back to green space land anyway, so we are only talking about the last third, which is closer to the road, away from the coastal zone area. In fact, not in the coastal zone area, I think, on the map. So we are talking about whether or not that third should be acquired by the House, by the States or by the public or not. I do not think a case can be made in those terms, particularly when, in my mind, there are better sites down the road. What about the Watersplash? St. Ouen’s Bay is in an important area. We heard the choir telling us not to build houses on sand the other day because they get knocked down and they will be rebuilt. But the Watersplash... a wonderful area and it is in our designated national park area. What makes the last third of developed area at Plémont worth buying and the Watersplash not? It is that type of discussion I think that is entirely missing because this is brought as an *ad hoc* proposition outside of the context of proper policy. I am not saying whether we should have one or not, but personally I think we should. We have not at the moment. I think that is enough justification as to how I will probably vote.

#### **1.1.8 Deputy A.E. Jeune of St. Brelade:**

It is not easy to follow such an eloquent speech from Deputy Duhamel, but just what part of: “There is no spare cash or once you start eating into your savings they are soon gone” do we not understand? Does the proposer intend that if this proposition were accepted the people of this Island and more importantly, perhaps, the parishioners of St. Ouen’s would be left with an open area which they have to pay for and it may well look like the Bal Tabarin site. Does the proposer think it is appropriate to use greenfields for building when you already have effectively brown sites available for building, i.e. this site? While I can understand the dilemma the proposer had when making a decision to use a greenfield site for housing, I will not give up a brownfield site for homes, which this is. What right do Members have to compulsory purchase a private person’s or company’s property just because they decide it should be an open space? Why do we need to compulsory purchase it at all? Why do those who wish to buy it not just do so in discussion with the owner? It seems to me, we have this proposition before us because it will be the States who will have to pay for it. For goodness sake, the States is simply made up of representatives of the people. The bottom line is that the people are the ones who will ultimately pay. One can always

want nice-to-haves, but we are in a recession and we have to lead by example. If you cannot afford it, do not buy it. Jersey people are making that decision every day. If this was the very last piece of open land in St. Ouen I may well be arguing the other way, but it is not. Who owns the racecourse? Can I walk over it whenever I so choose? Should we be building houses there instead? While I am on houses, we have an open door and people can come to Jersey to live, then do we not have a responsibility to see that we have enough homes for them to live in? We have now opened up the market to allow essentially employed persons greater scope in their choices of home. Does the racecourse not have a building on it too? A Grandstand, I think, but it is still a building. My understanding is that there was a large representative at last Friday's public meeting of Jersey National Trust Members. Yet my understanding is that they cannot manage what they have now. If this site were purchased, whatever way, it would then need to be cleared and would need to be continually maintained. How much would that cost? Up until last night I could have honestly said not one person, young or old, had contacted me in favour of the proposition or were against. Yes I would say to the proposer, some are from St. Ouen, but last night I did receive an email from one person, not from St. Ouen, who considered the States should buy the land. But that is just one. All the other people believe that the States - well the taxpayer - should not acquire this land and it in fact considered the offer from the owner to gift a considerable portion of this site to the Island to be very generous indeed. Let us not overlook that fact. It is not a blot for ever as suggested yesterday. It may be now, but the owner has come up with a plan for housing and the current model is favoured by those who have spoken with me and they believe it to be worth serious consideration. But that would be for the Minister for Planning and Environment and his department and not what we are here discussing today. The Island's children and grandchildren will not thank us for getting us into debt for which they will have to pay. They have enough coming their way as it is. The fact that Members involved in the planning issues have had to leave this Assembly means that not all Members will have the opportunity to vote. Thereby I ask, are they disenfranchising their electorate?

[11:00]

I believe this makes the timing of this proposition not as well considered as it might have been. If building plans do go ahead it will give employment in many ways. Believe me when I say there are people out there who need work. I believe in keeping our coastline looking good and I have no problem giving the Minister for Planning and Environment and his Panel my opinion and supporting the opinions of my parishioners where appropriate. But this current design attempts to give little impact to the coastline. Bottom line, there is a property there which is privately owned. If somebody wants to go into negotiations with the owner that is their affair, but I do not believe it is right that this Assembly should do so. Just who do we think we are? I perceive this proposition to contain an element of bullying and that I do not like one little bit. Let us not forget the affect of compulsory purchase as identified by the Chief Minister yesterday. I will not be supporting the proposition.

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

Like other speakers, I am sympathetic to preserving the coastline. After all, I did bring the proposition regarding Warren Farm to the States. But the main problem with this is funding. But the other problem is that by virtue of the rules voted on by this Assembly the developer is entitled to expect that he can develop. Members have commented that the House has general powers to countermand decisions of Planning. This is not so and the details for those who are interested are in the Planning Law. The Chief Minister has commented on our previous experiences going into various land propositions. He mentioned Lesquende. I would add Les Pas, where the States made a real mess of a planning application in 1989, 1990 or thereabouts and it took us something like 14 years to finish it. What are the facts? As has been said in this House before, we are where we are. There is an offer to preserve some two-thirds as public land. This appears to be in the public

domain and presumably would be difficult to rescind. Without prejudice to any negotiations we therefore have a publicly announced gift of about two-thirds of the land. I think that also must be factored into the discussions. We have the saving line - holding line - that the quality and limits to any future building being controlled by the Minister for Planning and Environment. There will be people who will talk piously of the cost of everything and the value of nothing, but I think we have to be practical. In 2012 we will have a structural deficit. Members will have noticed the lugubrious comments of the Minister for Treasury and Resources from time to time saying that we shall have difficult decisions. Like other Members, I read the financial press, I look at economic forecasts and the economies are not yet out of the woods. I do not know the scale of the structural deficit, but I suspect from the lugubrious comments that it will be chunky. It is a time of prudence. Members are waxing lyrical about returning the whole site to nature. Well, I go back to it, where will the money come from? Will the Minister for E.S.C. (Education, Sport and Culture) be contributing from his budget? It also seems to me that this particular proposition is applying the nuclear option at too early a stage in negotiations. It is a basic law of successful negotiation that both sides should be not quite satisfied. It is a question of balance. If both sides have not quite got everything they want then that is a successful negotiation. A parliament blunderbuss at this stage is totally unhelpful. We cannot tie the hands of any negotiators. This, for example - a compulsory purchase proposition - would rule out the other sorts of possibilities like a land swap. Haut de la Garenne? Possible. I am sorry, if we agree to a compulsory purchase no other ideas will be able to be considered. I will not be supporting this proposition.

**The Deputy of St. Mary:**

On a point of clarification, can the speaker point to where in the proposition it says that other options than compulsory purchase are disallowed in paragraph (a) or even paragraph (b)?

**Senator S.C. Ferguson:**

If you go down the road of compulsory purchase then you get into an adversarial position immediately. It is unlikely that other considerations will be made. It is the psychology of a negotiation.

**The Deputy of St. Mary:**

I was trying to clarify the statement of the speaker that there would be no option other than compulsory purchase if we went ahead with this proposition. I was just asking her to comment on whether that was true or not, because in my reading of the proposition it is not.

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

As many Members have already mentioned this is a relatively difficult decision to make. I came today with a fairly open mind. Having looked at the plans I thought that looks like a reasonable development, set back from the headland, set back from the ground that should be protected, with a substantial amount of the grounds - 70 per cent or thereabouts - left in a natural state. So I was minded to support the development here and to let the planning process go ahead. But something in me said otherwise. It begs to be persuaded otherwise by the speeches today and by somebody more green than me making the case that this should be an exception, that there was a solid evidence case for preserving this particular land, removing all building from it and banning building and preserving it as green land. I was so persuaded by reading an article in the *Guardian* over the weekend by George Monbiot. He said that when things get tight in times of recession the first thing to go is always the environment and the green issues, the ecology issues, the soft issues. He made a very sound argument that suggested that what was happening in order to protect farmers in Wales from Bovine T.B. (tuberculosis). [Aside] He was saying that what they have come up with, in Wales in particular, was to encourage farming activities they would have a culling of badgers, because they want to eliminate Bovine T.B. He then went on to give the evidence that culling badgers does not reduce the incidents of Bovine T.B. at all. It is the sort of thing that people

just get on with because it sounds like the right sort of thing to do. The evidence is, in fact, that where you cull you do reduce Bovine T.B., but where you do not cull and in the neighbouring areas you get a mass exodus and much more movement of badgers, and you get an increase in those areas. So in fact a strategy that says this is the thing to do, if it does not work, makes things worse. But the thing was the argument was clear, concise and precisely put. It was evidence. So I was begging today to be persuaded by one of our greener Members, in particularly perhaps the Deputy of St. Mary whose logical approach to these matters I always admire. I was waiting for him to persuade me that I could put my green hat on and protect this particular piece of the coast. However, he singularly failed to do so. There was no clear argument, there was no evidence-based... there was emotive argument that this was where the line should be drawn. Our other green Member, Deputy Duhamel, in rather a lengthy way... but nonetheless came eventually to a point which I think was absolutely valid in supporting this particular development which is limited and he believed was not a blot. When he pointed to paragraph (a) at the very core of this particular proposition and he pointed out “subject to funding being made available”, he said what is going to happen if we support this particular proposition with those sorts of terms. He said we will see another proposition some time down the road saying: “Here is the funding. Here is what you need. Vote the funding.” My thinking immediately was, I know what is going to happen, subject to funding being made available means we would get exactly what we have had with the Millennium Town Park, still not there by 2011. Perhaps on its way because we finally by one means or another, fair means or foul, made some funding available and it looks like it might finally happen. So he made the relevant point, I think, that even supporting this proposition and feeling better being able to wave your green flag, wave your green credentials and say: “Well I actually support the environment. Yes, so I voted for this” does not mean very much. The other speech that brought me back to my originally tendency to oppose the proposition, but support the limited development was made by Deputy Green in his speech about climbing-down off the fence finally and making his mind up when he said: “Good grief, we have lots of land we could develop.” Then he nailed it for me when he said: “All over town.” This issue we have been trying to avoid, town versus country, was brought, for me, into sharp relief. We have all sorts of sites we can develop in town to produce another 30 houses, blah, blah, blah, *et cetera*. It is back to the reasons, the debate, the issues that perhaps Deputy Martin was focusing on yesterday. It is an issue and it is about: “It is all right, we can preserve any green space you like as long as we build high, we build packed and we build in the urban areas we already have.” That is critical for me. Having seen the Deputy of St. Ouen and the Constable of St. Ouen quite rightly bring an issue which is Parish-based to this House and propose one approach to it.

[11:15]

I am afraid I too have to go back as a town Deputy and say: “That is the critical issue for me.” It is all very well for me to say: “Look I voted green. I voted for this, did not vote the money, so it may never happen anyway. Phew! I have got away with it”, but when it comes down to it what I am voting for is more development in town when we are already packed out. That is the reality for me. So I will not be supporting any of these paragraphs.

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

I would like to declare I am a Member of the National Trust for Jersey and a Member of the Council of that bunch of incompetent managers, as described by the Deputy of St. Brelade, but I do not have a direct pecuniary interest in this issue. I am disappointed in Deputy Southern’s comments, if I may immediately refer to them. As was said by Deputy Wimberley, it is not a town versus country. The notion that the defence of Plémont is a St. Ouen’s based issue is a very narrow view of the world. Also it strikes me as rather odd logic, if you are speculatively going to build 30 very luxurious houses there is no guarantee, certainly in the current property markets, despite the liberalisation of the qualification rule as we have seen in the last day or so, they will be filled.

There is no guarantee that by building 30 there you thereby do not have to build 30 in town. It is not that kind of clean swap that the Deputy was intimating. I think he has it totally wrong. I am so sad that he cannot see the bigger picture, that there were people of the so-called country who were prepared to support the town park because of the good it brought not only for that area of town but the good it brought in terms of developing green land as a whole within town. But yet he then applies these incredible blinkers to Plémont. But what is sad about this, it is not whether you are a purist green zone person or whether you go to bed desperately worried - as Senator Ferguson quite rightly does - about the state of the economy, it is the way that the ability to deal with this in a flexible way has been lost. People ask: "Why has the Connétable gone for the nuclear option?" Now he will undoubtedly answer this. He has gone out of pure frustration. I do not think - and this is where you have to read the signs in politics as opposed to taking things too literally, which is always a difficult art - the Connétable wishes exercise that nuclear option. He had wished that there would have been a process of give and take, there would have been a process of serious negotiation, albeit quite bluntly despite us being so-called democrats no doubt behind closed doors, but he would have wished for that to have taken place. Time after time the Council of Ministers have simply not bothered. One of the most desperately disappointing contributions, partly because we always look forward to a very long contribution, was from Deputy Le Fondré who has responsibility for Property Holdings. He stood up and gave a couple of sentences, which is very unlike him, I should add, and said: "Is it not all desperately bad at the moment in terms of the economy? We cannot spend money." I was hoping for a very detailed statement from the Deputy in charge of Property Holdings as to what they had done and how they had been involved and initiatives they had taken to try and come up with an innovative solution to this as opposed to the tired, tired mantras, which sadly we are getting also from the Minister for Treasury and Resources. I cannot take an intervention otherwise I will forget what I was going to say next **[Laughter]** even though I am sure it is wonderful what the Assistant Minister is going to say. There is no doubt, as the Deputy of St. Mary, said there has been this attempt, very good psychology to plant the ghost at the feast of £14.7 million. And it is a ghost. We all know negotiations, as indeed Senator Ferguson said, they are in part a game. There is, before you get down to the serious business, a lot of shadow boxing going on and so forth as you test each other out. I do not know if this has occurred. It looks not to have occurred. One of the other sad things is while, I think, quite frankly within the constraints the developer has come up with what I have to say is a good plan within the constraints, I do not think that kind of negotiation of a broader kind has occurred. If I may divert slightly, Deputy Duhamel was starting to go through every site in the Island and assess why we were not dealing with that site on a rational basis and why we were being led perhaps irrationally and emotionally by discussion on this site. Well, the reason is quite simply that we do not have overarching planning. It is that when there have been decisions taken, allegedly within protection of the coastline, the Flicquet decision, the St. Clement, all the overpowering houses that have appeared, we have so-called policies in place that were meant to prevent that, but yet when we investigate we discover that there is enormous flexibility/ambiguity in the application of those policies. So we then end up with a collection of cases, the end result of which has been to put a bulldozer through policies. Having assumed we have protection of the coast policies, we then end up with a series of overwhelming, overpowering buildings, for example, in those positions. That is why people give up rational debates. Why, in this case, they have had to take a more opportunistic line, because we will be waiting for ever, particularly since we have a States of 53 planners, for the great overarching rational plan. It will never appear. It is not, sadly, in the nature of this organisation that we can do things in an overall way. So we have to grab our chances, if I may use the phrase, where we can. The Constable has offered time after time the Council of Ministers an opportunity for negotiations. I sense a total failure of imagination. That they have not come up with options. They have not said to themselves: "Look, we are not going to rest. There is £14.7 million. It is a good opening gambit and we all know these things happen in negotiations. But let us talk seriously." That to me is what is missing. That is why I think the Constable is a very reluctant presser, so to speak, of that nuclear button. I do not think he intends it to be used, but

he does - as I would understand and he will no doubt speak - intend that there be a concentration of minds, that people concentrate on these issues. That is in a way a sad commentary on how the States are going, if I may make a general comment. One of the things that struck me more and more over the last year or so is, partly because I suppose the Council have an entrenched majority for most of the things or the so-called key things that they wish to put through, is the death of consensus and the death of discussion based upon consensus. We find issue after issue where people dig in. They do not bother to read the signals that are there and they just simply dig in and let events just take over. In this case they are hiding behind the planning application, if you read the submission of the Council of Ministers and the submission of the Minister for Treasury and Resources. They are simply hiding behind the planning application. They have taken no initiative in terms of their mandate which was to develop and to look at alternatives. That is where the real failure has been. That is very sad, because we are seeing that with issue after issue where we do not bother to deal seriously with the issue, we just give up and then just trot out rather limp excuses like: "It is the state of the economy." I was going to say "stupid" as President Clinton used to say, but is it the state of the economy. This can be resolved. There is no way, given the sort of feedback I have had, I could agree to anything that was remotely approaching £14.7 million or look in all seriousness to approach that. Of course I know the public mood... even people who, as I said, are absolutely attached to the whole notion of clearing the coastline... the public mood would simply not put up with it. But there are other alternatives. There are much cheaper alternatives. I am saddened that there has been no report to us. Okay, I would have been prepared even to have been told: "Look, we cannot go public at the moment. It is all terribly delicate, *et cetera*. But there are some serious moves afoot." I would have been prepared even to have accepted that, knowing it is very difficult to carry out negotiations with 53 people in public. I would have been very prepared. But we have not even had that signal. We have had resignation, we have had abdication, we have had the government of abdication and we are seeing that more and more: "Go away. We are not going to look at that." When it happens to a spiritual soul brother of the Council of Ministers I say: "What hope is there for the rest of us?" **[Laughter]** So, what I am saying is I am very reluctant to go for (b), because I am reluctant to press the nuclear option. But I think on (a) and in terms of the Council of Ministers, would it not have been wonderful if they had said - okay they may have said it slightly tongue in cheek, but then they may have got serious: "Look we are seriously going to look at the different options. We are going to look at the questions of donations, we are going to look at the question of matching funds and we are going to see whether we can reduce this to manageable terms." Sadly there has been no sign of that. Just the old stuff about: "Oh, the economy is desperate, *et cetera, et cetera*." That is the saddest thing of all. Despite Deputy Duhamel and his trot around the Island looking at every conceivable site as to whether it is more precious than Plémont, I am afraid is opportunism here. You have to act quickly. If you do not act on this one, it will be lost. We have known that for a long time and yet we come to this point where now the Council of Ministers are hiding, hiding behind the planning application. I hope that Members will at least give support to (a). I have to say, because of the implications, reluctant to deal with (b). But most of all would it not be wonderful if the Chief Minister or the Assistant Minister in charge of Property Holdings said: "Look, we are going to sit down and engage in some serious negotiations to see whether we can come up with another solution to this almost intractable matter."

#### **Deputy J.A.N. Le Fondré**

Has the speaker had the chance to look at the 2 comments that came through on the proposition, also reports from the Minister for Treasury and Resources, particularly page 3 from the Council of Ministers and page 3 from the ... sorry.

#### **The Bailiff:**

This does not sound really like a point of clarification.

**Deputy J.A.N. Le Fondré:**

Well, it is from the perspective that has he read the paragraph under “Value” and is he seeking information in that context?

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

On that point I would like for more information if there is some. The Assistant Minister on my right has just indicated that there may be more information and I think that is what we are all lacking in this debate. So if there is some available and even if this Assembly has got to go into camera, I think it would be hugely useful to us in helping some of us come to a decision. So could I ask him at this point if he would be willing to share any further information he has with us?

**The Bailiff:**

The Minister has already spoken. As I understood it he was referring to documents which have been circulated to all Members already.

**Deputy J.A.N. Le Fondré:**

No, the point is that there have been a few comments made about what has happened and what has been done by Property Holdings which are in the comments that have already been circulated. However, clearly written within one of those comments it says that there are some comments about the evaluations that have previously been obtained. Now I do not know if that is relevant to the debate or not, because value has not particularly been an issue up until now. But Members have referred to various valuations around and if they wish to seek further information what is in the comments - it is evaluation principle - but in the comments we suggested it would be necessary to go into camera to give those to Members. So if Members wish to go that way I can give some more information, but I do not know how helpful or not that would be for the debate. I am happy to give it.

**The Deputy of Grouville:**

Do you wish me to speak now or are we going to make a decision on what he has just said?

**The Bailiff:**

Well, unless somebody proposes we go into camera, we are carrying on as we are and you are speaking at the moment.

[11:30]

**The Deputy of Grouville:**

In that case, I would like to propose we go into camera to get further information on cost.

**The Bailiff:**

Is that seconded? **[Seconded]** Does any Member wish to speak on whether we should go into camera?

**Senator T.A. Le Sueur:**

It does strike me that if we were going to go into camera we should have decided that at the start of this debate not three-quarters of the way or further way through it. Many Members will now have spoken and will receive information on which they can take no further action or ask further questions. Procedurally we would then have, going into camera; would those who have spoken already speak a second time? It strikes me not. So, I suspect this is perhaps something that should have been asked yesterday afternoon and not now.

**Deputy D.J. De Sousa of St. Helier:**

I would just say that I said in my speech I said I was very confused and had not made my mind up. I am even more confused. So, yes I do think we need to go into camera and get that added information so we can make our minds up.

**The Bailiff:**

Let me make absolutely clear, the rules of debate will continue so that all that is being sought is a point of clarification from the Assistant Minister seeking further information. Then we will come out of camera and the debate will continue. Now, it has been proposed and seconded. Does any Member wish to speak on whether we go into camera?

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

I just again say that I am one of the Members who has not made up his mind yet and I would very much like to hear this additional information.

**The Bailiff:**

Very well. All those in favour of going into camera kindly show? We better have the appel, yes. The appel is called for then in relation to whether the Assembly should move into camera in order to receive certain information from the Assistant Minister. I invite Members to return to their seats. The Greffier will open the voting. If you want to go into camera you vote pour if you do not you vote contre.

<b>POUR: 22</b>	<b>CONTRE: 12</b>	<b>ABSTAIN: 1</b>
Senator B.E. Shenton	Senator T.A. Le Sueur	Deputy J.A.N. Le Fondré (L)
Senator S.C. Ferguson	Senator P.F. Routier	
Connétable of St. Ouen	Senator A.J.D. Maclean	
Connétable of Grouville	Senator B.I. Le Marquand	
Connétable of St. Brelade	Connétable of St. Peter	
Connétable of St. Martin	Deputy R.C. Duhamel (S)	
Connétable of St. Lawrence	Deputy of St. Martin	
Deputy J.B. Fox (H)	Deputy R.G. Le Hérisssier (S)	
Deputy J.A. Martin (H)	Deputy of Trinity	
Deputy of St. Ouen	Deputy I.J. Gorst (C)	
Deputy of Grouville	Deputy A.E. Jeune (B)	
Deputy J.A. Hilton (H)	Deputy A.T. Dupré (C)	
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy of St. John		
Deputy of St. Mary		
Deputy T.M. Pitman (H)		
Deputy E.J. Noel (L)		
Deputy T.A. Vallois (S)		
Deputy M.R. Higgins (H)		
Deputy A.K.F. Green (H)		
Deputy D. De Sousa (H)		

**The Bailiff:**

Very well, could the public gallery please be cleared? I am sorry, I must ask everyone to leave.

**[Debate proceeded in camera]**

**The Bailiff:**

We are now back in open session. The Deputy of Grouville was on her feet.

#### **1.1.12 The Deputy of Grouville:**

This, as many Members have alluded to, is a very, very difficult situation to be in and my natural tendency would be to say no to development, to clear the site and put it back to nature. That is where I would like to come from, but unfortunately things are not that simple. I share the Constable of St. Ouen's frustration in that this Assembly in 2008 approved the principle of putting the site back to nature and yet there has been very, very little done in the interim as far as negotiations or establishing anything with the developer, whoever they may be. The frustration he has... I do feel though he needs to shoulder some of these responsibilities because I do not remember him bringing questions forward to this Assembly to ask what is being done and pressing the issue, certainly not in public and perhaps that is what is needed.

[12.00]

The ideal situation now... because other than unfortunately going to the vote and him losing this proposition which then would really mean this piece of headland is lost for ever - it is an opportunity gone for ever - I do not want to see that happen without a certain amount of negotiation going on and I would urge the Constable to withdraw this proposition if the Council of Ministers, the Chief Minister, the Assistant Minister for Treasury and Resources can sit down around a table and negotiate, because bringing it to this Assembly and asking for compulsory purchase, my knee-jerk reaction again to compulsory purchase is no. Compulsory purchase should be used in times of war to purchase a field for an airstrip or vital community facilities. Is this a vital community facility, I am not so sure. I would like to think so, but everything comes at a price unfortunately. So, rather than place the Minister for Planning and Environment in an almost impossible situation, I would like to see some leadership from the Council of Ministers [**Approbation**] and for them to go away, lock themselves in a room and then if need be, come back with the same proposition if it goes nowhere, but to ask this Assembly to make a choice of unknown quantities we just really do not know what we would be getting into, is I think asking for the impossible. We see here in his proposition to approve subject to the availability of the necessary funds voted by the Assembly and nobody knows what they are or what the owner would accept. So, I would like him to consider it, otherwise I still do not know how I am going to vote but on (b) I am certainly not voting for compulsory purchase. Thank you.

#### **1.1.13 Connétable M.K. Jackson of St. Brelade:**

Firstly I would like to applaud the Connétable of St. Ouen for bringing this proposition, but he is an experienced politician and I sense, as has been alluded to by others, that his motive is not necessarily to achieve what has been proposed but simply to get something sorted out and to get rid of the present eyesore on the site. He refers to a sticking point being the determination of value and we have heard discussion regarding that and the relative importance of planning permission for a proposed development. I think one could perceive that we, in the Council of Ministers, have been dilatory in dealing with this matter, but I contend that in fact the way in which it is going will, if it is allowed by Members to proceed, achieve the result which is probably the most achievable. Likewise I would commend the owners in putting forward suggestions in order to once again achieve a solution which is going to be not only of benefit to them and that is quite clear - there is a profit element in any development - but is also going to give considerable attribute to the States portfolio. I would perhaps ask before continuing later a couple of points of clarification from the Attorney General. I would like to know whether the Minister for Planning and Environment has an obligation to refuse to determine a planning application on the back of a States decision which could be taken today and what recourse would the landowner have in law? Secondly, a minor point which I will pick up on later, how could public access to the 18 vergées proposal of open space be guaranteed in law to the public?

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

The Minister for Planning and Environment does not have an obligation to accede to the views expressed by the States in determining a planning application. In fact, the planning and building law charges the Minister for Planning and Environment with making that decision. It is his decision and he makes it irrespective of what the States decide. It is a matter for him as to whether or not to grant or refuse planning permission. In the event he were to refuse or delay planning, the grant of a planning consent which otherwise he might be minded to grant, or to make a determination, the applicant for such a consent could apply to the court for an order requiring him to make a decision within a specific date. I am not sure I can answer the third question that the Connétable raises. I am not sure of the details in whose ownership the land in question is. Obviously rights of way can be granted and negotiated and certain things can be contained in a planning obligation agreement in the event that a planning consent is to be granted but I do not know if that goes any way to answering the Connétable's question because I am afraid I am not aware of the factual matrix.

**The Connétable of St. Brelade:**

I thank the Attorney General for that response which I think sharpens the mind with regard to the process in this whole debate. I am also respectful of the National Trust for Jersey input and I understand their philosophy and am a great supporter of their suggestions generally and their work, however, there is a question of balance and while we all consider that preservation of a coastline is important, and that has been clearly demonstrated by the public, how far back do we go? I think the proposed development is such that the coastline will be preserved. I think it all depends where you stand and clearly it is viewed from the west and from the east and it is quite a prominent headland. Likewise, for my part, I view it probably more often from seaward and it will be certainly viewable 5 miles out, but I suspect closer to the land one would not see the proposed development. Certainly the present ex-holiday camp is a blot on the escarpment and one would be very keen to see it disappear. I think a balanced view there has to be struck and I think the notes and the comments that came back as a result of the public meeting generally indicated that the proposal of development to the rear of the site is as much acceptable as one could get. It is interesting to note the plans because while the proposal is not about plans, I think it is a fundamental part of this debate and that is what will possibly happen if the process goes through. Now, if you look at past performance through St. Ouen we have developments which have taken place in a similar style in the last century such as Portinfer which is a localised development. In fact, Grosnez Farm, the owner is sitting not far from me and should we follow the precedents of these, and I think probably we are... and I do not think it is totally intrusive in the whole landscape of St. Ouen. I am worried about a split vote because I see that as a delay and I, with many others, am keen to see this concluded as soon as possible. The present site fell into disuse I think almost 10 years ago now according to the reports and nothing much has been achieved. We do not want to be waiting another 10 years for anything to happen. I see possibly a split vote being a recipe for inaction and I would not want to have that in any way. I am not generally a friend of developers, milking the Island for what it is worth, but I can see merit in these proposals. The developers have rights within law. This has been alluded to by the Attorney General and one cannot overlook that. Whatever one might think, that is the fact. Yes, we are in a difficult economic climate and I think there is a general consensus that the general public should not be charged with the costs of an outright purchase. This is a negative cost arrangement to the public and the public will gain advantage by retaining the coastal strip of land. I therefore urge Members to reject the proposition to enable Planning to do what is needed in an unfettered manner and suggest that the development proposed forms a basis of a good scheme by passing its 18 vergées over to the public in perpetuity and at no cost. I think this is achievable in a reasonable timescale and this I think is a way to get rid of this blot on the shoreline in the shortest possible time. Thank you.

**1.1.14 Deputy M.R. Higgins:**

I entered the Chamber with an open mind on this proposition and after hearing some very compelling arguments on both sides, I feel very much between a rock and a hard place. I would very much like to remove this blot on the landscape and preserve it for future generations and to roll back the relentless desecration of the Island by developers. On the other hand, I cannot agree to the granting of a blank cheque to acquire the land. I do not know how I am going to vote when we do come to the vote but it may well be decided on the answer to a question which I was not able to raise when we were in camera and that is, what is meant by the fact that 70 per cent of the land is being returned to nature? I have been trawling through some of the documentation that we have been given in the run up to the debate and I have not found a definitive statement. Perhaps another Member can point it out to me. The Minister for Treasury and Resources, in his paper on page 2 paragraph (b) states in the Council of Ministers' argument that the matter should go through to the planning process first rather than compulsory purchase. He says: "The planning process could lead to a greater area of the site than is currently proposed as being restored to nature." Then it has got, and I emphasise this: "... which land could be gifted to the public thereby forming a natural buffer to the surrounding area and preventing further applications to increase the scale of any development." Is there a definite proposal that the other land will be gifted to the public because my question is, if it is just merely saying he is going to return it to nature and the developer at some stage at a later time, maybe in 3, 5, 6 or 10 years' time, can come back say: "I want to build more houses on the site", that is a totally different thing. I am hoping that someone will enlighten me before we get to the vote whether this land will be gifted. The developers' proposals will mean the rest of the land is gifted in perpetuity to the public and it will not be developed.

**The Bailiff:**

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

**1.1.15 The Connétable of St. Ouen:**

I would like to thank all the Members who have contributed to this debate and while not responding to everyone individually, I will try to make one final plea for support; not support for myself, not even support for the Parish of St. Ouen, but support for a piece of Jersey which is unique in terms of its natural beauty, natural resources and general amenities, its character and its physical and natural environment, something which the States have already signed up to. Members should remember that this is a truly unique part of our Island coastline which we have been given a second chance to restore. Yes, a second chance which very rarely is offered and one which we turn down at our peril because I think Deputy Green was quite right when he said our children and grandchildren will not forgive us if we miss this opportunity. Deputy De Sousa asked me what I was looking for in this proposition. Well, as Senator Perchard pointed out, this is the nuclear option and I make no apology for bringing it because there was very little left for me to do to promote or provoke the Council of Ministers into action.

[12:15]

That it produced so little reaction from them is very sad. The Chief Minister said that my proposition was dangerous. Well, my response to that is that life is full of dangers and that it is only those who are prepared to face up to them and sometimes challenge them who leave their mark on society. He went on to say that now is not the time to be spending money. From my experience of life, there is never a good time to be spending money because this is the only time which will produce such an opportunity for us and we must not miss it. If it is not grasped now, I will have failed in my aim to provoke the response from the Council of Ministers which I wanted and I will remain frustrated and utterly disappointed that neither my proposition nor the letter of appeal from the National Trust has spurred the Chief Minister into more imaginative action. I do have to comment on one or 2 contributions. Where is the Deputy of St. John coming from? **[Laughter]** Well, obviously he turned up in the Members' Room yesterday lunchtime as usual

**[Laughter]** and was forced to digest the model and plans of the Plémont instead of his lunch. When he saw the mains drains on the site, his eyes lit up **[Laughter]** and he was immediately seduced. He had the audacity yesterday afternoon to call me a N.I.M.B.Y. **[Members: Oh!]** and yet, in the very same breath, suggested that the go-kart club could be moved from St. John to Plémont. **[Laughter] [Interruption]** Well, if I am to be a N.I.M.B.Y., it is obvious to me that it takes one to recognise one. **[Laughter] [Approbation]** Deputy Martin, as she quite rightly pointed out, has been consistent in her approach to Plémont. Not wanting to look outside the town box, she has totally missed to see the beauty and value to the Island of this unique headland and I am truly sorry for that. Senator Ozouf should practise what he preaches. He said we should be realistic and honest with people and I think that that is what should have been done in his report. The report should have been honest enough to say that all options for rescuing Plémont have been thoroughly researched all the way through from acquisition to land swap and all the others in between and, for the thoroughly researched reasons, it cannot be done. That would have been the realistic-and-honest-with-the-people approach. I do not believe that the work has been done and the in camera debate we had, I think, only just proves that. Last night, I was somewhat disheartened when I returned home but early this morning, my spirits were raised because Deputy Tadier and Deputy Pitman came out in support and I thank them for that. The question of the amount of land which is to be returned to the people was raised by Deputy Pitman and has also been raised later on by Deputy Higgins and a couple of other speakers. I am aware that the agents have given an assurance that the land on which the holiday camp now stands will be returned to nature and for the use of the people but I am also aware that they have mentioned that the land between the developments will be subject to a community-held project where the community will manage that project and I believe that is the community of houses that are there. I know from past experience of such a plan that it only works to a certain extent, that when houses change hands at a later date, that commitment is not always held with. Deputy Hilton, my regret is that those who wrote their comments at St. Ouen did not, in fact, speak at the meeting. I am aware that quite a number of them were there and yet none of them stood up to voice their opinion. Deputy Green gets my thanks for getting off the fence and falling on the right side, **[Laughter] [Approbation]** quite rightly asking Members if they had the courage to take this decision. I made the same challenge to the Members. He was perfectly right to point out that we must stop talking and start acting before we lose this one and only opportunity. I cannot let this occasion go by without mentioning the Deputy of St. Mary. He pointed out that this was a fundamental Island issue and he was right. This is not purely a St. Ouen issue. It will set a precedent for the future use of areas of our sacred coastline. Future developers will try and use Plémont in the same way as these particular developers have tried to use the price of Bal Tabarin. While thanking the Deputy for his support, I have to dissociate myself from his comments about the owner, comments which might come from the press but are not worthy of a Member of this House. **[Approbation]** Deputy Duhamel fails to realise that what is being proposed - and I think this applies to Deputy Jeune as well - is moving the brownfield site development which is there now on to a greenfield site. This is a point which has been raised with me and a point which I have been asked to look into legally and which I will take up with the Attorney General at a later date. I do not believe that the site changes because although there is an area which is greenfield site now and within the ownership of the present owner, there is no absolute right to believe that with the new development there will be any difference to that. As I have already stated, there is mention that the area which is now the brownfield site will be cleared and returned to nature but the commitment to it becoming public land I need to see in writing to believe it. Like Deputy Le Hérissier, I was very disappointed with Deputy Southern that he decided to use the town versus country card as his argument because I do not believe that this is a town versus country argument. I believe this is an argument for trying to preserve a piece of our Island, not the Island belonging to St. Ouen, but the Island belonging to all the people of the Island. Deputy Le Hérissier quite rightly pointed out that it is the lack of real action following on from my previous propositions which left me with no other action but to bring this proposition. It is the lack of the States being presented with reasoned, well thought out

alternatives which left me totally frustrated. I thank the Deputy of Grouville for calling for an in camera debate which clearly demonstrated why I feel so frustrated. The agents clearly stated at St. Ouen last week that the owners had not been spoken to directly. As I look back through the Hansard of my last proposition, I notice that Deputy Martin, who had a sore throat in 2008 as well by the way, **[Laughter]** in response to my proposition then said that the Chief Minister had been lacking. His Ministry should have been out to a consultation to find out if the public really wanted this. Well, here we are, 2 years later, and we are still in the same position. That, is the crux of the problem, the reason that I have had to bring this proposition today but without the proper research of the possible ways forward, the House is faced with making a decision using only the blunt instrument which Senator Perchard mentioned. Again, I make no apologies for bringing it. We are faced with an opportunity which will never be repeated, an opportunity to mark our support for the real qualities of life, the things which have made this Island unique and special, not only for its residents but also for all those thousands who have holidayed here. As people face up to the realities of financial pressures of 21st century living, they are turning in large numbers to those things in life which have a longer lasting value, to the environment and their natural surroundings. More and more people are taking to walking and learning to appreciate the natural beauty and character of the coastline of our fabulous Island. I, like Deputy Green, implore Members to give Plémont its last chance and support (a) of my proposition. It does not commit to doing anything until this Assembly gets all the required information but it does leave the door ajar slightly. Rejection of my proposition as a whole will, I believe, mark the end of this attempt to repair the mistakes of the past as far as Plémont is concerned. I ask for the appel and ask it on (a) and (b) separately and I believe (c) will fall away if (b) is not taken.

**Deputy J.A. Hilton:**

Just to confirm, if Part (a) of this proposition is adopted, it does not mean that it is an open-ended chequebook. It will have to come back to the House for agreement. That is correct, is it not?

**The Bailiff:**

Yes, Deputy.

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

Just another point of clarification. Is it possible to take them in separate parts, Sir, because my understanding of what the Attorney General said was that the compulsory purchase route could not be progressed unless the funds were in place? If we take them separately and if (b) were to be voted in and (a) were not successful, then, of course, we would be in a position where the funds are not available.

**The Bailiff:**

Well, we are going to take (a) first. If (a) is not passed, then, of course, we are not going to vote on (b). I invite Members to return to their seats. The appel has been called for in relation to the proposition and the first proposition is paragraph (a) which is to approve, subject to the availability of the necessary funds voted by the Assembly, the acquisition by the public of the site known as Plémont Holiday Village. Very well, the Greffier will now open the voting.

<b>POUR: 19</b>		<b>CONTRE: 23</b>		<b>ABSTAIN: 0</b>
Senator A. Breckon		Senator T.A. Le Sueur		
Connétable of St. Ouen		Senator P.F. Routier		
Connétable of St. Helier		Senator P.F.C. Ozouf		
Connétable of St. Martin		Senator B.E. Shenton		
Connétable of St. Lawrence		Senator J.L. Perchard		
Deputy R.G. Le Hérisier (S)		Senator S.C. Ferguson		
Deputy J.B. Fox (H)		Senator A.J.D. Maclean		
Deputy of St. Ouen		Senator B.I. Le Marquand		

Deputy of Grouville		Connétable of Grouville		
Deputy J.A. Hilton (H)		Connétable of St. Brelade		
Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy I.J. Gorst (C)		Connétable of St. Peter		
Deputy M. Tadier (B)		Deputy R.C. Duhamel (S)		
Deputy of St. Mary		Deputy of St. Martin		
Deputy T.M. Pitman (H)		Deputy J.A. Martin (H)		
Deputy A.T. Dupré (C)		Deputy G.P. Southern (H)		
Deputy M.R. Higgins (H)		Deputy J.A.N. Le Fondré (L)		
Deputy A.K.F. Green (H)		Deputy of Trinity		
Deputy D. De Sousa (H)		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy E.J. Noel (L)		
		Deputy T.A. Vallois (S)		

**The Bailiff:**

Very well, (b) and (c) clearly fall away.

**2. BlackBerries: costs for Ministers and Assistant Ministers and use in the Assembly (P.186/2009)**

**The Bailiff:**

We then move on to the next item of business which is BlackBerries: costs for Ministers and Assistant Ministers and use in the Assembly - Projet 186 - lodged by Deputy Trevor Pitman. I ask the Greffier to read the proposition.

[12:30]

**The Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to request the Chief Minister to cease to meet the costs of BlackBerries and call charges for all Ministers and Assistant Ministers from the budget of the Chief Minister's Department and instead to reclaim such costs from the relevant Member's expenses on a monthly basis; (b) to charge the Privileges and Procedures Committee to bring forward for approval the necessary amendments to Standing Orders to ban the use of BlackBerries in the States Chamber when the Assembly is meeting.

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

Do we need to declare an interest? [Laughter]

**The Bailiff:**

Well, you can mention it but it is not one which requires you to withdraw.

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

Are you sure? We would like to. [Laughter] [Aside]

**2.1 Deputy T.M. Pitman:**

Can we leave all the jokes to me, please? Some rather light relief after a very important debate. Just as a means of introducing this proposition which does revolve around a serious issue of which the BlackBerry itself is only a symptom, it is equality and loopholes at stake here in part (a), not the Socialists coveting expensive, shiny things but there are some of us, such as Senator Cohen, who is

unfortunately not here, who do appreciate that. We often joke about it and because of that, I thought it might be nice to quote very briefly from some words of wisdom from a lovely little book that I bought Senator Cohen for Christmas. I have not given it to him yet, I acknowledge, but that is only because even with his 2 BlackBerries, as we heard yesterday, he still has not managed to reply to my emails from more than a month ago. Now, hopefully, and I am sure the Chair will advise on this, Ministers accepting gifts is not against Standing Orders but I did buy it in a half price sale, as you can see, so hopefully it is not a problem. It is a very relevant little book and it is entitled, *BlackBerry Fool: An Addict's Guide to Switching Off*. Obviously, I am not aiming this quote at the Minister for Planning and Environment personally either, even though he has told me that he will fight me to the death for his BlackBerry but I think it really does say a lot about what the Chief Minister and the Council ought to take on board as it highlights those who have these devices on constantly. I quote: "A BlackBerry fool is someone who thinks their devices make them look more important, more impressive and productive. Naturally, the BlackBerry fool is wrong on every count." Now, humour, of course, but real food for thought. I have to flag-up 2 important issues here. The first is to advise the Assembly that with the Chair's agreement, I will be asking for a vote on the 2 parts to be taken separately if that is in order. The second point is to make sure that I leave no room for confusion in my bringing this and reiterate that personally I do not want a BlackBerry. I have never wanted a BlackBerry and working very hard, as I know I do, I do not feel that I need a BlackBerry. Most importantly of all, even if I was to be convinced otherwise, I would still never countenance accepting one unless the same rules of provision apply to all 53 Members. Why? Because we are either all equal under the safeguards of the States of Jersey Law 2005 or we are not and, of course, I will talk about the loopholes now being used to side-step the spirit of these safeguards, if not the technicalities, and bring in the Attorney General in a moment. Hopefully, he will still be there. This equality or lack of it, as I say, is at the heart of part (a) of the proposition; likewise the fact that this issue has never been brought before the whole Assembly for thorough debate and agreement. It is, I am afraid, in my view, another example of the sleight of hand policy begun under the previous Executive and which we are now growing to be all too accustomed to. Here I really do have to question why no one within the last Assembly ensured that this was brought before the House where the benefits or not of BlackBerries for all, such as has been expressed to me privately by the Deputy of St. Martin, could have been considered. The result of this, of course, is that we now have the highly unsatisfactory situation where all Scrutiny members, Back-Benchers, call us what you will, adhere to Article 44 of the States of Jersey Law 2005 and either stay within our expense limits to cover personal BlackBerry calls if we have one or similar communication-rated costs - I just have a cheap £30 Nokia as I often tell people - or we pay the surplus ourselves. Just to emphasise this, I have to highlight the Constable of St. John who is the very personification of BlackBerry perfection. He wanted one. He bought one and he pays the bills himself. It also has to be said that he does not give the impression of having to have his appliance surgically removed. It is not constantly on and annoying people so well done, Constable. Let us not forget, of course, the other key issue of all this. These Members also have to use their limited expenses to cover everything else such as office equipment, paper, printing, photocopying and something that many among the Executive take for granted, I am afraid, rental of an office that will likely wipe-out the whole expenses figure in one fell swoop. I do hope Members are realising this is not about those lovely shiny little very desirable appliances of which my good friend, Senator Cohen, is so fond. On the other hand, we have these 18 Members of the Executive, a stark contrast, who have gone along now with the possibility of claiming not only their £3,650 States expenses, and I repeat that because it is relevant, £3,650 of States expenses, but they have also agreed to getting those communication bills paid on top. Let us just remember who is paying for this selective double-whammy policy. It is the taxpayer and you cannot get away from that fact. The other big problem, of course, is that it does kick the legs from under those safeguards set within the States of Jersey Law to ensure no financial inducements, benefits, carrots, call them what you will, could be provided to possibly - and I am not saying it happens - but possibly help persuade any Member to be tempted towards finding a benefit to voting along with the Ministerial

or dominant group line. The Chief Minister asserts that this action is still within the States of Jersey Law. Indeed, he even quotes the Attorney General as backing up this contention in putting forward the opinion that if the costs incurred were to enable a Minister or Assistant to properly discharge their duties, then they would not be characterised as either remuneration or an allowance under Article 44. The Chief Minister is probably right if we are to look only at technicalities and not the spirit and intent of the legislation or what is, as I say, effectively the loophole by which these safeguards of equality have been allowed to be side-stepped to create a 2-tier system of expense levels, for that is the reality. Before I ask the Attorney General to comment, I would also draw the Assembly's attention to something important that the Attorney General himself said in response to a question of mine before Christmas. He said, and I quote: "This is a matter of statutory interpretation." With that in mind, I would also ask if the Attorney General would, in a moment, give us his opinion on something which the Deputy Bailiff confirmed for me last week when I met him on the issue, this being that it is also equally possible to obtain a wholly contradictory opinion to the Attorney General's from another lawyer, that this practice definitely does breach the intent of Article 44 of the States of Jersey Law in that it effectively increases or stretches - perhaps that is the better term to use - some Members' expenses in real terms by making payments of communication bills by additional monies channelled through the Chief Minister's Department; bills, let us not forget - and I make no apology for emphasising the point - that otherwise would have been met from expenses or from those Members' own pockets. Finally, I would also draw Members' and the Attorney General's attention for comment on part of his answer to my written question 32 of yesterday and ask him to confirm that the reality of his answer only confirms that with this precedent of paying communication bills, there is now indeed potential for other appliances, equipment and their costs to be provided to Ministers and their Assistants if it can be successfully argued that they better enable those Members to do their jobs. So in saying only that I really like the Attorney General, because as I have learned the last year in my discussions, he is probably the only working lawyer that I can demand an answer from, knowing that it will not cost me about £500 a time, Sir, over to you. If you could comment on some of those issues; is that possible?

**The Bailiff:**

Well, it is clear what you are asking, Deputy. I understand that you are asking whether he agrees with you that the present situation is a breach of the States of Jersey Law.

**Deputy T.M. Pitman:**

I am saying it is a loophole, Sir. It is defeating it by default, if you like, as I discussed with the Deputy Bailiff.

**The Bailiff:**

I do not think he can give an opinion on that but I think he can give an opinion on the legal matter as to whether it is a breach of the law.

**Senator B.E. Shenton:**

Because a BlackBerry is a mobile phone, could he clarify Standing Order 99(1), please?

**The Bailiff:**

We will take one at a time. The Deputy is on his feet at the moment so Mr. Attorney, could you answer that one?

**The Attorney General:**

Yes; as the Deputy has indicated, I have given, I think, 2 written answers to questions, one before Christmas and one in the present session about the interpretation of Article 44. In response to his first point, would a different lawyer looking at it give a different interpretation? How could I possibly say? Certainly in a moderately long legal career, not everyone has agreed with me all of

the time **[Laughter]** **[Aside]** and so I think I might reasonably say that it is possible that someone would interpret this differently. However, my advice to the Assembly, as I have set out in the last 2 written answers, is that an expense which is properly incurred for Ministerial business and therefore falls to be reimbursed in that connection does not, in my opinion, infringe Article 44(1). Both of my answers given in writing were addressed to the question as to whether the circumstances postulated in the question infringed Article 44(1) but not, of course, to any other principles relating to equality or otherwise. I am not sure I can assist any further.

**Deputy T.M. Pitman:**

Could I just ask the Attorney General to clarify? Does he accept that it gives the potential for other articles of equipment, some very minor, perhaps some very serious and costly, to be provided in this way because that is my legal advice.

**The Attorney General:**

I think it is difficult for me to go further than the written answer. The written answer is that if an expense is a necessary expense, is a proper expense incurred so that an individual can better perform his duties as a Minister and appropriately perform his duties as a Minister, then, in my opinion, it does not fall within Article 44(1). It is difficult for me to hypothesise what those expenses might be but, in theory, I am sure there could be other expenses over and above the payment for BlackBerries.

**Deputy T.M. Pitman:**

That is good enough for me, Sir. I thank the Attorney General for that. I look forward to Smart cars being provided very soon and fuel costs. So I guess what it comes down to is that Members have to decide what is more important to them, the technicalities, as we have heard, that now mean some Members must stick within their expenses limits while Members of the Executive do not or the intent of those safeguards set in the States of Jersey Law that strive to ensure that we are all equal. Let me put it this way. I am sure that many Assistant Ministers probably all work very hard but do they really need or warrant that stretching of their expenses, their budget, than people within Scrutiny who work equally as hard? I am afraid it is a “no brainer”. Safeguards are in place to keep us all equal and here I have to really ask the question behind the thinking of P.P.C.’s (Privileges and Procedures Committee) comments that all other States Members can be issued with a BlackBerry at the corporate rate negotiated by the Information Services Department. What message is this sending out from a committee meant to protect the equality, the interests of all of us? Those of us not in the Executive are indeed not equal and, in reality, perhaps second-class political citizens regardless of how hard those people work and how much they need to be in contact perhaps. Scrutiny - Back-Benchers - pay; Executive do not. No ifs, no maybes, fact, and it is a recent development. It cannot be right that we are getting away from the States of Jersey Law and its original intent. Moving on to part (b) which I can go through very quickly, I would raise a couple of questions to the Chief Minister because he does seem to give us the impression in his comments that his Council really cannot function adequately without BlackBerries as they are so essential to today’s Executive. Perhaps he could tell me very quickly why he gave me 2 completely conflicting figures when I asked the question about how much these BlackBerries were already costing the taxpayer. On 20th October 2009 the figure from December 2008 up to October 2009 was apparently nearly £7,000 or £6,920.51 to be exact. Less than a month later, 17th November, prior to this proposition’s originally intended date of debate, the answer had strangely gone down to £5,383.73 and I would like to know how that came about, less than a month from the original question, a drop of more than £1,500. Secondly, perhaps the Chief Minister can clarify for the Assembly how he can claim that all of these monies which, as the Attorney General has confirmed, depend on being wholly to enable these 18 Members of the Executive to do their jobs are all tracked to ensure just that. When one very honest individual - and I am not out to score points, I am not naming that person because they have acted very admirably - only recently flagged-up that

they discovered that this strictly Executive business-only BlackBerry was being used without their knowledge by teenage children. That was brought to light by the Member. It was not tracked, it was not checked. There are no safeguards in place and it is complete nonsense to say that there are but I stand to be corrected as always. Key elements of part (b) obviously revolve primarily around respect for other Members in the Chamber and perhaps more importantly, respect for the public who pay our salaries and should rightly be able to expect politicians to both be in the Chamber as much as they can and paying full attention to whatever is being debated.

**Senator B.E. Shenton:**

Could I interrupt the speaker very briefly? It is just that I feel that Standing Order 99(1) already bans the use of BlackBerries in the Chamber. BlackBerries are mobile phones as are iPhones and Nokia 338 or anything else. Standing Order 99(1) clearly states that BlackBerries should be turned off when you enter the Chamber.

**Deputy T.M. Pitman:**

May I continue? Thank you. Here I will highlight another quote from within the Chief Minister's comments on the proposition and perhaps Senator Shenton is psychic. It is a real corker of a comment, I think, when viewed within the real world: "Part (b) of Deputy Pitman's proposition" the comment says: "cites that there is no justification for BlackBerries being allowed into the States Chamber but it remains important for Ministers to receive messages and information for their departments when inside the Chamber." Here is the real killer line. The quote continues: "Prohibiting BlackBerries inside the Chamber would thus be a retrograde action forcing Ministers to leave and go elsewhere to perform their duties." So there we have the justification. Ministers simply must have their BlackBerries or otherwise they will have to go elsewhere and not be in the Chamber. Well, I know we are all out of the Chamber sometimes. I just had the misfortune to be stuck in a bottleneck behind speeches from the Deputy of St. Mary and Deputy Duhamel and I was out there behind the door for quite a while. I have to say, where has the Chief Minister been because Ministers have their BlackBerries yet many, and it is not all, but many of these politicians are without doubt among the worst offenders for disappearing from the Chamber, not for a 5-minute coffee break that no one objects to and which we all take, but for significant amounts of time, often hours over a day in some cases. I am afraid I have to say to the Assembly that the words of the Chief Minister on this part of the proposition can only be seen as a lame excuse for people who appear to think that they are above us in some way and certainly wholly unaccountable to the public. I repeat, they bear no resemblance to reality and perhaps when he speaks, the Chief Minister or some of his Ministers will also put me right and those members of the public who are sick of this disrespect and clarify to us why Jersey's primary success, in my view, came well before the advent of the Ministerial BlackBerry. How did these politicians of 10, 20 years ago manage without them? I would love to be informed of that fact. I would also be interested to hear the Chief Minister's thoughts on the important issue of what it looks like to those who do come and sit in the public gallery and see the Ministers paying no attention whatsoever to a Back-Bencher speaking, texting away to their departments maybe; other Members definitely; their Auntie Doris, could be for all we know; reading political blogs, quite possibly, who knows, someone must read them; or finally, as we know very well also happens, utilising those BlackBerries to instruct some Members to vote because there are people in this House who have seen it happen and it is ridiculous. Finally, the Chief Minister again quotes Standing Orders to try and back-up his case, reminding Members that Standing Order 99(1) does not prevent the use of BlackBerries, only that such things should not disturb. Well, they do disturb and it is disrespectful to other Members as many of us can attest and I believe will. This is probably why P.P.C.'s comments reveal very concisely that BlackBerries are not allowed in far larger jurisdictions which we would expect to have so much in common with - I have only got about 2 more minutes if the House will bear with me - Wales, Scotland, Northern Ireland, Eire, *et cetera*, and I commend P.P.C. for their work on that area. As the members of the E.S.C. Home Affairs Scrutiny Panel were told when we visited Westminster, politicians there too

are also requested now not to use those appliances within the House of Commons. One might think this reality might drive the message home, that BlackBerries have no place in this working Parliament. Yet, how does the Chief Minister respond? He dismisses this evidence telling us that despite the examples from these much larger jurisdictions, it is likely they do not have such onerous requirements on the presence of their Ministers. Really, I have to say that I find this sentiment a quite incredible view within the bigger picture. So there we have it. BlackBerries should not be allowed in the Chamber unless turned off, as Senator Shenton has probably told us, and it is wholly wrong that selected Members effectively get an additional 3 or even 4-figure degree of assistance with communication costs when those who work equally hard or perhaps even more so in some cases, have to meet such costs from within their statutory expense limit or pay the surplus themselves. We are equal or we are not and if we are not, then I really believe it will not be long before many decide - and it is being talked about now along with other examples - that it is time to stop playing along with this farce of pretending that we are, playing along and putting such incredible amounts of hours into Scrutiny, for example. We are told we are valued. It seems that we are not. We are treated again and again like second-class citizens. If another Member feels that the approach to take was to say that we all have BlackBerries, and I think the Deputy of St. Martin feels that way, then I say, fine, that is for him to bring. This is not the purpose of my proposition. It is about respect and it is about equality and it is about loopholes being exploited which is wholly wrong and I make the proposition.

**The Bailiff:**

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

**LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

The adjournment is proposed. If Members agree, the Assembly will reconvene at 2.15 p.m.

[12:52]

**LUNCHEON ADJOURNMENT**

[14:15]

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

I will ask for Members to be summoned to the Chamber. The Roll will be called to see who is present.

**The Roll was called.**

**Deputy C.H. Egré of St. Peter:**

Just a point of good housekeeping. Can you confirm that now that the Constable of Trinity answered his name in the third roll call of the day that he is now no longer en défaut?

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

Yes, I think we all know that the Constable is no longer en défaut and I note at the conclusion of roll call, the Assembly is quorate and may therefore continue although it was not quorate at the beginning of roll call. Deputy Trevor Pitman has proposed his proposition on BlackBerries. Is that proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? No Member wishes to speak?

**2.1.1 Deputy G.P. Southern:**

I have not seen that trick for a while, **[Laughter]** 37 people in the Chamber and all of them stuck to their seats with glue. Interesting. Oh, we do not really want to debate this, do we, some of us? Why, I wonder, why? Could it be that the proposition is fundamentally sound and correct and highlights an inequality - a change in circumstances - that does, in fact, break Standing Orders or States of Jersey Law Article 44(1), that all Members of the States shall be equally remunerated? Is it the case that if you were in the private sector in industry somewhere and you had access to a company car and you could claim petrol on your expenses, that the Income Tax Comptroller would look at that and say: "That is a benefit in kind and I wish to tax it?" If you bought a BlackBerry and you could claim use of that, whether proportionately or not, for business use, would the Income Tax Comptroller look at that and say: "That is a benefit in kind, I wish to tax it?" I believe he would. If it is associated with the carrying out of your business, then I believe he would, thereby suggesting that there is an advantage that some in this Chamber gain over and above others in this Chamber. Is it a fact we are breaking in spirit and, I believe, in the letter of the law that we should all be equally remunerated? Is it correct to state that Ministers and their Assistants are so special and they need to be in constant communication with their departments that they should have this benefit while others in the room do not? Is it the case, for example, that while I was away last week and not this week - damned hard job it was getting back, Senator Le Main - that I should, had I been on the ball and had I had my BlackBerry with me, have thought: "Oh, I really need to ask a question with some urgency about these Post Office changes to restructuring of the Post Office workforce" instead of which I did not use my BlackBerry or my new Nokia because I was going to pay for that call from Egypt and I thought I could probably wait until I got back and my emergency question was ruled out of order: "You cannot have it because you could technically have got the question in before last Thursday from Egypt." Now, a Minister might well have been able to feel no compunction about communicating from Egypt because if he thought something needed doing, he could just email it using his little BlackBerry. See those messages emailed from my BlackBerry in Sharm El Sheikh. Lovely job. He could have got on with his business. I chose otherwise because I do not know what the roaming charges are, what I might have been paying to make sure that I got what I thought was an important issue raised in this session but I did not. Why? Because I do not have those expenses paid for. I think it is an important issue and certainly on a day to day basis and I am one of those people, as the colleague on my right constantly points out, that appears to be completely unable to sit in the same seat for more than 5 minutes because I am for ever out there looking at my emails, checking them, looking at my mobile phone, checking them outside the Chamber. Up and down like a yo-yo. I do not sit at my BlackBerry under the desk texting away and staying in contact with my Scrutiny Panel and my Scrutiny officers in order to get things done. Why? Because if I did that, it would be coming out of my pocket. Is there advantage? Is there a remuneration? Is there an expense that is paid to some in this Chamber and not others? Yes, there is. Should we therefore be voting for the first part of this proposition? I believe, yes, we should. One rule for all. Surely that has to be the case, not these people are more important than these, therefore we will give them an extra perk, a benefit in kind as I have referred to it previously. Does this breach Article 44? I think it does, both in the spirit and in the letter of the Law. Secondly, should I anyway in this Chamber, instead of paying attention to the debate, be texting away under my desk busily doing other business even though I might be being directly addressed as Minister of this, as Chair of this, in order to make some points in debate in this Chamber? This Chamber, I remind Members, takes priority over all other States business. Well, certainly, the members of the public who were recently in fairly large numbers in the balcony came out of a couple of sessions absolutely thoroughly disgusted with the actions and activities of many Ministers who, while apparently debating an issue about their jobs and their redundancies, could not be bothered to look at people in the face when they were being addressed because they were under the table clicking away with both thumbs pinging away, ping, ping, ping, ping, ping. That is what is happening in this Chamber. That is taking priority over events in this Chamber. That should not be happening. As Senator Shenton has pointed out, mobile phones are banned from this Chamber and we fine people if they go off. What is the difference between that and the BlackBerry, I would argue?

None whatsoever. We have to act also on the second part of this proposition. I will be supporting this proposition absolutely wholeheartedly. It is about equal treatment. It is about equality. It is about fairness and it is about all the Members of this Chamber and not privileging some over others.

### **2.1.2 Deputy P.J. Rondel of St. John:**

I have concerns over the way the proposition is worded. Under (b), it charges the Privileges and Procedures Committee to bring forward approvals for the necessary amendment to Standing Orders to ban the use of BlackBerries but it does not go any further than that. In my case, mine is not a BlackBerry, it is a Motorola. You can receive texts and you can receive whatever else, in fact. I am given to understand you can receive emails and send emails on it although I never had that facility entered into it for whatever reason because I get sufficient of those on my other 2 computers, the States one and my home one. So therefore the proposition is defective in my view in that area because if you are going to do it, it has to cover everything. Secondly, as for (a), that is another matter but I am not going to bother commenting on that one because ...

[14:30]

### **Male Speaker:**

Deputy Shona Pitman texting her husband.

### **Deputy S. Pitman:**

Sorry, I just ...

### **The Deputy of St. John:**

Excuse me, I am not giving way, I am not giving way. Please sit down. Through the Chair, please, Sir.

### **Deputy S. Pitman:**

I just had a message from an officer giving me information to help me with this debate, Sir, thank you. [Laughter]

### **The Deputy of St. John:**

I must say when I am not giving way I expect the support of the Chair not to allow somebody to continue. I would have expected you, Sir, to have called the usher and brought order to the Chamber. Thank you. As for (a), I will not comment but I believe whether it is parking, whether it is lunches, whether it is BlackBerries, *et cetera*, this should all be dealt with by the remuneration body that was set up. These are petty things that should not come to the floor of this Chamber. [Approbation] This Chamber is here to govern the Island, not to worry about the ... to me, this is petty. We should not be dealing with these petty things on the floor of this Chamber. Some weeks ago, I asked about using a laptop in here and we were told that that was not possible. That is fine, no problem, I accept that. Another Member had done so on a previous occasion. I do not have a problem with that but let us have these things sorted out in the proper place, whether it is with P.P.C., the Remuneration Board, *et cetera*. These things should not come to the Chamber. If it comes, it must be a last resort but I have said sufficient. I think this is an ill thought out proposition because it is defective.

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

I will start with (b). I will be very brief. I really do think this is going a bit too far, especially when the Deputy has got a proposition in later for the quorum of the States to be quite a bit larger which I probably will support. I am here most of the time so I think if I am here, why should not everybody else be? But as long as they are not interfering with other people, I think we are in the 21st century and technology has overtaken us. To be quite honest, if people are not listening to your speech, it is

probably because it is not interesting enough. I find that a lot of the time - and it is not personally to the Deputy - to a lot of other people who may have started about 3 hours into the speech and then we get repetitive and people have absolutely given up the will to live let alone listen to more. So we make our own rules. I cannot support (b). Now, (a), I probably am conflicted and people joked when they asked the Bailiff: "Are we conflicted because some of us are in receipt of our BlackBerries being paid for?" Well, to me, that is a direct pecuniary interest so I am declaring that. What I am worried about and we had this big debate when we went to Ministerial, and this was an amendment brought by Senator Syvret and it was carried. Let me just read Standing Order 44 because I do understand where Deputy Pitman is coming from. It says: "No scheme, arrangement or other arrangement whatsoever for the remuneration of or the payment of any allowance to elected Members out of the Consolidated Fund shall provide for different elected Members to be entitled to receive different amounts of remuneration or allowance." Now, this is exactly what this does. When we first went to Ministerial, the Chief Minister then being Senator Walker, BlackBerries were a new toy on the block and Ministers had them. Questions were raised in the House then and then forgotten. There were explanations given that people could not possibly live without them. Now, 3 years into Ministerial, we have a new Chief Minister and we are a year in and I am one, I am an Assistant Minister who got a BlackBerry 4 or 5 months ago, not under the first Minister, under my Minister, because they did say it would help everybody and I do believe it really does help my job and it helps me communicate with the Chief Officer, the other Assistant Minister and Minister over weekends, in the evenings, and whether I am at home, whether I am on my laptop, it does help. But does that mean I should not have to pay for it? I wonder if we do keep moving a little bit and a little bit. I see where the Deputy is coming from. It might be a small amount to the Deputy of St. John. He may think this is trivial but then when is it next that well, Ministers and Assistant Ministers should be paid more? Would that get through the House? I do not know. I think Standing Order 44 was brought in. I voted for it as an amendment and I thought it was very, very good at the time so I am just going to listen. At the moment, I am not giving up my BlackBerry and if, so be it, that it has to come out of my expenses ... yes, I will give way to the Deputy of St. John.

**The Deputy of St. John:**

If I mentioned the word "trivial", it was not meant in regard to Members. These trivialities should not be dealt with on the floor of this Chamber. That is where the word "trivial" came in. It came in in the bigger picture so that any of these items that are dealt with by the P.P.C. and/or the Remuneration Board.

**Deputy J.A. Martin:**

Thank you for that interference but I have nearly finished and everyone will get a chance to speak. I am also on P.P.C. and that was my final point. The States Remuneration Board will not get involved with political matters. They will not look at this. They think it is political. They will not really look at parking. It is political. Now, it is. They decide what we are worth and what we should be paid. Other than that, you can see where they are coming from. They decide on, you know, do we need pensions? Whether we vote that in this House, again that is political. So to say that this is not the place to debate it, people may, again, as I say, think this is but how far does one wander until there is a clear divide and Deputy Pitman may be an Assistant Minister or he may be a Minister. It should not be where you are. It is what your principle is on are we all paid the same and read Standing Order 44. It is so specific about allowances, schemes or any other way around it but I think this has been a way around it so I probably will support (a). I certainly will not support (b). I think (b) in this day and age is very petty.

**Deputy M.R. Higgins:**

Can I just raise something? On the Standing Orders and looking at the remit of P.P.C., on 128, it says: "(d) to be responsible for the provision of accommodation, services and facilities for

Members of the States and to bring forward for approval, as appropriate, recommendations for improvements and changes to these facilities.” No matter what the Deputy of St. John says, it would come back to this House anyway because P.P.C. cannot decide on its own.

**2.1.4 Senator P.F. Routier:**

When I think back to the first days of Ministerial government, we had a new team which were all put in place and it was one of that team, one of the new Ministers, who suggested that we should be a bit more modern and be in touch with our departments and ensure that our departments can be in touch with us easily. The Senator who proposed it, that asked for it to be looked at by the Chief Minister’s Department, was Senator Syvret. Senator Syvret was the one who made the changes to the Privileges and Procedures Committee to the way we operate and said that we should not have any additional recompense or anything for being a Minister. The department providing Ministers with a BlackBerry to be able to communicate with the department was not, in his mind, seen as an additional amount of money being paid. All it was was a mechanism to ensure that we could communicate effectively. The BlackBerry belongs to the department. It does not belong to the Minister. The Minister is expected to use it solely for communicating with the department and doing his Ministerial work. It is not to be used for personal messages. I do not make any phone calls on my BlackBerry at all. I just use it for picking up emails which are to do with my States business. Occasionally, obviously, constituents do contact me on that which is all well and good but as far as communicating with the department is concerned, that is the way that I do communicate with other States Members and with the department. I will leave it entirely up to Members to decide what to do. I think, as the Deputy of St. John has said, this is an absolutely laughable matter to come to this House to be debating this but if Members want to decide that Ministers should be charged for communicating with the department, well, quite simply I will just give the BlackBerry back because it is no financial gain to me to have the BlackBerry. All it is making an effective communication with the department and it makes us work a lot better, a lot quicker and we can and so I am pretty clear about it. If Members want to decide that Ministers and Assistant Ministers are going to be charged for having their BlackBerries, it will just go straight back to the department where it belongs.

**2.1.5 Deputy R.G. Le Hérissier:**

I totally agree with the Deputy of St. John but I will say a few words. I also agree with Senator Routier. I think it can be regarded as an essential adjunct to an Assistant Minister or Minister’s work. This may sound unexpected but I think a lot of them do do jobs where being on call is an important facet of their job and I think we have to respect that. It puts them under pressure out of hours and they are expected to give answers quickly. They are expected to make themselves available and I think, to that extent, it is an adjunct of their work. I would, however, totally agree on (b) with the proposer. He and I went to the Welsh Assembly. We saw an Assembly where there was a total freedom in using laptops and where people stood up and either they may have made utterly boring and uninteresting speeches as well but they stood up. When they stood up to make speeches, there was absolutely no eye contact of any kind because everybody was utterly absorbed in working on their laptop. It was an almost surreal atmosphere, and I certainly would not wish that to happen here so therefore I support (b) but not (a).

**Deputy D.J. De Sousa:**

It is not to speak on this matter. We had a roll call after lunch so I believe Deputy Vallois was not present. Can we raise the défaut if we need to?

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

Thank you for that point but just to clarify, the purpose of the roll call after lunch is simply to assess whether the Assembly is quorate or not and there is no need to raise défauts. The initial roll call stands for that purpose.

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

I have just a few comments on this. I thought perhaps it would be useful for people who have not been in business or been in the private sector, if the BlackBerry is wholly and necessarily for the better performance of the job, it would not be taxed as a benefit in kind. For instance, a manager, if he has a car, that will be taxed. If a salesman has a car, that would not be a benefit in kind. That would be wholly and necessarily for the better performance of the job. I cannot understand the excitement over BlackBerries because they are little “yesterday”. Frankly, iPhones and things like that are very much more up to date. I do wonder, when the Deputy is demanding respect and equality... well, in my book, you earn respect and reducing down is not equality. It is, I do not know, basic Karl Marx. With regard to spending more than your expense allowance, if you keep proper records, then you can reclaim the tax on the verified excess over the existing expense limit, just as if you live in your district, you would not need an office.

[14:45]

I do understand that P.P.C. are reviewing the question of electronic devices in the Assembly. I would like to put in a plug here, if I may, so to speak. **[Laughter] [Aside]** My apologies. That was awful for after lunch. I want to have an eReader so that that would completely remove the possibility of a rampant ring binder. **[Members: Oh!]** Frankly, a BlackBerry is much less expensive than a Ministerial car and I am not going to subscribe to a Ministerial Rolls Royce for the Chief Minister. I would ask the Deputy to withdraw this and refer it to P.P.C. because this is somewhat of a waste of time.

### **2.1.7 Deputy F.J. Hill of St. Martin:**

I speak because during the course of the speech, Deputy Trevor Pitman mentioned me and the reason he mentioned me was because we had discussed this matter outside and I said I could not support his proposition. I felt it was a wrong proposition. I do respect the fact that Ministers do have additional work but I would say that all States Members’ work is of equal importance. I would rather we had had a proposition to the States asking that we all be treated equally and I am sure I would have got the support from the Ministers as well. I do not really think we need to spend too much time on this particular one. It is quite a straightforward vote, yes or no, but I would ask that if the vote is no, which I will be voting along with it, that maybe P.P.C. would come back and say: “Well, this is how much it is going to cost to give all States Members” because then we are all treated equally. I maybe would give that consideration when we vote and if it is defeated, as I hope it is, maybe P.P.C. can pick it up.

### **2.1.8 Senator T.A. Le Sueur:**

I was very tempted not to speak at all in this debate on the grounds that rather like the Deputy of St. John, I regard this matter as trivial and not the sort of thing that should come before this House. However, I do think perhaps, as Chief Minister, I ought to reiterate the fact that Ministers have to abide by a Ministerial Code of Conduct as well as the States Members Code of Conduct and that Ministerial Code of Conduct does set out procedures and policies for things such as these expenses and, indeed, the need to segregate, as Senator Routier has already said, that I have, in one pocket, a BlackBerry for my States work and in another pocket, a mobile phone for personal use. Ministers generally abide by that and respect that. I am reminded of the wartime saying: “Give us the tools and we will do the job.” In this case, it is not a question of being given the tools, but being lent the tools because the BlackBerry still belongs to the States. It is a tool for doing the job. If you want the job done properly, I suggest we have the right tools to do the job.

### **2.1.9 Deputy S. Pitman:**

I have put my mobile phone away as I forgot the notices outside the States Chambers. I believe there are 3 on the doors which say: “No mobile phones.” I note that the biggest perpetrator of BlackBerries in the Chamber, Senator Ozouf, does not have his 2 BlackBerries on him today or

they are hidden. Some Members have said this proposition is trivial and petty. Well, I would suggest that it is not because so far it has been going on, I believe, for about a year and nobody has been questioned about it. Nobody has done anything about it. Has the Chief Minister had words with his Council? No, he has not. Does the Bailiff say anything during the States sitting? No, he does not. Has P.P.C. done anything as they are there to uphold the good conduct of Ministers and all Members, in fact? No, they have not. I will explain the other reason why it is not trivial. An email that was sent to me by one of our manual workers who sat in during the debate of the pay freeze last year, and which was sent to the *J.E.P. (Jersey Evening Post)* but for some reason they did not print it, I cannot imagine why, starts: "I am writing this letter to voice my disgust at the behaviour of certain States Members during a recent debate in the States Chambers. As one of the States manual workers that earns below the pay packet figure that was bandied around some months ago, it was with obvious interest and concern for my family that I decided to take time out and visit the public gallery to listen to Deputy Pitman's speech. There was a lot of interest during the debate of civil partnerships with several Members patting themselves on the back saying how Jersey must and has moved forward in the world and how positive they felt they were being. Do not get me wrong. I did agree that Jersey States Members were moving Jersey into the 21st century. However, when Deputy Pitman stood up, the whole atmosphere changed. It became quite obvious that many Members wanted to go home as after all it was 4.00 p.m. As Deputy Pitman started, I counted 4 Members texting out on their mobile phones and during the Deputy's 25 minutes, one Member received at least 3 texts to which he answered; 2 other Members spent time in conversation and one was reading what appeared to be a magazine. Obviously, I am sorely disappointed with the outcome as are 100 per cent of those who are affected by the pay freeze but what disappointed me more was the attitude of some of the Members who I felt were rude and ignorant towards Deputy Pitman and most of all to their workforce. Yes, Jersey has moved into the 21st century in technology but what has happened to our leaders' manners?" That is why we have this proposition here today, because that disrespect and rudeness to our States workers and the public out there who are paying us, this is why we have this proposition today so it is not trivial, it is important. Lastly, I believe this is more than anything about equality and whether or not it breaks Standing Orders or is against the law or does not have any conflict with our States of Jersey Law, it is unequal and it does anger me because, as everyone knows, I am paying most of my expenses on an office. So maybe if people feel that a BlackBerry is an essential tool of a politician, of a Minister, then I might well be asking my husband to bring a proposition to get me an office.

#### **2.1.10 The Deputy of St. Mary:**

I will be brief; 3 points. This is a small issue but it highlights a matter of principle which is quite important. There are 2 views and it is quite clear people are going to vote probably on fairly strict lines of the usual - disrespectful and divisive - which we read in the proposition, versus Ministerial responsibilities: "We need our BlackBerries." In my view, what Deputy Martin read out is the answer to paragraph (a). It is quite clear from Standing Order 44. It is quite definitive. This is not acceptable. It has to be at present as Standing Orders are now. It has to be that these are simply part of the ... has to be reined-in. Paragraph (a) stands and should be voted for simply because it contradicts Standing Order 44 to do otherwise and if we want to change that, then let someone bring forward something to change it. The bigger issue is this one of equality which the Deputy of St. Martin raised and I do wish, like him, that this had been brought as a kind of general principle thing and charging P.P.C. to make it so that this Chamber is visibly fair in respect of the way it treats Members. I have just a little list of facilities that Ministers and Assistant Ministers have and which we who are not Ministers or Assistant Ministers do not have. I keep a research list. It is quite a long list of things I would like to find out and cannot because I simply do not have the time or the resources or someone to ask to do it for me. I have no office. Well, I do, I have a room at home. I am fortunate that I can spare a room at home. Some people cannot. What do they do? Do they do their office work on the pavement? I just do not know how they manage and the third thing is there is no library, a basic resource of any Parliament, no library. So I do urge P.P.C. to get on

with this issue of facilities under the rubric of equality which is what this proposition is raising for us today. The third point is on paragraph (b) here, to ban the use of BlackBerries in the States Chamber. I am not quite sure which way I am going to go on this but I would ask what happened before BlackBerries? They are only 3 or 4 years old. Did Ministers use the phone? Did ushers bring important messages to Ministers when they had to be contacted by their departments or do Ministers take these vital decisions on the hoof using their BlackBerries? I cannot believe it so I just find this rather extraordinary.

**The Bailiff:**

Does anyone else wish to speak? Deputy Tadier, I see you have got a laptop.

**Deputy M. Tadier:**

Sorry, Sir?

**The Bailiff:**

I see you have a laptop.

**Deputy M. Tadier:**

That is correct.

**The Bailiff:**

Yes; well, I think this was raised before, was it not?

**Deputy M. Tadier:**

Yes, Sir, and I think on that occasion, I was permitted to keep my laptop to read my notes. There is also another laptop currently being used in the Chamber with the Attorney General.

**The Bailiff:**

Yes.

**Deputy M. Tadier:**

I do not have a problem with that. No other Members do.

**The Bailiff:**

I think then I must rule on it, Deputy. I think I must start by saying that whether laptops or other electronic equipment such as BlackBerries or laptops should be permitted is ultimately a matter for Members not ultimately a matter for the Chair. It is for Members to decide how they wish to proceed and as I understand it, the Privileges and Procedures Committee is looking into the matter at present and may come forward with proposals and certainly if Members may be interested, I have just been to the Conference of Speakers of Commonwealth Parliaments and this is a matter which is being considered by a number of Parliaments. The majority at the moment do not allow laptops but some do. Canada does and Wales does, for example. Now, it seems to me that I must make a ruling at the moment one way or the other pending a decision taken by the Assembly as a whole and we have, of course, Standing Order 99(1) to which reference has already been made which says that Members must turn off any electronic equipment that may disturb the proceedings of the States. There is also Standing Order 167 which provides the Bailiff shall decide any question of order or procedure not provided for in Standing Orders. Now, I have to say that in my judgment, if a number of Members start using laptops, there is a real risk of disturbance of the proceedings under Standing Order 99(1). Furthermore, it would be quite a considerable change from the procedure which has been followed hitherto and it would be likely to affect the character of the proceedings. At present, those who are in the Chamber are by and large listening to the Member who is speaking because there is no other activity which is meant to be undertaken subject to the BlackBerry point. If laptops are permitted, Members would be able to send messages, deal with

wholly unrelated matters and if one of the main purposes of proceedings is to persuade by oral argument, that would be a considerable change. Furthermore, I consider that if there are laptops there, they are quite large, they are quite obvious. When people tap on the keys, it tends to make a noise as, for instance, one hears over there even though they have been silenced. If we had 53 of those going on, I consider that that would disturb the proceedings. So I emphasise that ultimately it is a matter for Members through Standing Orders whether they wish to have laptops in or not but pending any such decision by Members, I am going to rule that laptops are not permitted.

[15:00]

Now, can I add 2 points? First of all, the question is whether that applies to BlackBerries. The fact is BlackBerries have been used and I am not going to rule that they should not be for 2 reasons. First, as I say, they have been used and it is now before Members so Members will be able to decide today whether they think they should or not, so I do not think it is right for the Chair to change the *status quo* in the midst of a debate or immediately before a debate. Secondly, I do not consider that they disturb proceedings to the same extent as a laptop because they are small, they are hidden but that is a matter for Members but I do not consider that they are ... I am going to rule that they breach Standing Orders. Can I just add this in relation to the Attorney General because I accept that he has been allowed to use a laptop for some years. I do not consider that so far that has disturbed the proceedings. It is only one person and no one has made a complaint so far. So what I propose to say is that I am not going to allow laptops but because this has hitherto been allowed so that he can continue to do his work, I am going to allow him to continue. Again, it will be a matter for Members to decide in due course whether they think that should be allowed or not. I emphasise what Members do think should happen in this Assembly is ultimately for Members. I am just making a ruling in the meantime pending P.P.C. considering the matter and bringing it forward. So, I am sorry, Deputy, that is a very long way of saying that you must turn your laptop off, please.

**2.1.11 Deputy M. Tadier:**

I will carry on. First of all, I will ask then, in that case, Sir, may I retire from the Chamber in order to use my laptop outside the Chamber to email my notes to a BlackBerry so that I can therefore read from a BlackBerry in the Chamber? Is that okay, Sir?

**The Bailiff:**

It is a matter for you.

**Deputy M. Tadier:**

If that is okay, I would like to do it. The only drawback is I do not have a BlackBerry [Laughter] which I believe are permitted in the Chamber but I do have a point of order. I noticed earlier that there were some Members in the Chamber using mobile phones which I believe there are signs on the door that they cannot use them and they are electronic devices and I was disturbed by the Members using the mobile phones so I would ask that anyone with a mobile phone, if they could also leave the Chamber or have their mobile phone switched off at this point.

**The Bailiff:**

Deputy, Standing Orders are for the Chair, not for individual Members. What the Standing Order says is that electronic equipment has to be switched off if it is likely to disturb the proceedings. Now, I emphasise that it is for Members to decide. There are strong arguments for saying that it may disturb the proceedings because it stops people concentrating on what is being done but I am not prepared to rule at the moment that the use of either the BlackBerry or mobile telephones, assuming everything is switched off and is on silent and is used discreetly and moderately, is such as to disturb the proceedings under the Standing Orders. Whether it is desirable or not is an entirely different matter.

**The Deputy of St. Mary:**

Can I ask a question of clarification on your ruling? The ...

**The Bailiff:**

I think the ruling is fairly clear. I have said no, so I do not see that ... [Laughter]

**The Deputy of St. Mary:**

On the difference between laptops, which have been used in the past and are acceptable. BlackBerries were introduced.

**The Bailiff:**

No, I have made the ruling, Deputy, thank you very much.

**Deputy M. Tadier:**

I believe I am still speaking.

**The Bailiff:**

You were next to speak.

**Deputy M. Tadier:**

That is correct, Sir. Unfortunately, I am going to have to cut short my speech because all my notes are on my laptop. [Approbation] I am pretty much flabbergasted by the decision that has just been made. I was not going to support this proposition. I do not think it is the right way. I was going to talk about the need for levelling-up, the need for States Members to be able to carry out their duties efficiently, whether they are Ministers or Back-Benchers or involved with Scrutiny. I cannot do that, I am afraid, so I will have to retire from the Chamber.

**2.1.12 Senator J.L. Perchard:**

This debate is entering the realms of farce. I apologise to the people of Jersey that may be listening to it and I know I offer that apology on behalf of many Members. Can I suggest that if we really are meaningful about getting a sensible conclusion and way forward here, that I, with the greatest of respect, ask Deputy Trevor Pitman to withdraw this proposition and ask P.P.C. to take their responsibilities seriously, to step up to the plate because they are a failing committee that are imminently going to receive a vote of no confidence from a Member of this House. They fail in every aspect of their work and, once again, they have failed in the aspects of proper communications, remuneration and ... I suspect the fault lies clearly with P.P.C. In the best interests of this Chamber, its reputation and this serious debate about benefits, communication, *et cetera*, I think it would be wise for Deputy Trevor Pitman to withdraw the proposition and let us expect P.P.C. to come forward very soon with some sensible proposals about how and where this Chamber should be proceeding. The chairman nods. The chairman has been a target of mine over many issues for many, many months, maybe years, as to the delay and the dithering of her committee. If she has an impossible position within her committee of not being able to get a consensus, I suggest that she should resign and reform. We have a terrible problem with P.P.C. It is time they stepped up to the plate and now is the time.

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

May I give a point of clarification to that.

**The Bailiff:**

Well, as long as it is not an answer to the criticism. That would be a speech but you have not spoken, have you?

**The Connétable of St. Mary:**

I will reserve, thank you.

**The Bailiff:**

Now, does any other Member wish to speak?

**2.1.13 Deputy S. Power of St. Brelade:**

Because I was conflicted on the Plémont debate, I decided to do a lot of other work this morning in Housing and we had a number of what I shall call short-term emergencies to deal with this morning and I apologise for being late at 2.15 p.m. but it was the case that they had to be dealt with. I was issued with this BlackBerry last August and at the same time that I was issued with a BlackBerry at the Housing Department, so was the Chief Officer of the Housing Department and the Director of Policy and Planning. It was decided that it would enable communications between myself, whether I was in the department, whether I was at the Planning Department, whether I was at the Parish or wherever I was otherwise occupied. That BlackBerry has allowed me to accelerate responses to emails and particular problems that I have got to deal with. For instance, it enabled Senator Le Main to cover for me when I was away in November at a number of funerals and I have been able to cover for Senator Le Main. As you all know, he is away. In my role in the Housing Department, I find that the BlackBerry is a useful tool to deal with short-term problems that occur quite often in the Housing Department. For instance, we had 2 cases at the weekend where an elderly couple ... their hot water supply packed in and by dint of text and email to the Chief Officer and to the maintenance chaps - and this is at very odd hours of the night - we were able to get somebody around there fairly quickly and get that hot water system fixed, so I do not regard this BlackBerry as any kind of a perk. As a matter of fact, I would be quite happy to go back to the way I was and not have this BlackBerry. I have to say that the Member that has brought this proposition and his wife and a number of other States Members are some of the busiest emailers of the Housing Department. I respond to those emails and I hope that both Deputies Pitman realise that I do the very best I can to respond to demands for constituents in St. Helier No. 2, St. Helier No. 1, or whatever. But this tool in my hand has enabled me to respond quickly and it has enabled me to get on to officers of the Housing Department sometimes when I have been sitting in this Chamber to get this work done, so this is by no means a perk. This is by no means a perk and I resent the fact that the proposition is couched in terms that this is of benefit to me personally when I could sooner do without it. I really could sooner do without it and I am getting very fed up with these propositions where we micromanage the way we operate this Assembly. I am fed up, fed up to the teeth. **[Approbation]** I pride myself in the fact that in the Housing Department, we do manage the affairs of the Housing Department very well. We do go into attention to detail. We do prioritise. We do attention direct. We do problem solve. If you were a member of a senior citizens' lunch today, as I was supposed to be at at St. Brelade and could not do, I hate to think what those people would think of the amount of time that we waste in this Assembly in micromanaging stuff that should never come to this Assembly. I think it is very, very unfair of Senator Perchard to take a pot shot at P.P.C. because I think P.P.C. do the most difficult job in the most extraordinary circumstances with a mixed committee that I would in a nightmare never want to be on and I take my hat off to the Constable of St. Mary for trying to keep that committee going. I think she deserves a lot of credit. It is almost mission impossible and she should be allowed to get on with it. It is not her fault that people on P.P.C. pull in polar opposite directions and we have got members of P.P.C. bringing individual propositions to this Assembly about reforming of this Assembly when it is a P.P.C. matter, so that is another frustration I have. I will get back to what I wanted to say and now I have lost my train of thought. I think the best thing I should say is that I find these debates about sandwiches, BlackBerries and other things really ridiculous and we are not conducting ourselves in the best manner and I hope that this proposition is thrown out.

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

I think many Members are uncomfortable with this debate. No doubt the public outside is equally frustrated. On the basis that P.P.C. have been asked to look into this matter, perhaps they can come forward with solutions whereby perhaps all Members could be, for example, offered BlackBerries or P.C.s (personal computers). This issue of use of BlackBerries, which is a concern of some Members, needs to be looked at perhaps in the context of the efficiency of the Assembly which is being looked at by a sub-committee of P.P.C. I propose to move on to the next item.

**The Bailiff:**

Very well. Is that seconded? **[Seconded]** The appel is called for then in relation to a proposition to move to the next item.

**Deputy S. Pitman:**

I do believe that Senator Ozouf does have a conflict of interest as he has 2 BlackBerries and he is the most frequent user of his BlackBerries in this Chamber.

**The Bailiff:**

Well, Deputy, I have already ruled that yes, it is an interest which should be declared but not one which precludes the Member from sitting as it is not a direct pecuniary interest.

**Senator J.L. Perchard:**

Before we take the vote, does this proposition then return to the House in 2 weeks?

**The Bailiff:**

We move to the next item of business and then it means that it can be brought back as and when anyone wants to. Very well, the proposition before the Assembly is that the Assembly should move to the next item of business. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 22</b>		<b>CONTRE: 23</b>		<b>ABSTAIN: 1</b>
Senator P.F.C. Ozouf		Senator T.A. Le Sueur		Connétable of St. Mary
Senator F.E. Cohen		Senator P.F. Routier		
Senator B.I. Le Marquand		Senator B.E. Shenton		
Connétable of St. Ouen		Senator J.L. Perchard		
Connétable of St. Helier		Senator A. Breckon		
Connétable of Trinity		Senator S.C. Ferguson		
Connétable of Grouville		Senator A.J.D. Maclean		
Connétable of St. Brelade		Connétable of St. Lawrence		
Connétable of St. John		Deputy R.C. Duhamel (S)		
Connétable of St. Saviour		Deputy of St. Martin		
Connétable of St. Peter		Deputy R.G. Le Hérisssier (S)		
Deputy J.B. Fox (H)		Deputy J.A. Martin (H)		
Deputy of St. Peter		Deputy G.P. Southern (H)		
Deputy J.A.N. Le Fondré (L)		Deputy of St. Ouen		
Deputy of Trinity		Deputy of Grouville		
Deputy S.S.P.A. Power (B)		Deputy J.A. Hilton (H)		
Deputy K.C. Lewis (S)		Deputy S. Pitman (H)		
Deputy of St. John		Deputy I.J. Gorst (C)		
Deputy E.J. Noel (L)		Deputy A.E. Jeune (B)		
Deputy T.A. Vallois (S)		Deputy of St. Mary		
Deputy A.K.F. Green (H)		Deputy T.M. Pitman (H)		
Deputy J.M. Maçon (S)		Deputy A.T. Dupré (C)		
		Deputy D. De Sousa (H)		

**The Bailiff:**

Very well, we return to the debate. Senator Ozouf, do you wish to speak now?

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

Yes, I will. I am sorry that we lost that but the fact is I think that P.P.C. can look at this issue. I think they need to look at it in terms that there are easy solutions for the vexed issue of BlackBerries versus P.C.s. I, for example, do not have a laptop any more. I do not use one. I use a BlackBerry. Maybe there is a simple solution. I do not think we should be commanding the attention of valuable debating time on dealing with this issue and leave it to P.P.C. to sort out.

**2.1.15 Senator F.E. Cohen:**

I am sorry that this debate has ended in a criticism of the chairman of P.P.C., the Constable of St. Mary, and I just wanted to assure her that she has my support and the support of many other Members. We know she has a difficult job to do and think she is doing an excellent job. **[Approbation]**

**Senator J.L. Perchard:**

On a point of order, I do think I have been misquoted. I was critical of the P.P.C. Committee.

**2.1.16 Senator B.E. Shenton:**

I would just like to say that I would ask P.P.C. to look at this as a matter of urgency. Having listened to the arguments of the Council of Ministers and also listened to the ruling from the Chair, as president of the Chairmen's Committee I think it would be very difficult for the Chairmen's Committee to turn down any requests from members of Scrutiny should they wish to have a BlackBerry and it came out of the Scrutiny budget. So I think P.P.C. need to look at this and if they could give some sort of timeframe when they would come back to the Chamber with some sort of decision on this. On that basis, there is nothing stopping all Members from having BlackBerries although I think the public at home would be absolutely outraged if that were the case.

[15:15]

**2.1.17 Deputy J.A. Hilton:**

I do not know what it is that the Minister for Home Affairs and myself do differently from other Ministers and Assistant Ministers but I believe we are probably 2 of maybe 3 or 4 who do not have BlackBerries and never have. I cannot speak for the Minister. He might speak for himself, I do not know. I have been dismayed at the way this has gone this afternoon. I understand why the Member has brought it to the House. I would also like to add that I think the attack on the Chairman of P.P.C. was unwarranted and unjustified and she has my full support in what is an extremely difficult job. The only comment I wanted to make was that any attempt to bring to the House to supply BlackBerries to all Members will be vigorously opposed by myself. I think at this time when we are facing economic difficulties to expect taxpayers to fund all Members with BlackBerries is absolutely ludicrous and if it comes down to it, I believe those Members who have BlackBerries should just solve the matter by paying the bills themselves. They do have expenses to do that and I will vigorously oppose any attempt at taxpayers' money being used to supply Members with BlackBerries.

**Senator B.E. Shenton:**

Could I just point out that because of the rulings today, it would not have to come to the House.

**The Bailiff:**

I am sorry, Senator, I do not think I have said anything about that at all in any ruling about BlackBerries.

**Senator B.E. Shenton:**

Because of the comments by the Council of Ministers and the fact that they say that it comes out of their own budget, it is up to them how they spend the budget, *et cetera*.

**The Bailiff:**

Yes, all right.

**2.1.18 Deputy M.R. Higgins:**

I just wanted to say a word in defence of P.P.C. As a member of P.P.C., I can say that the composition reflects this Chamber. This Chamber is divided on a lot of issues; so is P.P.C. It is wrong to think that the problems of P.P.C. can be solved by having supporters of the Council of Ministers being the majority or supporters of the people who consider themselves the opposition the majority. They are not. P.P.C. has a job to do and tries to deal with it in the best way it can. For many of the issues we discuss, we are hamstrung by Standing Orders. We either do not have the *vires*, we do not have the power to do the things that other people want us to do or quite simply the evidence is not there or whatever. So for those who are highly critical, it is a pity that they cannot come along and see some of them because it is not that easy. It is quite easy to be the whipping boy but I think even if the composition of P.P.C. was changed, you would still be getting the same response.

**The Bailiff:**

Does any other Member wish to speak on the proposition? Very well, I call upon Deputy Trevor Pitman to reply.

**2.1.19 Deputy T.M. Pitman:**

I do so with great excitement. My apologies for that interruption. I will try and keep it as brief as I can but there are a few points I want to say. I may not cover what everyone has said. I am very, very disappointed that only a few Members picked up on the key issue here of equality and it seems a very dismissive approach taken to this. Deputy Southern pointed out a very good example how if he had been a Minister in Egypt, he would have thought nothing of getting back in touch with his department because - and this is the real point, is it not - the expense would not have been his. He would not have had to pay from his expenses because he is a Minister. When I hear Members say and they hold it up: "This BlackBerry does not belong to me" that is not the issue. That is not the issue at all but the £700, £800, £900, potentially twice that, is a benefit to those Members and I am sorry, I have got a lot of respect for Deputy Power but I challenge him. Does he not concede that is a benefit for him because effectively he can stretch his expenses thanks to the decision to give him and others a BlackBerry? It is ridiculous and, as I say, to hear Deputy Martin again, I have a huge amount of respect for Deputy Martin, I will come to the main points of what she said, but one thing I want to pick up on. She talked about the main reason people did not listen was not BlackBerries. It was just speeches were boring. Well, I regularly hear the most informative interesting speeches from the likes of the Deputy of St. Mary and people do not listen. It is not because he is boring. It is because people do not want to hear some facts and some are busy playing with their BlackBerries. The Deputy of St. John. Well, I am glad I have got the chance to respond to that because, well, what can I say. He really demonstrated why I did not vote for him. "It is a trivial petty matter" he said. Yes, ripping off the taxpayer, asking them to pay twice for something we have already got. That is petty. This from a man I have to say in my, what, 13 months as a politician, has brought more petty trivial matters before the States, made more petty trivial interjections than any other States Member, in history probably. The fact he was supported by Deputy Le Hérisier, well, what is the world coming to? I will tell the Deputy of St. John why this issue comes before the States, because no one else does anything about it and you have got to criticise P.P.C. for this. We constantly hear: "Why have these matters had to come before the States?" Lunches, again, it just really shows the Ministers' attitudes to wasting the taxpayers'

money. This is linked with lunches; £11,000 saved there, I think. That is a serious issue. Perhaps we could talk about more weighty matters but we are not allowed to talk about wasting millions of pounds of taxpayers' money on the incinerator contract because no one will take accountability, will they? Deputy Martin could not support part (b), fair enough, but she recognised the serious issues raised in part (a) and I think that is fair enough. I guess she will vote accordingly. She highlighted the worry about this precedent moving us further and further along a gap between the haves and the have nots and that is a real worry. I am really grateful to her for pointing out, despite the red herrings from ... I think it was from my friend, the Deputy of St. John again, the Remuneration Board would not look at this. So who is going to do it because P.P.C. have done nothing. [Aside] You probably are not after this question. Senator Routier mentioned how BlackBerries belong to the department yet he did not make that next step and recognise that the bills clearly benefit him and other Ministers. Well, it does because it is stretching anyone's expense limit further and if he cannot see that, I really give up. Perhaps it explains a lot down at Social Security. My real friend, Deputy Le Hérissier, agreed with the Deputy of St. John and I think the less said about that the better. Senator Ferguson somehow got Karl Marx into the equation. I am not sure where he came from. Obviously this was a Marxist plot. I thought I had pointed out it was not the Socialists coveting the precious shiny things belonging to our betters. Again, I think, in fairness, the Senator got a bit mixed up with trivial matters like sandwiches, *et cetera*, not able to see that this is taxpayers' money, but there we go. The Deputy of St. Martin again reiterated, as I knew he would, he feels that all Members should have BlackBerries. Well, as I have suggested to him, bring that proposition. Senator Le Sueur, well, he failed to really say anything. He certainly did not answer the questions I had asked him to about how his figures on BlackBerries do not even add up. Could he not get it texted through now? Deputy S. Pitman, well, I mention her because it was really relevant what she pointed out with a member of the public who had sat through the pay freeze only to watch many Members reading their magazines, playing with their BlackBerries, generally completely uninterested. If that, Sir, with due respect to your ruling, does not impact on the quality of debate in the House, if it is not disrespectful and discourteous, then I really do not know what is. I was very, very saddened with your ruling but there we go. The Deputy of St. Mary rightly said it seems a small issue but big important principles. It cannot be acceptable that we see this creeping erosion of equality. Again, why not bring it to the House? Why was it not brought to the House in the first place? That is the message he seemed to be putting across. As he said, what happened before BlackBerries? Deputy Tadier had a brief speech and was interrupted quite lengthily and left the building like Elvis, I think, but I think the Deputy raised a very, very important issue for us to consider. He certainly was not interfering with my listening to the debate any more than a BlackBerry does so I do find that ruling very, very bizarre. Senator Perchard said it was descending into farce.

**The Bailiff:**

I am sorry, you cannot start accusing the Chair of making bizarre rulings. By all means if you do not agree with them but I think that goes too far ...

**Deputy T.M. Pitman:**

No disrespect intended, Sir. If you can suggest another word, I will happily use it. Senator Perchard talked about how the debate was descending into farce and I think he was right. Perhaps that is not the way he intended it but it was the disrespect and the contempt generally felt by so many not to want to engage with a serious issue. We see it all the time. He also criticised P.P.C. and said why had they not looked at this and, again, I echo that and it is because P.P.C. do not seem to be able to get anything done. Sorry to Deputy Higgins but why are these issues not brought forward? Why were lunches not brought forward? What do P.P.C. do? I do not know. Deputy Power, again, as I say, to me he confused the issue of the actual physical BlackBerry and the actual real issue of the inequality and the benefits that him having his communication bills paid for makes to some of us. Maybe £700 or £800 is not much to some people in the House. Indeed, I know it is

not, but to some of us, it is. Senator Ozouf, well, I do not think there is anything really to say there. Tried to end the debate: no surprise. Senator Cohen briefly said he supports the P.P.C. and sat down presumably to play with one of his 2 BlackBerries which I must point out in his defence one of them he bought himself. I promised him I would make that clear. Senator Shenton said it was a matter of urgency to get P.P.C. to look at this and presumably if this is defeated or if it is passed, they will. Now, Deputy Hilton, I have to say, gave the best speech of all. I have to say I have got a growing respect for Deputy Hilton because she seems to be one of those increasingly who does not just follow the party line of the Ministers and that is excellent to hear. She pointed out how neither she nor her Minister had BlackBerries. Well, perhaps she could organise some kind of training workshop for the rest and save some money for the taxpayer because I think they must be one of the busiest, so how do they do it? We often wonder what they do locked up in their office for hours and hours. Clearly they are working diligently. It was interesting that the Deputy really hit the nail on the head. Who is paying for this present system? The taxpayers. It is a trivial matter to the Council of Ministers because they frankly do not care. The Deputy also pointed out that if it was the easy solution to just suggest all of us had one that the public would be outraged and I think how right she is so thank you, Deputy. You hit the nails on the head. Deputy Higgins, I think, got up next and just defended P.P.C. and that is really all he said. I have a lot of respect for Deputy Higgins. I am afraid I cannot agree with him that P.P.C. are wonderful. I will leave it at that. There are clear issues here. I have been very disappointed how people have been quite unwilling and I have to say it is the usual disrespect to politicians coming from my Centre Left Progressive non-BlackBerry using direction. Everything we bring is tried to be trivialised. People just do not want to focus on real issues and it really, as I say, sums up the attitude of some people in here and I know we are not allowed to talk about who is rich and who is not but it does sum up the attitude of some to money and the sad thing here is it is taxpayers' money, and you know Senator Routier is smirking. I do not know if it is about this issue; £700 is not much to him perhaps. It is a lot to me, I will be quite honest, and why he cannot pay that out of his expenses ... I think perhaps the public should write in and ask him. His £3,650, why is it that some of us have to stay within that? I thought it was the Lefties who were not good at housekeeping and managing the taxpayers' money. Well, I am afraid it is not that way, is it? It is the Ministerial with 2 honourable exceptions.

[15:30]

These are important issues. If we are equal, we must be seen to be equal. We cannot allow this erosion of equality and that is what part (a) is about and I would urge everyone to vote on it. Part (b), the disrespect, the discourtesy and the impact it has on debate. It is quite clear and apparent to see. Many members of the public have sat up there and observed it, commented on it and really when you look at what P.P.C. did research and the way the rulings are in other larger districts, there is really no excuse to have those appliances in here. I think with that, I will just say that I hope to organise a mass laptop demonstration and I will call for the appel in 2 parts, please, Sir, if that is okay.

**The Bailiff:**

Very well, the appel is called for on paragraphs (a) and then (b) of the proposition. I invite Members to return to their seats. The first vote will be on paragraph (a) which is to request the Chief Minister to cease to meet the costs of BlackBerries and all the charges. Very well, the Greffier will now open the voting on paragraph (a).

<b>POUR: 12</b>		<b>CONTRE: 36</b>		<b>ABSTAIN: 2</b>
Senator B.E. Shenton		Senator T.A. Le Sueur		Senator P.F. Routier
Deputy J.A. Martin (H)		Senator P.F.C. Ozouf		Deputy I.J. Gorst (C)
Deputy G.P. Southern (H)		Senator F.E. Cohen		
Deputy of Grouville		Senator J.L. Perchard		
Deputy J.A. Hilton (H)		Senator A. Breckon		

Deputy P.V.F. Le Claire (H)		Senator S.C. Ferguson		
Deputy S. Pitman (H)		Senator A.J.D. Maclean		
Deputy of St. Mary		Senator B.I. Le Marquand		
Deputy T.M. Pitman (H)		Connétable of St. Ouen		
Deputy T.A. Vallois (S)		Connétable of St. Helier		
Deputy M.R. Higgins (H)		Connétable of Trinity		
Deputy D. De Sousa (H)		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy R.G. Le Hérisier (S)		
		Deputy J.B. Fox (H)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy A.T. Dupré (C)		
		Deputy E.J. Noel (L)		
		Deputy A.K.F. Green (H)		
		Deputy J.M. Maçon (S)		

**The Bailiff:**

Very well, then we move to paragraph (b) which is to charge the P.P.C. to bring forward for approval amendments to Standing Orders to ban the use of BlackBerries. The Greffier will open the voting.

<b>POUR: 9</b>		<b>CONTRE: 40</b>		<b>ABSTAIN: 1</b>
Senator B.E. Shenton		Senator T.A. Le Sueur		Connétable of St. Mary
Senator A. Breckon		Senator P.F. Routier		
Connétable of St. Lawrence		Senator P.F.C. Ozouf		
Deputy R.G. Le Hérisier (S)		Senator F.E. Cohen		
Deputy G.P. Southern (H)		Senator J.L. Perchard		
Deputy P.V.F. Le Claire (H)		Senator S.C. Ferguson		
Deputy S. Pitman (H)		Senator A.J.D. Maclean		
Deputy T.M. Pitman (H)		Senator B.I. Le Marquand		
Deputy D. De Sousa (H)		Connétable of St. Ouen		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. John		
		Connétable of St. Saviour		

		Connétable of St. Clement		
		Connétable of St. Peter		
		Deputy R.C. Duhamel (S)		
		Deputy of St. Martin		
		Deputy J.B. Fox (H)		
		Deputy J.A. Martin (H)		
		Deputy of St. Ouen		
		Deputy of Grouville		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy K.C. Lewis (S)		
		Deputy I.J. Gorst (C)		
		Deputy of St. John		
		Deputy A.E. Jeune (B)		
		Deputy of St. Mary		
		Deputy A.T. Dupré (C)		
		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)		

**The Bailiff:**

Before we move to the next item can I just reiterate from the Chair following my ruling? I do think the use of electronic equipment in the Chambers raises issues which Members need to consider. As I say, at the recent conference of speakers there were differing experiences but most of the speakers were concerned about the possible effect of electronic equipment on the nature of debate. It is an important matter, I think, which Members need to consider and which ultimately Members should rule on. They must decide how they want their Assembly to operate so I do urge P.P.C. to look at this and come forward for Members with a well researched, measured proposition.

**Deputy S. Pitman:**

In the interim shall I take the signs down outside that say “Banning Mobile Phones”?

**3. Fort Regent: establishment of a working group (P.188/2009)**

**The Bailiff:**

Very well, then we move to the next item of business on the Order Paper which is Fort Regent: establishment of a working group - P.188/2009 - lodged by the Education and Home Affairs Scrutiny Panel. I invite the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Education, Sport and Culture (a) to establish and lead a working group consisting of representatives from the Education, Sport and Culture Department, Jersey Property Holdings, the Jersey Heritage Trust, the Economic Development Department and the Planning and Environment Department in order to ensure collaboration between these key parties with the aim of producing a cohesive and realistic plan for the future development of Fort Regent; and (b) to take the necessary steps to form the working group immediately and to provide quarterly updates to all States Member of its progress regarding the formulation of a development plan for Fort Regent.

### **3.1 Deputy R.G. Le Hérissier (Chairman, Education and Home Affairs Scrutiny Panel):**

I am hoping this will be very quick and very straightforward. This results of course from the Scrutiny Report S.R.11/2009, and I would ask Members to read it. It can be read in 2 ways; it can be read as an analysis of the many, many, many strategic-type plans that were presented for the Fort or it can be read in the sense of there is a future for the Fort and you do not have to get bogged-down in multi-million dollar investments in order to realise some of that future. There are pragmatic, immediate and, relatively speaking, uncostly steps that can be taken. That was really the 2 ways in which the panel played it but we are not here, I hope, to debate who has visited the Fort over the last 30 years, why they visited it, what fun they had or fun they did not have, as the case may be. We are here simply to say we have got to get momentum to this issue. It was an issue we discovered upon investigation for nobody's fault and I have to say, and Deputy Le Fondré may choke on his Cornflakes at this point, I have to say Property Holdings have inherited it, they have inherited an ambiguous mandate. It is an inherited role, as I said and they find themselves with this massive facility which has been in a steady decline with one very major exception, the whole Active Card service that has operated there, and it is, quite frankly in many respects, a spectacular success. It is a spectacular success in the midst of sadly a declining institution. There is enormous community support for it. The supporters of the Fort are almost fanatical and they feel very let down that we have allowed what has happened there to happen through dereliction of duty, so they will look forward to this. So, I move the proposition, and I should add at this stage although undoubtedly I will reinforce the point, the panel totally supports the 2 amendments - one of which is from Deputy Trevor Pitman who will perhaps get a victory today and the other is from the Minister - and I would also like to say, and this is getting awfully incestuous, we have been very impressed by the way that the Minister has stepped forward to the plate and, were this to be approved, will undoubtedly, in my view, he will be leading the political steering group and will become, I think, a very, very major champion of the Fort and its future.

#### **The Bailiff:**

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

### **3.2 Fort Regent: establishment of a working group (P.188/2009) – second amendment (P.188/2009 Amd.(2))**

#### **The Bailiff:**

Very well, there are 2 amendments. I think the first one, in order of the text and because it is the greater amendment, would be that of the Minister for Education, Sport and Culture so I ask the Greffier to read that amendment.

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

- (1) Page 2, paragraph (a), for the words “working group” substitute the words “political steering group”; delete the words “Jersey Heritage Trust”; and for the words “and the Planning and Environment Department in order to ensure collaboration between these key parties” substitute the words “the Planning and Environment Department and the Parish of St. Helier who will consult with other interested parties, including the Jersey Heritage Trust and the Fort Users Association.”
- (2) Page 2, paragraph (b), for the words “working group” substitute the words “political steering group”.

#### **3.2.1 Deputy J.G. Reed of St. Ouen (The Minister for Education, Sport and Culture):**

I am pleased that the Education and Home Affairs Scrutiny Panel supports my amendment and as the report accompanying my amendment is, I believe, self-explanatory I will just focus on a couple of the main points. The amendment is simply designed to mirror the structure used by the States to bring forward proposals so that development can ultimately take place. The setting up of a political steering group should ensure that all the departments involved take ownership of the project which is essential if this initiative is to succeed. The political steering group will be made up of

representatives from Education, Sport and Culture, Economic Development, Planning and Environment and the Treasury and Resources Department while, at the same time, acknowledging that the group should also include representation from the Parish of St. Helier. I do however believe that it should be the Parish of St. Helier who determine who should represent them on the group and not the States and therefore I will not be supporting Deputy Pitman's amendment. This group would be supported by an officer working group to ensure that the work is progressed in a timely fashion although I am not proposing that Jersey Heritage Trust be part of this steering group; all interested parties including Jersey Heritage Trust will be involved in the development of any plan. I ask Members to support my amendment and I will attempt to answer any questions in my summing up. Thank you.

**The Bailiff:**

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

**3.2.2 Deputy J.B. Fox of St. Helier:**

The amount of reviews that have happened at Fort Regent is incredible and all the paperwork is there and it is a matter of dusting it off and re-examining it. I was on the Planning Committee when we were in favour of a proposal that was put in for 2 Saturn V rockets on the leading edge of Snow Hill which were 2 super-fast lifts going up to a reception area and then depending on how much money would be allocated over a short period of time, that Fort Regent would be turned into a new super recreation/entertainment or leisure area, including the historic walks around highlighting ... all the information is there already; what it needs is updating and it needs obviously reviewing our ministerial government. At that time it was £15 million to £20 million. It has probably gone up but what I fail to see at the moment is how are we going to advance? It is quite simple; we can do all this talking but we have not got any resources to do it and we have looked at the private sector and there was interest shown at some time in the past then discounted. But that is what I would like to see as a major predominance in this review, to get ourselves up to date on being realistic to see what we can achieve as opposed to ending up as another talking shop on another, shall we say, shelf, though it is probably hidden away in a BlackBerry or a computer at the moment, but thank you.

**3.2.3 Senator J.L. Perchard:**

I wonder if the Minister, when summing up, could just repeat the information that he had provided in making his proposition that is not included in the report or the proposition itself and that was the Minister read out a list of Ministerial colleagues or their appointees or their assistants who will sit on the political working group. I must have misunderstood; he shakes his head. Can he then advise the Assembly of how the working group will be made up and can he give us the assurance it will be a broad brush from this House? Many Members of this House are regular users of the Fort and are familiar with it. Rather than just the same old personnel being wheeled-out in a different capacity to sit and ponder the future of the Fort will the Minister ensure that it is a real vibrant political working group that is able and capable to spend the time on this matter to ensure that we do give the Fort every opportunity of success in the future?

**3.2.4 Deputy P.V.F. Le Claire of St. Helier:**

I know some Members struggle with the concept of a directly elected representative but I was disappointed by the Minister's contribution just now to suggest that the Parish of St. Helier should be the people to make up the working party and he would be unable to support Deputy Pitman's amendment to include one States Deputy from the No. 1 District. The amendment being brought by Deputy Pitman, by his own admission, backed from my suggestion a few weeks prior to the lodging of this proposition that there should be somebody that has been directly elected by this section of the community to represent this important piece of work. How ludicrous would it be to ask the public in this district to vote for people and knowingly not have any real opportunity of

having their votes translated into action? We already have many Parishes where Deputies are not even elected; they are returned and I am sure the Deputy of St. Ouen will know some of the people I am speaking about who have been appointed through an electoral college to run large Ministerial portfolios with arguably no political mandate. Deputies from No. 1 District who have been arguing for what should be occurring in No. 1 District for a number of years, including myself ...

[15:45]

**The Bailiff:**

Deputy, sorry to interrupt but is this not rather more relevant to Deputy Pitman's amendment?

**Deputy P.V.F. Le Claire:**

I do not believe so. I am directly addressing the comments of the Minister.

**The Bailiff:**

The Minister simply said in passing that he would be opposing ... I think the time to speak on that is during Deputy Pitman's amendment but of course you can make the very point directly.

**Deputy P.V.F. Le Claire:**

I just conclude in saying that No. 1 District has seen placed upon it the incinerator, the compost site, the Waterfront, the steam clock, the never-ending list of things that get placed on it, while always at the elections, leaving little opportunity for elected representatives of No. 1 District who have been elected to get places on those bodies that can have a meaningful say, W.E.B. (Waterfront Enterprise Board) included, so I am disappointed at the Minister for voicing that concern in this amendment because he has voiced this concern in this amendment.

**The Bailiff:**

Deputy, I am sorry, I have made the point in that you really ought to deal with this during the amendment. You can make all these points then.

**Deputy P.V.F. Le Claire:**

Alright.

**The Bailiff:**

Does any other Member wish to speak on the Minister's amendment?

**3.2.5 The Deputy of St. Mary:**

As a simple follow-up to what Senator Perchard asked, if the Minister could make clear the relationship between the 2 groups. In the Minister's amendment and report there is mention of a political steering group turning the wording into "political steering group" and then talking about an "officer working group". I just want to be clear what the representation is on both of those and how you can avoid the conflict of interest which you do mention about planning and planning applications and how you can ensure that there is drive and real momentum in this whole proposal. I am just concerned about the balance and the way those groups will operate.

**The Bailiff:**

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

**3.2.6 The Deputy of St. Ouen:**

First of all I would like to thank Deputy Fox and I would suggest that we focus on how we deliver the plan when we get back to the main proposition. Regarding Senator Perchard's comments, my amendment, while simple, it reflected exactly the proposal that the Education and Home Affairs

Scrutiny Panel promoted with the removal of Jersey Heritage from the proposed working group and changing the working group into a political steering group. That is, as I said before, simply to reflect what I believe as being the ability for the States to achieve successful outcomes when delivering and bringing forward masterplans such as the Esplanade Quarter and more recently and perhaps more pertinently, the North of St. Helier Masterplan. Regarding Deputy Le Claire and his comments about should a Deputy be on the group? Absolutely. I have not got a problem with that. All I have said and will say is that I believe it is the Parish of St. Helier themselves to determine who their representatives are. The Parish of St. Helier absolutely needs to be involved, as it is with, again the North of St. Helier Masterplan. All I am saying is that my personal view is that it should be the responsibility of the Parish of St. Helier and not necessarily the States to dictate who the Parish of St. Helier ...

**The Bailiff:**

Again, this is a matter really for St. Helier, is it not, Minister?

**The Deputy of St. Ouen:**

Sorry, yes, I will. Regarding the relationship between the 2 groups, the main group is the political working group, or steering group, should I say, that will drive the process forward and the officer working group is simply to ensure that the work is carried out and to support the main group. Thank you and I ask Members to support the amendment and for the appel.

**The Bailiff:**

The appel is called for then in relation to the amendment of the Minister for Education, Sport and Culture. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 34</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S. Pitman (H)				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				

Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				
Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

### **3.3 Fort Regent: establishment of a working group (P.188/2009) – amendment (P.188/2009 Amd.)**

#### **The Bailiff:**

Then there is also an amendment lodged by Deputy Trevor Pitman. I will ask the Greffier to read that amendment.

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

Page 2, paragraph (a), after the words “Economic Development Department” insert a comma and delete the word “and”; and after the words “Environment Department” insert the words “and at least one States Deputy of St. Helier No. 1 District”.

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

Well, I can probably make the quickest introduction to an amendment. The reason for this is really following on from what I have to say was Senator Cohen’s initiative with the North of St. Helier Masterplan Group where it really made sure that politicians who would be representing areas that would be impacted upon were taken on board and involved centrally. I think, really, Deputy Le Claire, he may have jumped the gun but he has really hit the nail on the head. It is a fact that this is in St. Helier No. 1; we should be involved, someone should be. I would like it to be myself. It just seems common sense to have a representative of a district where some major project is hopefully going to be developed on board and I would be saying the same if this was based in St. Brelade, St. Ouen, St. John, St. Mary, wherever. It just seems common sense. I am a bit disappointed with the approach taken by the Minister because I think he is unnecessarily splitting hairs. I do believe from the people I have spoken to there would be no objection to a St. Helier No. 1 Deputy being on this group and that is all I really need to say. It is just common sense. We do not need to make a big political issue out of it and I would urge Members to support that, as I hoped they would in any future development of a project in their Parish or District. Thank you.

#### **The Bailiff:**

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

#### **3.3.2 Deputy P.V.F. Le Claire:**

Well I will not roll over the same ground but I will conclude by saying had I not been quite rightly interrupted by yourself, I would have gone on to say the point I was trying to make in relation to this particular amendment is that the Parish of St. Helier could appoint to the Roads Committee a directly elected representative of the district that the Fort is in: this is essential. I will support there being a directly elected representative of the Fort as a Deputy being represented because the Senators have a wider responsibility to the Island. The Deputies have a peculiar interest to No. 1 District and therefore that is why I support that and I support either Deputy Pitman, myself or Deputy Martin being put forward or collectively put forward to represent the group but I do not want to see the Parish putting forward people that discount those directly elected Deputies. That is what Deputies’ elections are about; we want to keep Deputies, let us get them doing something. Senator Ferguson recently remarked about the extensive work and outside considerations that Senators conduct themselves upon. These peculiarities in these particular Parishes need Parish representation by the Deputies. Formerly a good example would have been Deputy Routier, prior to him becoming Senator Routier. Then it would have been appropriate to have looked to him. Now as a Senator and as Assistant Chief Minister he has more important and wide-spreading

responsibilities. Directly elected district Deputies on No. 1, where this building is occupied, have to answer in the elections to the public for their views on this important piece of the Island's infrastructure and it is an extremely important historical piece of the Island's infrastructure as well.

### **3.3.3 Deputy T.A. Vallois of St. Saviour:**

I am talking purely with a Scrutiny hat on here with regard to the report. If anybody has not been able to have the time to read it, in reference to hearings that we had, it was very much made that in the masterplanning of the Planning and Environment Department they would have to masterplan the area of Fort Regent before they took into any consideration what the future plans would be. As Deputy Pitman has mentioned, the Masterplan Group would be involving the St. Helier District No. 1 so therefore I would be fully supportive of this amendment going forward on the basis of the evidence that we receive through Scrutiny Panel hearings.

### **3.3.4 The Deputy of St. Mary:**

Just a point of clarification on similar lines to my previous question to the Minister on the previous amendment; can the proposer clarify, if this goes forward - which on the face of it it should do - whether that precludes of course other representation and how big is the political representation going to be because the Fort is obviously not for District No. 1 but it is also for the whole Island? I am not quite clear what the envelope is, how many people it takes to drive the thing forward properly and maybe you could clarify that?

### **3.3.5 Senator J.L. Perchard:**

Deputy Le Claire quite rightly said, and I wrote it down, that Fort Regent is an important part of the Island's historical infrastructure and it is an important Island resource. Well, he is absolutely right. The Fort is used by all Islanders, it is owned by all Islanders and, as such, I think this proposition is unnecessarily prescriptive and may the best man or woman for the job be appointed for it. I think it is quite ridiculous, really, that we should be so prescriptive today. The Parish of St. Helier rightly will have a representative on the working group and it will be up to them of course to appoint their representative. I do not mean any disrespect to any Deputies from any districts but it is a wonderful Island resource and it needs to be looked at in the round and not parochially at all.

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

Senator Perchard has literally said everything I wanted to say. I will sit down, thank you.

### **3.3.6 The Deputy of St. Martin:**

I would like to counter that. I do believe that this is an important area that No. 1 district should be represented. I am quite surprised and disappointed. I can imagine something going on in St. Ouen and if we said we must not have the Parish Deputy of St. Ouen in there; we must think of somebody else and I really find that we are wasting a lot of time. The only question I would ask is no doubt will they be drawing lots and which one will be there. Because I would hope that No. 1 District will be represented and maybe in summing up Deputy Trevor Pitman could say how he will arrange or how it will be arranged as to which of the 3 Deputies will be on the group. Thank you.

### **3.3.7 Deputy J.B. Fox:**

I think this amendment is totally irrelevant because if you know your Constable like we know our Constable in St. Helier he will vote on as many from No. 1 District as they want so it is a press the (a) button because it will all go any way that anybody wants it to go anyway. Thank you.

### **The Bailiff:**

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

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

I do not think I have to say very much at all, really. We heard about things being trivial in the previous debate and I have to say what trivial objections. We are indeed wasting time. By saying that we should have a St. Helier No. 1 representative, to my understanding and when I made the amendment, that does not cut out any potential person from being involved and this group will be led, as we have seen, it will be the Minister controlling it. With due respect, the 3 Deputies in St. Helier No. 1, we all work together, we all get on well, we all talk, we are all quite forceful characters. If it is going to be on physical prowess then Deputy Martin will probably be on board and Deputy Le Claire and I will be in a heap but I do not think that is a matter that should concern the House. One thing I cannot agree with Deputy Le Claire on, he talked about the wider aspects of Senators' work and perhaps how that should preclude them from this. I have represented cases and people in 11 of the 12 districts and I do try to help everyone who gets in touch. I cannot always do it but that does not mean that I should not try and look after the area that I represent, just as it should not with Deputy Le Claire or Deputy Martin. Someone said they did not mean to disrespect the Deputies, I think it might have been Senator Perchard. Well, I would have to say it is in a way probably disrespecting the electorate. There should be no problem with this amendment. It is entirely complementary to what we are trying to achieve and I do have to say that if the Deputy of St. Ouen with 2 districts I am sure that he would be shouting from the rooftops if a big project was going on in his district. It seems wholly sensible. It is not a big divisive issue; we are 3 people who work together and I am sure we will come up to a conclusion that we are all happy with. I would say I make the amendment.

[16:00]

**The Bailiff:**

The appel is called for then in relation to the amendment of Deputy Pitman. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 27</b>		<b>CONTRE: 8</b>		<b>ABSTAIN: 1</b>
Senator P.F. Routier		Senator B.E. Shenton		Deputy J.B. Fox (H)
Senator A. Breckon		Senator J.L. Perchard		
Senator S.C. Ferguson		Connétable of Grouville		
Senator A.J.D. Maclean		Connétable of St. Brelade		
Senator B.I. Le Marquand		Deputy of St. Ouen		
Connétable of St. Ouen		Deputy A.E. Jeune (B)		
Connétable of St. Helier		Deputy A.T. Dupré (C)		
Connétable of St. Martin		Deputy A.K.F. Green (H)		
Connétable of St. John				
Connétable of St. Clement				
Connétable of St. Lawrence				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy G.P. Southern (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy D. De Sousa (H)				

### **3.4 Fort Regent: establishment of a working group (P.188/2009) - resumption**

#### **The Bailiff:**

So then we return to the original proposition as amended. Does any Member wish to speak on the proposition?

#### **3.4.1 Senator P.F. Routier:**

Very briefly. As probably the only other States Member who lives nearest and looks at the Fort Regent every day, I do wish the working party well in their work and it is a valuable resource which we should be using to greater benefit for the Island. If I could be of any assistance, although I have a heavy workload, I would be only too willing to help.

#### **3.4.2 The Deputy of St. Mary:**

I just wanted to make a very quick comment on the comment of the Council of Ministers because it is referred to in the Ministers' amendment; the matter of resources. It can kill this whole thing if we get bogged down. I can see it is a very short comment from the comment of Ministers and straight away what do they say? The availability of resources is a primary concern. What they are saying, they are laying down a marker: "Do not spend" and it is this type of lack of ambition and drive which has led to the problems of the Fort in the first place from below its potential. It is a fantastic resource, it is, as the Deputy proposing this proposal said, it has fanatical support among some of its users but there is such a big opportunity here. I am not in favour of throwing millions at it; I am just saying let us be positive. Let us think: "What shall we do?" and then mobilise the resources; voluntary, statutory and business to make it happen. Surely this is not beyond the wit of an Island like Jersey. To do this we need to draw people in. The whole process must be one of drawing people in so that the stakeholders feel it is their plan; not a States plan; a plan that many people have signed up to and are excited about and want to help deliver. That way you begin to solve your resources problem; by bringing people in. So please, please, let us not let this languish. Let us be positive about the Fort and let us not start with our very first words: "We will not be able to deliver it." Thank you.

#### **3.4.3 Deputy P.V.F. Le Claire:**

On a more positive note and a very brief and more positive note, I would like to congratulate the working party and the Minister for taking on board this issue. It has been hiding in the doldrums for a long, long time and I am enthused by Senator Routier's comments that he would be available to help. If not appointed on to the group, I would also be interested in helping, as I am sure most Members would be and seeing this being achieved. I would just say one thing and only one thing about it all and it is this simple; it is about footfall. You can have a very, very successful shop if the footfall is passing it and an equally excellent shop 20 feet away from it but if it is not getting the footfall it is not going to work. Fort Regent has been failing; it has all been failing because of the lack of footfall. Access and improvement to it will solve the vast majority of its ills. So, congratulations to them; they have done a good body of work and a particular thanks to them as well because it has been a long time coming. Hopefully we will get a good result out of this. I know others have done work in the past but this is a good sign for the future. Thank you very much.

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

Very briefly, I am committed to finding a solution for the Fort. Economic Development, 3 years ago, moved the Awards for Enterprise Event - which is the largest event that happens in Jersey - up to the Fort and the Fort staff did a fantastic job and it showed what the Fort is capable of doing in terms of an event. I try and go up to the Fort as often as I can. The staff are courteous and they are committed but we need to find a vision for the Fort. The Deputy of St. Mary speaks about

investment; there is no desire to choke-off finding a solution to the Fort but we need to be realistic. The Fort needs investment. There is a risk that a working group or political steering group is simply a talking shop. The group does need to be bold, they need to be - it is in the report and proposition - realistic and they need to be commercial. If the Fort is going to find a future and a successful future, it is probably going to mean that some courageous decisions about transferring activities into the Fort that are currently happening elsewhere. Perhaps, and this is within the remit of Education, Sport and Culture, perhaps other sports facilities, perhaps other art and performing spaces need to be looked at and transferred to the Fort. Deputy Le Claire is quite right; it needs footfall, it needs commercial footfall, it needs tourist activities, it needs a whole thought about how you are going to get a justification for investment. I am confident that can be done, it will certainly be given the full support of the Treasury and Resources Department and Property Holdings in order to try and find a solution. I will just say in conclusion that better use of assets is going to be one of the key drivers of the comprehensive spending review as we identify how to deliver services more efficiently and I think the Fort presents a wonderful opportunity to save money, to do things more efficiently, and to find a sense of purpose, a future, for the Fort.

#### **3.4.5 Deputy T.A. Vallois:**

I was a co-opted member on this Scrutiny Panel for this particular review of Fort Regent and as you would imagine I fully support this proposition. Whenever the topic of Fort Regent comes to the forefront of people's minds they tend to think of what was once there and immediately question why is it so difficult for the Government to identify a way forward for this prominent much-loved structure in Jersey. That was a good question. You would think the amount of reports, which I have read through over and over again, that have been completed, and how much money that has meant to the States and the amount of reports that we have done, and no firm decision has been made, whether they are contentious or not, there have been so many reports, and this is our problem in government, we like to do lots and lots of reports but never make any decisions, whether they are contentious or not. I think it is about time we started bucking our ideas up. So, from that point, all the departments seem to have some form of idea that we identified when we were looking at this, and there did not seem to be any form of cohesive approach from the departments, it all seemed to be: "Well I like this bit" and: "I like that bit" but there was no: "Well, let us sit down and talk together and sort something out." Of course we identified the fact that, yes, we are in a recession; yes, we do not have any money; there maybe a structural deficit, hence the reason for our panel deciding to come up with a political steering group. No, we do not want it to be a talking workshop; we want something done. We want someone to make a decision and say: "This is the way we are going to go", whether it is contentious or not. It is going to have to come to the floor of the House and we are ultimately going to have to decide. So this is in no way to diminish or undermine the Minister for Education, Sport and Culture, as I am sure he is fully aware, he has already committed to being the champion of Fort Regent, however it would provide a more structured approach and hopefully lead to a decision being made in the near future.

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

I am old enough to remember the heydays of Fort Regent in the 1970s and 1980s and sadly we do not have the tourists now and obviously the Fort was built to keep people out and when we lost the cable cars it did exactly that, so I would look forward to the introduction of alpine-style lifts coming from Snow Hill up to Fort Regent rooftop restaurants. I think it is an amazing opportunity, and, as Senator Ozouf said, if we could move the arts and various other facilities up there, it would be a great boon for the Island. It is a huge site, right in the middle of St. Helier, and an amazing opportunity, and I would like my name to go forward to serve on the panel.

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

I am grateful to the Education and Home Affairs Scrutiny Sub-Panel for identifying the need to address the future development of Fort Regent and the surrounding area. It has been interesting to

note over many months that much has been made of providing a new town park, and yet we tend to forget that overlooking the town in a relatively central location we have a well-used sports and leisure centre surrounded by a large area of land available for public use. The problem is that it is situated 100 feet above the rest of the town. If we really do want to revitalise the site and encourage more people to use this important facility, access must be improved, especially from the Snow Hill area of town. Any development proposals will need to include a realistic and practical solution to this problem as a priority. There is much work to be done and the starting point for the group will be to consider the many reports, as we have heard already, that have been undertaken, including the recently completed review by the Scrutiny Sub-Panel. The views of all interested parties equally must be taken into account, and Jersey Heritage and the Fort Users' Association will I am sure be encouraged to get involved in the process. I do not believe it necessary to duplicate the useful work undertaken by the Sub-Panel, which can be used to guide the Steering Group when considering any improvements to the Fort and that area. One area that I do believe that the Steering Group will need to consider is who we encourage of those with a commercial background to actively participate in this project, as any future development of the site will require collaboration with the private sector. The timeliness of this proposition equally should not be overlooked as it does provide the States with an opportunity, not only to consider what future development of Fort Regent may take, but equally to ensure that any proposals for the area are included in the new Island Plan. The big issue, which some people have already touched on, which is yet to be resolved, is that there is a cost to carrying out this work, and resources will ultimately be required to deliver the plan. Members must keep this in mind and decide for themselves whether, in the current climate, the development of the Fort and the surrounding area is a priority, before supporting the proposition, because I do not want this to be another false start. I am absolutely certain that the Scrutiny Panel equally does not want this to be another false start. We need to see action and it must follow that, if action is to take place, then appropriate resources will be required, and I would just ask States Members to bear that in mind when supporting this proposition. Thank you.

**Senator J.L. Perchard:**

Can I ask the previous speaker for a point of clarification; I am not sure if it was a slip of the tongue, but I was writing notes, he said: "Access to the Fort needs to be improved, especially from the Snow Hill area." I wonder why he would have this preconceived idea that it has to be the Snow Hill area, rather than the Weighbridge; was that a slip of the tongue?

**The Deputy of St. Ouen:**

I mentioned specifically the Snow Hill area, because I believe that takes into account, not just Snow Hill and where the existing cable cars were, but the whole area behind this building and down towards the Weighbridge.

**3.4.8 Deputy G.P. Southern:**

I do not quite understand Senator Perchard's confusion about this; this provides access from the town side; that is what is important about it I think, the mentioning of Snow Hill. The issue has to be one of access. It is isolated, as Members have said. It has long been the case that if you can get people to be able to get up there relatively easily then they will come. It is no good I think just looking at Fort Regent only as some form of tourism initiative. A good wet weather centre that might be involved in all sorts of ways is a resource for the community as well. In fact, the provision of an excellent wet weather facility that can take large numbers of people could kick-start the tourism trade again, rather than giving up and saying the tourists are not coming, therefore there is no point in doing anything. In fact let us turn it on its head: do something and the tourists may well come back.

[16:15]

### **3.4.9 Deputy A.E. Jeune:**

I am supportive of this proposition but I would rather have seen in the report reference to the future of the swimming pool building rather than the words: “Demolition of the swimming pool” as it seems to be making an assumption in advance. Taking forward any plans, and to pick up on the Council of Ministers’ comments to the amendment, that bids will need to be made for any future developments, I would like to make it clear to Islanders that they should not have false hope at this stage because everything will have to be dealt with as it comes through, and perhaps the proposer can comment on these in his summing-up. Thank you.

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

If the Island Plan proposals to encourage more people to see the benefits of living in town that are to be implemented, we must find ways of working together and putting all our shoulders to the wheel to encourage that uptake of enthusiasm to provide the things that we think are missing. This is one mechanism to begin to do that and I am wholeheartedly in support of the process, which will bring onboard the many talents of all those persons who are perhaps languishing at the moment behind closed doors. Let us all work together to put St. Helier back on the map.

### **3.4.11 Deputy S. Power:**

I have calmed down now and my mind is an oasis of peace and calm. I did not see it myself, but my BlackBerry apparently bounced and it is still working. Fort Regent to me is one of the gems of St. Helier; it is 22 acres in the middle of town; it is on an elevated site; and as Deputy Le Claire said, and I think Senator Ozouf referred to it, it needs footfall traffic and it needs people up there. I think Senator Ozouf suggested that perhaps a States department might move up there, or a department might move up there, but I think that would be a very good move, and I would ask the Minister for Education, Sport and Culture to see that, if it was at all practical, that any part of his department could go up there. There will be no investment in Fort Regent unless there is a partnership between the public, which is the public of the Island to the States of Jersey and this Assembly, and some sort of private or commercial operation; that is a fact; that is why there is no investment up there now; that is why the footfall has fallen away, because the swimming pool was closed, in my view for the wrong reasons, and that is why, apart from the fitness centre up there, and I think a lot of the very young children’s provision up there, and the use of the Gloucester Hall and the rotunda - Queen’s Hall - the day-to-day stuff is largely supported by the sports side of it and the young children’s side of it, particularly at weekends. I would very much wish to support this proposition, there are no ifs and buts, I think it is a tremendous idea and I do hope that through the leadership of this action group, this group to look at every single option that is available, and that we can move it forward. Unlike Deputy Vallois, I have not been able to read every report and every analysis and every consultation report, and to be honest with you I am glad I have not, because I would probably be even more depressed about the place than I am now. But I do hope that we can move it forward, it is in the middle of St. Helier, it should be part of the wider development of St. Helier, it needs to be moved forward. I think the Education Department have to take a flexible approach; I think Treasury will have to take a flexible approach; and I think Property Holdings will have to take a flexible approach to find a solution, as I think Deputy Duhamel said, it is how this is joined-up, we have to get out of the silos we are in and move it all forward and hopefully this will be moved on with this panel, so I am very grateful that this proposition has been brought to the Assembly and I will support it.

### **3.4.12 The Connétable of St. Ouen:**

I was looking around the Chamber and I think I am probably the only Member who served on the old Sport, Leisure and Recreation Committee. **[Members: Oh!]** I apologise to other Members, my memory is obviously not as good as I thought it was. What I would say is that I am totally supportive of this, but I would like to issue a health warning. We have been here before. Certainly those Members who served on that committee remember quite well our discussions with numerous

bodies, including the chairman of Scottish and Newcastle at the time, who happens to have been mentioned already here today, and a number of reports were presented to us. I remember attending numerous presentations on possibilities for the Fort, and at the end of the day it all came down to the Island either not being able to or not being willing to spend the money up there, and I fear that all the good work, which can be done, and I am sure that it will be done, may fall foul of finances.

### **3.4.13 The Deputy of St. John:**

Reference the Fort, I remember it as a coal dump when TS Undaunted - the Sea Cadet unit - was a building at the top end of one of the yards, and all the work of the youngsters and the committee responsible for the Sea Cadets put in, to help fund their new headquarters, TS Undaunted, which are 2 up there at the moment. If we are going to set up a working group - a steering group, call it what you will - what must be taken into account is that the Sea Cadets are in the wrong place. This should be worked in alongside any plans for moving the Sea Cadets down to the seafront, whether it is down at La Folie or whether it is a new slip at La Collette. It is most important that our Sea Cadets are looked after, given that I was a Sea Cadet instructor some 40, nearly 50, years ago, it is important that we look after our youngsters, given we are a maritime island. I remember the swimming pool being built and opened by one of your predecessors, the late Sir Robert Le Masurier, and I can recall him on the day of opening, and I was a Centenier at the time, but I did not know who the Bailiff really was, he turned up in a battered old Mini Traveller and I was at the foot of the slip road near the Glacis Field and I sent him to park down by the gym up there, and it was not until afterwards when he was making his speech to open the pool, which me making him park down there made him 10 minutes late for his arrival, that he mentioned that the honorary officer at the end of the road was only doing his job but it was rather a long way to walk and he was not as young as he had been 20 years before, which made me feel about that big. So I recall that being opened and I recall it being closed, and while I am on that site there, it would be a shame to see the building itself going, unless there is a very good reason; it may be a use for a dry ski slope or something similar - it could be used. I hope the steering group will look at all of those particular issues. Likewise, somebody mentioned a lift from Snow Hill, and I think the former Senator, John Le Marquand, when he had something to do with the Fort they looked at doing just that. But in fact I think somebody today mentioned the Weighbridge or some other place, and in fact possibly the Weighbridge is a better place, given behind the museum you go straight up to the Fort, the bus centre is just at the Weighbridge, or just off it, and there are possibly some pluses. Once again, I hope the working group will look at that. I can recall making suggestions to this House in the past that a hotel should be built up on the Glacis Field or that area, which fell on stony ground, and also another suggestion I made, and I think it was mentioned earlier by somebody, that the department, or an equivalent to Cyril Le Marquand House, if we need a new building, possibly our States Ministers Department and all that goes with it should move up to the Fort where our civil servants could all be under one roof. That all has come up before, as the Connétables have said, and these things have been looked at, and once again, yes, it is all down to funding. If the Minister is behind this, the Minister for Treasury and Resources is behind it, then it can happen, and it will fall on the hands of the Minister for Education, Sports and Leisure at the end of the day to try and get the funding, I believe, unless we can get 100 per cent support and the money, it will not happen, no matter all the goodwill in the world, we have seen it happen on so many occasions, whether it was when Senator Le Main was in charge of the Fort, other Sports, Leisure and Recreation Committees, Ministries, the fall-down has always been through the lack of cash. If the money is not available then everybody will be wasting their time. There has to be commitment from day one, not like when we did the Opera House, we bought it and from day one there was a funding shortage of £250,000 per annum, which has created problems ever since. Unless you are going to put the correct funding in place to do all that is required then do not start, because it will be this House in the future, and people who are responsible at the moment - to the Minister for Education, Sports and Culture - it will be a burden on their budget in other areas. Put the money in place from day one or do not start. Thank you.

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

I can say, contrary to Deputy Power, as the vice-chairman of the panel, that I have read all of the reports and the best thing I can say some months later is describe them as being strong and absorbent. Now, for me, Fort Regent was an election promise in as much as I wanted to do something with it, because I am not going to go down the route of... we can all reminisce, but it did mean a lot to me in the past, and I know it does to a lot of people. I pushed for the review that we have had and, like the other members of the panel, I am glad that we did that because I think it can be a real starting point. But it is no good if that does just become another report to end up in a little room somewhere. I am determined to finally see a process in motion that will eventually deliver results and I think one of the key aspects here - and I think Deputy Vallois who was also on the panel touched on it - we finally found a political champion, and whether he was pushed or whether he stepped forward gladly, it does not really matter, we have him now and this is the chance to nail him down. Of course the real positive side is that we have someone to blame if it all goes wrong. So it is absolutely true, as other Members have said, that without recognition of some kind of public/private partnership we do run the risk of this going nowhere. But that is the good thing I think with this process, there is no reason that anything should be left unturned and not considered.

[16:30]

Access has been flagged up, it clearly is one key starting place, and we are not saying that the States have to pay for all of what comes out of this; we know that the States could not, but if we do not take this opportunity I think our report will be just another one to prop up coffee tables or whatever such things do, and that would be a shame. The Deputy of St. Ouen - the Minister for Education, Sport and Culture - he is there, he is willing to lead, he may have reluctantly accepted. one of the reprobates from St. Ouen No. 1, but there we go, we can all work together, it is a chance to take it forward, let us do it, let us be a can-do government instead of a cannot-do. Thank you.

### **The Bailiff:**

Does any other Member wish to speak? Very well, I call upon Deputy Le Hérissier to reply.

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

I will not reply to every individual one. I do thank Members for their considerable support. If we could do it on goodwill we would do it many times over. People who have sounded warning signals, like the Deputy of St. John, that money is the issue, they are quite right. But, as I said, you will find in our report we almost put the brakes on ourselves and we almost put the slimmed-down option versus the full-fledged one, which, as veteran Members will recall, there was a vote in principle taken in the States in about 1994, including the provision of high-speed lifts, and of course it was never ever acted on. The States had approved that but the money was never put there and further disillusionment set in. But I do thank people, and hence, taking care with what the Connétable of St. Ouen said, we have been there before. I was asked some specific questions by Deputy Jeune. The reference to the swimming pool, we have not put it in our report, because in a way we were going on a verbal report about a technical issue, but we did ask: "Is the swimming pool capable of being rescued?" and the opinion we were given - and it was no more than that - was: "No, it is not capable of being rescued." That leads to demolition. But I would imagine the political steering group will obviously want to see that. Of course some people see the swimming pool demolition, but more importantly the value of the site of the swimming pool, they see that as the key in terms of private/public partnership that will open up other parts of the site. So, even though we all know we received a rum deal with what happened with the move to the Waterfront, and we have another one of those Connex-type open-ended contracts at the Waterfront, but unfortunately that is history. So I do thank all the Members; I thank them for their goodwill, I thank them for raising some very good points, I thank the panel who consisted of Deputy Vallois as our guest artiste, so to speak, the Connétable of St. John, Deputy Tadier, who cannot be with us

today, and of course Deputy Trevor Pitman who, masochist that he is, is clearly angling to get on the political steering group as well. I ask for the appel.

**The Bailiff:**

Very well, the appel is called for in relation to the proposition of the Education and Home Affairs Scrutiny Panel, projet 188. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 47</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisseier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (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 I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy M.R. Higgins (H)				
Deputy A.K.F. Green (H)				

Deputy D. De Sousa (H)				
Deputy J.M. Maçon (S)				

#### **4. Draft Supply of Goods and Services (Jersey) Regulations 200- (P.190/2009)**

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

The next matter on the Order Paper is the Draft Supply of Goods and Services (Jersey) Regulations 201- - Projet 190 - lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

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

The Draft Supply of Goods and Services (Jersey) Regulations 201-. The States, in pursuance of Article 94 of the Supply of Goods and Services (Jersey) Law 2009, have made the following Regulations.

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

As Members will know, consumer protection policy is the responsibility of Economic Development, and of course it is a very important responsibility. In September 2008 Members unanimously supported the Supply of Goods and Services Law. This was probably the most important advancement in consumer protection legislation in Jersey for many years. For the first time, consumers' statutory rights, similar to those enjoyed by U.K. consumers, were introduced and the Law came into force on 1st September 2009. These Regulations build on that protection and will ensure that those statutory rights cannot be excluded by use of unfair or unreasonable contractual terms. Prior to the debate in 2008 a major consultation was carried out and a number of excellent responses were received, especially from legal firms. These, not surprisingly, focused on the wording and details of the Articles. Some of those responses, while fully supporting the introduction of a law, also highlighted the need to follow this up with legislation to prevent businesses excluding new statutory rights, particularly in dealings with consumers, and that is what these Regulations seek to do. They will introduce protection measures similar to those, which already exist in the U.K. under the Unfair Contract Terms Act. It was appropriate to cherry-pick the necessary provisions to achieve the same objective in the Regulations before Members today. As with the primary Law, it should be clearly understood that these Regulations deal only with civil law contractual rights; it does not create any offences and there are no enforcement powers or duties to be undertaken by any particular body. In the event of disputes, which are unable to be resolved through negotiations, then it will ultimately be a court, which will determine whether a term is fair and reasonable. The Trading Standards Section of Economic Development has, for many years, provided a free and confidential consumer advice service, which assists, not just consumers, but also traders, in resolving disputes that arise over the sale of goods and services. If the States adopt these Regulations, it is intended that Trading Standards will publish a guidance booklet. This booklet will specifically help businesses ensure that they can be confident about their responsibilities when supplying goods and services to consumers. Finally, I would like to also thank Senator Breckon, who has confirmed that the Consumer Council fully supports these recommendations and these Regulations. I maintain the proposition.

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

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

##### **4.1.1 The Deputy of St. Mary:**

I am not sure whether it should be taken now or under the specifics, but if I can ask it now; it is just in the explanatory note, if the Minister would explain, on page 6, the last paragraph, and I will read it out: "However, Regulation 9 excludes from the scope of these Regulations insurance contracts

and certain contracts related to intellectual property” and so on. I can understand why it excludes intellectual property - formation of corporations - because those are complicated matters between parties who presumably do not need protection, but why exclude insurance contracts, which do go from business to consumer, and do create problems? But apart from that a laudable effort and the Minister should be congratulated.

#### **4.1.2 Senator A. Breckon:**

Just to say a few words on the experience of the Law itself, and obviously these Regulations are another step along the way, but since the Law was introduced, or the Appointed Day from 1st September 2009, it is a very useful tool because, if there is a dispute, then I can say from direct personal experience, many people have been directed towards the Law and said: “You do have some rights now”, and that is what you should be confronting the trader with and say: “Under Article so-and-so.” But I think a step along the way, as the Minister mentioned, what this is putting in place is about the unfair contract terms, and I am sure many Members may have seen notices in shops: “No refunds given.” They cannot say that anymore now with this Law; that is an unreasonable thing for a trader to say because, if a person’s rights are such that they should get their money back then they are entitled to their money back. So this is really the strength of this and, albeit it is part of a bigger process and there is still some work to do, it is very welcome. In my experience, another thing that I have had quite a number of people coming up to me from outside the Island about is the Distance Selling Law, which does not do much for local residents, but it does for people buying outside the Island on the internet with fulfilment companies within the Island, and there are quite a few of them about, more than we probably know about on a day-to-day basis. But when you can refer somebody to something that is on statute, it is a very useful tool, and I know the Minister to some extent has inherited this situation, but I would say he is proactive in wanting to move some of the things on and that is welcome. Of course there are still areas to touch on about consumer credit and advertising and things like that; there is still more to do and I would say that I am fully co-operative, as indeed the Jersey public are, with this thing. There are billions of pounds changing hands every day and it is an absolute nonsense that we have had nothing in place to date, but that is not the fault of the Minister, it is the fact that perhaps we have not addressed some of these issues. Employment is another thing where we are only just getting up to speed, and I would say Consumer Law and Regulation is another where we are getting there and more power to the Minister.

#### **The Bailiff:**

Does anyone else want to speak on the principles? Very well, I call upon the Minister to reply.

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

The Deputy of St. Mary is right, this would have come up under the Regulations but I will briefly deal with it here. Yes, he is correct insofar as under Regulation 9 there are various exclusions. The primary reason for that is that these are more complex matters which are dealt with under other more appropriate legislation and if he could perhaps bear also in mind that what we have sought to do here is to mirror as much as possible the Unfair Contracts Terms Act which is in the U.K., which is the most appropriate way we were advised in which we could deal with these particular issues. I would also like to once again thank Senator Breckon for his comments; he was quite correct in what he said, in particular the importance of consumer protection and the fact that there is more to do. We are very well aware of the fact there is more to do, hopefully we are moving in the right direction and we will continue to address the issues that need to be addressed. I maintain the proposition.

#### **The Bailiff:**

All those in favour of adopting the principles, kindly show. Those against. The principles are adopted. Deputy Higgins, this matter falls within your Scrutiny Panel. Do you wish to have it referred to?

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No, Sir, we do not wish to scrutinise it; in fact, we welcome this legislation.

**The Bailiff:**

Thank you very much. Then how do you wish to proceed? Are you happy to proceed *en bloc*, Senator, and answer any questions?

**Senator A.J.H. Mclean:**

Yes, *en bloc* if I may.

**The Bailiff:**

Is it seconded? **[Seconded]**. That is Regulations 1 to 10. Does any Member wish to speak on any of the individual Regulations? Very well, all those in favour of adopting Regulations 1 to 10, kindly show. Those against. They are adopted. Do you propose the Regulations in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak on Third Reading? All those in favour of adopting the Regulations in Third Reading, kindly show. Those against. The Regulations are adopted in Third Reading.

## **5. 'User Pays' Charges: Immigration fees (P.193/2009)**

**The Bailiff:**

We then come to User Pays Charges Immigration Fees - Projet 193 - lodged by the Minister for Home Affairs and I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to refer to their Act dated 24th June 2003 in which they agreed that no new user pays charges should be introduced without the prior approval of the States and to agree that a new user pays charge should be introduced as soon as practical to be levied by the States of Jersey Customs and Immigration Service for providing services to overseas nationals who are subject to Immigration control in respect of the grant of leave to remain in the Bailiwick of Jersey, or the variation of that leave, after the entry of such persons.

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

The effect of this proposition will be to put Jersey in the same position as the U.K. and the Isle of Man in relation to the levying of charges for various different functions in relation to immigration. At the moment Guernsey lags slightly behind us but I am informed that they also intend to take civil action. This is dealing with matters which are already dealt with by the Immigration Department for which, up until now, no charge is made. The position has changed in the U.K.; charges are now levied and we wish to put ourselves into a similar position. There is a variety of different types of application here; the most important is that for indefinite leave, because a person who obtains indefinite leave to stay in Jersey also is obtaining indefinite leave to stay anywhere else in the British Isles, and that is a very valuable right for the person involved bearing in mind we are in the common travel area and, once people come into the common travel area, there are no further internal checks.

[16:45]

Now, in seeking to levy this charge, I had to look at the issue as to what level of charge would be appropriate. In the U.K. they have 2 levels of charge: one if a person comes for a personal application and the other if they apply by post. Now, in the U.K., in order to reduce their workload, they have tried to encourage people to apply by post and they therefore have a cheaper rate of charge for that but, in Jersey, the Customs and Immigration people like to see the applicants in person. I think this enables them to be more satisfied that they have done appropriate checks in relation to that. So that is a process which is proposed. However, we did not think it fair to be charging people the equivalent charge to the U.K. at the level of a personal application when we were not allowing them to make a personal application. So therefore we have gone for the lower figure. The figures are, in fact, set out ... the various different option figures are set out on page 3 under Rules 1, 2, 3 and 4 and you will see that what is being proposed, which is set out on page 5, adopts the lower level of figures. Having said that, I need to make it clear to this Assembly that the Assembly is not being asked to approve the actual figures as such but merely the principle, this is an in-principle decision in relation to the levying of a new user pays fee. The figures which are set out are those which I will put into operation if this Assembly agrees with me today and will come into force as soon as the necessary Order can be drafted. Thereafter, it is likely that the fees will change from time to time; if there are changes in the U.K. it would be logical to be moving in a similar direction to what they are doing there although obviously we also have to consider the Jersey policy in relation to such matters. The proposition estimates that annual income of about £100,000 will be gained from this. I calculated the figures on the basis of what we think happened last year in terms of numbers and it was, in fact, higher than that, it would have been about £130,000. But this will vary from year to year, depending upon the number of people applying for the different applications and I would suspect, particularly in relation to work permits during a recessionary period, that there simply would be less applications and therefore less money coming in. Frankly, the Home Affairs Department needs the income. I am pledged to maintaining core services in 2010 and 2011 but we are under significant financial pressures. I have said this over and over in this House that we have particular problems with Home Affairs being caused by the effect of increments because we have, in many cases, increments - up to 8 increments - over periods of 10 years and that means at the moment, in recession - where experienced people are not leaving, and that is a good thing; we are retaining experienced people - the costs of running the department are rising with the same numbers of staff and so we need the extra money. This proposition, which is perfectly logical, I believe perfectly sensible, will have the side-effect of helping the Home Affairs Department in terms of the difficulties of budget and resourcing which we face both this year and next year. So to sum up, this is a fully-justified and reasonable charge in line with what is happening elsewhere in the U.K. The proposed level of charges are reasonably appropriate and we need the money.

**The Bailiff:**

Is the proposition seconded? [**Seconded**]. Does anyone wish to speak on the proposition? Deputy Maçon?

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

Very briefly, Sir. I note that the proposition is for overseas nationals. I wonder, given our students' situation with the U.K., will residents of the U.K. be viewed as overseas nationals?

**5.1.2 The Deputy of St. John:**

I would like to congratulate the Minister for thinking outside the box in this way and in other ways and we heard earlier how well he and his Assistant Minister get on without the use of some modern technology. It is good to see that a person like the Minister has brought this type of thinking to the House.

**The Bailiff:**

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

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

This, of course, only applies to foreign nationals because if we are talking about British nationals they have a right to be already in the British Isles. Sir, I maintain the proposition.

#### **The Bailiff:**

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

## **6. States of Jersey Law: Quorum in the States (P.194/2009)**

#### **The Bailiff:**

We come next to the States of Jersey Law: Quorum in the States - Projet 194 - lodged by Deputy Trevor Pitman and I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion, (a) to increase the number of Members present necessary for the States to be quorate under Article 15 of the States of Jersey Law 2005 from 27 to 35; and (b) to request the Privileges and Procedures Committee to bring forward the necessary amendment to the above Law.

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

I probably should have jumped in quickly but just to encourage Members I am happy to defer the use of a prime strategy group for another session if that gives anyone a lift to see them through to the end of the day.

#### **The Bailiff:**

Sorry, just to be clear, Deputy, you are saying you are going to be deferring debate of Projet 201.

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

P.201. Yes. Just so there is less next time, I am trying to help people. It must be said in light of the comments of being "trivial matter" bandied about during the previous debate on the matters of Ministerial BlackBerry bills, I hope that we will not hear these comments again because this is a matter of States efficiency and we have talked about it quite a lot over recent months. I noted just the other day that it was even mentioned in the *J.E.P. (Jersey Evening Post)* that whatever we as Members might think, a great many - and I would suggest probably the majority of the public - think that we should be in the Chamber, wherever at all possible, doing what we are paid for. Maybe we will hear some say that it should have been left to P.P.C. but, again, it was an urgent matter; no moves had been made and I, like a good number of people, have been very concerned at the way this problem of going inquorate seemed to increase as the year went on. We were inquorate I think 25 times before Christmas, including 3 times in one day, and that cannot make us look good as an Assembly and I would suggest that it cannot contribute or promote informed decision-making. This is certainly not being brought to try and make people sit through the entire day without a tea break; I think back to even when I was at school and, in those days, you got a morning break, 10 minutes, and you got one in the afternoon. There is plenty of research in places like Japan, *et cetera*, that shows that people who get a regular break function much better. I bring this for a number of reasons: I have noticed, as have many, this growing trend for mass exodus when certain people speak and it is not fair to say that everyone who leaves goes and listens to those speeches because we all know that that is not the case. Sorry, I will wait until everyone is finished having a chat. There is also a problem, I find, with people who just disappear completely from the States Building. I understood Standing Orders to mean that being in the Chamber took

priority. We have heard today in the BlackBerry debate - and I have obviously got to accept that result - that the Ministers need their BlackBerries because it prevents them, to a higher degree, from leaving the Chamber. So, okay, that is where we are so surely, given that decision, they should be supporting what is a very moderate increase because putting it up from 27 to 35, this is just an increase of 8, and I set that number as two-thirds of the Chamber, seemed to me a fairly reasonable number given that most people among the public think that we should be here. It is also very important, before we get any objections and I am sure we will, to flag-up that even if this is accepted, it will still leave a safeguard of a full 18 States Members who can be absent. If, through illness, being off-Island on official States business or perhaps who have just been very briefly called from the Chamber to attend other Executive or Scrutiny businesses, I accept that happens and I think every one of us does. But as I say, 25 times we have been inquorate, we saw it today again. What is the real problem with trying to keep 35 of us in the Chamber for debate? I do find it hugely disrespectful when people almost jump from their seats and run when certain people talk. I think it is disrespectful. They say you can lead a horse to water but you cannot make it drink but at least if people can be made more aware that they need to stay in the Chamber there is more chance of them listening to a person. They might not like their politics but, if you have got to sit there and listen to that person speak I think, one thing, it is courtesy and the other is you are more likely to start thinking about what they are saying and that surely has got to be a good and desirable thing, whether you are Left, Right, Green, or whatever. I hoped that P.P.C. would pick up on this issue of disappearing people. Senator Syvret is obviously a higher profile case and he gets a lot of flak, and understandably, that he is not here. However, what about the people who do not come in at all and they are not sick, but they just do not turn up? Some Member may stand up and say: "Let us leave this for P.P.C.", but they have done nothing about it and it is wrong, nothing seems to be done. It might not be the direct responsibility of the Chief Minister but I would expect, as the leader of the Chamber of the Government, that he would flag this up. I am not trying to get at people who go out; I had an experience this morning, I went out for a comfort break, got caught in the bottle neck of being behind the Deputy of St. Mary and then Deputy Duhamel speaking and that turned a 2-minute break into I think it was about 45 minutes because obviously you could not come and walk in front of them. We all accept those things happen. I am not even guessing at my colleague who seems to have some strange affliction that he has to get up every 30 seconds, go out and come back in. I will not go into the reasons, I do not know. It is the people who disappear for long periods, sometimes hours, and here I fully must flag-up that I recognise what P.P.C. say that, if this is supported, they would like to have some mechanism that guarantees that certain people cannot monopolise the absence because every one of us must have sat here desperate to go for what we will call a comfort break and we are busy counting heads to see if we can last long enough, so I would welcome that from P.P.C. It is very unfair when some people stay out for hours on end. As I say, it is about States efficiency and if we are serious about it, I really cannot see any problem. Clearly, 27 is not working, an increase of just 8 to 35 I think it is manageable, it is workable both ways and, as I say, let us just keep in mind it keeps that safeguard of 18 Members. When you look at it that way, would any one of us expect the public not to be shocked if we could not manage to function with a potential 18 Members out of the House? So with that I make the proposition.

#### **The Bailiff:**

Is the proposition seconded? **[Seconded]** Does anyone wish to speak on the proposition? The Deputy of St. John?

#### **6.1.1 The Deputy of St. John:**

I know that the Members are not going to vote for me next time I stand for election but I am not going to worry about that. I might convince them between now and then. Not everybody can sit in here for long periods; these are particularly uncomfortable seats. As you know, I wear a back brace in this chair, thanks to Senator Cohen who passed it over to me when some months ago I was in here with a stick. I know one or 2 Members who use a stick and have other complaints. That is not

to say we are not listening; frequently I will go down into the quiet room and listen to the debate there and I have no disturbances from people reading other documents or doing other things as I can hear going on behind me at the moment when I am speaking - no offence - and so forth. But if anybody looks at or watches the government programmes on television - and I do frequently, so it shows how sorry a life I lead when I am looking at the government in the U.K. and how they are doing things - and frequently you will see their Chamber in a debate with all the seats empty; well, nearly empty, you might see a handful of people in there in the government.

[17:00]

Sorry, Senator. But frequently you will see the benches empty in Westminster, well relatively empty, although government continues over there - at the moment possibly not as well as it should, but I am not going to pass comment on other governments. But that said I thought, in fact, of bringing in an amendment to this of reducing the number to 26 just so as to assist, or maybe even 24. I probably should have done because this is the type of thing that P.P.C. in fact might want to look at after this debate, the actual number to be quorate, because I do not think that 38 people is likely to be achievable on many days without having for you or whoever is sitting in the Chair to call an appeal. I think it would become very difficult. Therefore I sincerely hope we are not going to spend too much time on this debate because I think P.P.C. should take this on board and I would like to think that P.P.C. could stand up and say: "Look, we will look at this and come back with a report that is valuable for all of us to be able to sign up to."

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

I am sorry if we were not quorate after lunch. I was late because I had a number of things to do and, unfortunately, I wasted about 25 minutes having to go and buy my sandwiches. **[Laughter]** One likes efficiency. I notice, yet again, Deputy Southern is not present; I expect he will be in in a moment. If a Member comes in and someone is speaking, for instance, as Deputy Pitman was complaining, he is entitled or permitted to sit in the Dean's seat so he can be in the Chamber even if he is not in his own seat. But talking about listening to speeches, we have been plagued on occasions in the past, I would not refer it to this House at all, but there have been certain Members who will make speeches and they will go round the argument 3 times so after one and a half times, you are ready for out. I think on that the fault, dear Brutus, is perhaps in ourselves. I wonder if our current quorum is too high. I did a little research last week, I would note that I did not use Wikipedia because it is entirely suspect because the editors are unreliable, however, I looked: the Canadian Senate's quorum is 13 per cent of Members, the U.K. is 6 per cent, the E.U. (European Union) I think is probably about 6 per cent. Jersey, we are talking 50 per cent of current levels. Does it really make sense to put the quorum up? I would think it would be helpful if P.P.C. could review this, I am sorry to put some more work on the committee; perhaps they could look at the general quora - is that the word - for the various Commonwealth Parliaments and perhaps look at it from that point of view. But it seems a little foolish for us to be going up when everybody else is running at a lower level: Johnny is out, everybody is out of step with Johnny. Well, perhaps Johnny is not thinking correctly. I really ask Members to reject this and ask P.P.C. to look at it themselves.

#### **6.1.3 Deputy S. Power:**

Very briefly, Deputy Pitman has obviously researched this and said that at least 25 times in, I think, 2009 in his first term of his first year that this Assembly was inquorate for a brief period of time, so that means that there were less than 27 Members, there might have been 26 or 25. Now, I would suggest to Members that if we increased the level at which we are quorate to 35 then the number of times that this Assembly will be inquorate would increase and not the other way around. I would also suggest that we might have curtailed or even shortened States debates because there simply would not be 35 people around and I think that is an important point. Being an Assistant Minister,

I do know what Ministers have to do - and I am not defending the workloads or comparing the differences between Ministers and Scrutiny and the Assembly as a whole; we all have different ways of working - but Ministers inevitably are called to meetings. I think particularly if you were to look at the workload of the Chief Minister or the Minister for Treasury and Resources, I think that it is inevitable that they are not in the Chamber at times. I think that is not their fault; they simply have a stacked and packed diary and it is almost impossible - because I struggle with it as well - to balance the number of hours and the number of days that we sit in this Assembly, with the demands of your departmental workload and it is a difficult juggling act. So my view on this is that if we were to increase the number that we would be quorate by to 35, I am seriously worried that we would not get the business of this Assembly done at all and that we would all be going home early at 2.15 p.m., or whatever, because sometimes it will not be possible to get 35 Members in at the same time. There are reasons... there are occasions when Members are away together overseas doing different things or representing the Island or at meetings, and I think it is a dangerous one to go by. My own seat-of-the-pants assessment of the Assembly is, irrespective of the number of times that the Assembly was inquorate in 2009 - I know for a lot of the time in 2009, and indeed 2008, 2007 and 2006, my 4 years in this Assembly - I cannot remember the number of times that I sat in this Assembly we were bobbing along at 27 and then somebody came in and then somebody else left, or 2 Members came in and 2 Members left, and we have rarely been inquorate for longer than a couple of minutes. So to me, the system is working and I am of the school of thought that, if it is not broken, do not fix it; I do not believe it is broken. So my view on this is that I am not going to support this proposition. I think the system is working, I think the number of Members that have to be in the Chamber at any one time is acceptable; to increase it to any other higher level is unacceptable because we run the risk of making this Assembly unworkable. So I cannot support this proposition.

#### **6.1.4 Connétable L. Norman of St. Clement:**

Deputy Power said that if we adopt this proposition it is likely we will be going home at 2.15 p.m. most Tuesdays, therefore I shall be supporting this proposition. **[Laughter]** But, seriously though, I do understand the populist nature of this proposition. But really, the Deputy made no case whatsoever; in fact, he was almost arguing against himself. He tells us that a quorum of 27 clearly does not work and, to a degree, he is right. Certainly, 3 or 4 years ago when the quorum was 24, it worked a lot better. So obviously, if you increase it to 35, it is just going to make things whole lot worse and a whole lot more difficult to manage; that is a statement of the obvious. Just look at this morning: we had 8 Members have to withdraw declaring an interest; the Planning Application Sub-panel had to withdraw. That took 8 Members away. If that had coincided with a C.P.A. (Commonwealth Parliamentary Association) conference or a French Parliament conference, that is another 4 gone. Quite often you can have a couple ill, you could have one seeking asylum in another jurisdiction, you can have one at a funeral, you can have one on holiday in Tenerife, Deputy Southern could be on the walkabout and Senator Ferguson still queuing for her sandwiches **[Laughter]** and we are immediately inquorate. This proposition is really a nonsense and we should dispatch it as quickly as possible. **[Approbation]**

#### **6.1.5 The Deputy of St. Peter:**

I would just like to advise the Assembly... although I believe they have all received emails to say that there is a review going on at the moment to do with States efficiency. All States Members were invited to contribute and this is one of the areas that obviously could have been brought up. I have to say, as the chair, I will now pick up Hansard from this Assembly's contribution and use that rather than the failure of people to come to talk to the panel on the subject of States efficiency. So I would dispatch this very quickly and we will be dealing with it, and are dealing with it, within P.P.C.

#### **6.1.6 The Connétable of St. Lawrence:**

I take the opposing view to Deputy Power [Aside] ... and I ask the House how is it a populist proposition? How is it populist? It is our duty to be in this House. Duty: something that very often I think we forget. I feel well-qualified to speak on this because for the first 2 years of my term as Deputy I did my duty and, as some Members will know, I did not leave the Chamber, be that for a comfort break or any other reason, and I have got a lot of making up to do. I did leave 5 minutes ago for a coffee break, drank a cup of coffee and was back within the Chamber within a very few minutes. I recognise that we all have pressing work to do, be we Ministers, members of Scrutiny or not, or ordinary Back-Benchers, if I may use that term. But I have always been appalled to hear stories of Members being seen out shopping on States days and it has worried me that no mechanism has been put in place to deal with that because I think it is a breach of our duty. People might not be happy that it is - I use the term again - their duty to be here but it is. That is what we were elected to do, to be within this Chamber and to debate or at least listen to be able to make our decisions when we vote. I think the vote earlier which, in effect, I think paves the way for the use of mobile phones and other electronic devices, should ensure that there is less reason for Members to be out of the Chamber. I think the comments from P.P.C. for this proposition suggest that there is indeed the capacity to manage this, albeit that they must take into account absence on States business, illness and, as we have heard, absence for reasons such as attending funerals. There must be some way that this can be managed, it is surely not beyond our means to do this. So if this is adopted, and I certainly hope it is, I believe it will focus our minds to ensure that the speeches we make are succinct and brief, as I believe this one has been, and I support the proposition.

[17:15]

#### **6.1.7 The Deputy of St. Martin:**

I am glad to follow the Connétable of St. Lawrence because I think we are both of the same mind and she knows, as I do, that we are probably one of those who do not spend a lot of time outside the Chamber but, at the same time, I do accept the fact there are times when we do need to go out, whether it is a comfort break or a coffee break or whatever you want to do, even just to answer a phone call. But what I do find, it is a bit upsetting, is that we are sitting here and you are counting to see whether you can go for a comfort break because some Members spend far too long out there, outside the Chamber. It may well be a fault, and possibly I was party to it many years ago and Deputy Le Hérissier as well, when we were on P.P.C. and we had this surplus of chairs and had to find a space somewhere and they went outside. But those who have been in the Chamber much longer will know that, years ago, this door was closed anyway and we had a small coffee break and we did not spend that amount of time outside. But, again, I would come to the defence of Deputy Pitman because I do not think it is populist, I think this is a matter which should be debated and I do find it galling at times to sit here and really see how few people are here and even more so when one is bringing a proposition and you are inquorate when someone is putting a proposition to the House. Even worse is when you are summing up and then you have got to wait for people to rush in to put their finger on the button when we have got to ask which way we are voting. Now, that to me is wrong and I think what we need is far more discipline, in fact, if we did have far more discipline, we might not be having this debate now. A point was made, I think it was by Senator Ferguson and we did experience this today... we probably lost half an hour of useful time because we were popping out getting our sandwiches and about 4 or 5 of us came back into the Chamber. But one of the reasons why some of these other jurisdictions probably have less numbers is because of party politics, we can almost feel at times here that people leave the Chamber because they know full well which way they are going to vote before they even start the debate. But I would ask for Members to have a lot more discipline and, if they are going to leave the Chamber and they can see it being a little low, why do Members not count? I know I sit here quite often and I am going around counting and saying: "Do not go because you can see we are not quorate." It brings, I think, the Chamber into disrepute when we are inquorate. So really we brought this problem upon ourselves. It is unfortunate that the Greffier is in the Chair but there is a little moan that I do have,

is the fact of this business about when we are having a vote, and I well know because I was rapporteur when we had the simultaneous vote and I would draw attention to Members - I have got it here with me - in paragraph 92 about the recorded vote being taken using the electronic voting system. It may well be of interest to Members to know that many years ago there were 2 goes to try to get simultaneous votes and I can remember there was the Deputy of St. Mary, Mr. Maltwood, bringing the proposition saying about the simultaneous vote and he said he proposed it but was not going to vote for it. But it was brought on to me, as a member of P.P.C., to bring forward the simultaneous vote and believe it or not that was quite a difficult proposition to come through because there were so many objections to it. A little paragraph was put in about the speaker or the Chairman or the Bailiff as to how we were going to take the vote and page 92, paragraph 3 says: "When a recorded vote is being taken using the electronic voting system, the presiding officer should call upon elected Members to return to their designated seats." Again, as a minor privilege of the person in the Chair, it should not be saying: "Will those Members within the precincts return to the Chamber" it should not be those people outside the Chamber. It really should be that people who are in the Chamber should ensure they are in their seats, not for us to be waiting for people to be all over the place to come in here. What is so annoying is that we are supposed to be speeding procedure up and yet we are waiting for people to come in the Chamber. The reason why this little piece about return to their seats was put in was because our particular chairman at the time was Senator Lakeman who was one of these people who hopped all over the place in the Chamber and you would see him sitting there and sitting here, up there. It was because of him that we put it in. I will always remember why we had this little bit about returning to designated seats because it was not ever called for when we use to have the old formal appel. So I think, again, we are right back to what I said at the beginning: a little bit more discipline upon ourselves and it would not have been necessary for Deputy Trevor Pitman to bring this proposition to the House. But, nevertheless, I am going to support it because I think we do have a duty to be in the House and we should be a little bit more disciplined so I will give it my support.

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

Just picking up the point of the last speaker who referred to self-discipline. Unfortunately, despite some continuing reminders, that seems to have failed. But while I do not think the proposition as such would work, I think it does catalyse the need for a review of why the States are going inquorate and my gut feeling is the reason it goes inquorate is because some speeches are far too long and Members will lose their attention span. The educationalists among us I am sure will advise on recommended attention spans from schools and I suggest they are probably no more than 5 or 10 minutes. So when you are getting speeches running on to half an hour, an hour, and so forth, I am afraid attention is going to wane and I suggest it is at that point that Members will probably be leaving the Chamber. I think it also leads on to the fact that maybe ... and I understand from the Deputy of St. Peter that P.P.C. are looking into the matter and I urge them to research other jurisdictions and other parliaments with regard to the length of speeches so that we can plan our business in a more orderly fashion and I think we will be seen, not only within the Chambers as being more efficient, but by the general public. I think another point which of course adds to the reason for inquoracy is the running on to the third day, perhaps, and the following week and I suggest that most of the inquorate periods have taken place during that sort of time. So while I cannot support the proposition, I do hope that this will act to catalyse movement in the right direction.

#### **6.1.9 Deputy P.V.F. Le Claire:**

I have done my fair share of sitting in here and not sitting in here. I have done my fair share of speaking too long - more than my share of speaking too long - and I have done probably more than my fair share of causing the States Assembly to become inquorate because what I was saying was not liked. However, I do not think I am going to be able to support the proposition today because I do recall in the past when the quorum was less, it did seem - and I may be wrong because it would

need statistical analysis to see whether or not that was the case - but I do recall, when we talk about political arguments being made, on a number of occasions in the first years that I was in the Assembly, when we reached a particularly gruesome part of a particularly gruesome series of debates, I was urged by fellow like-minded rabble-rousers to contemplate walking out and forcing the States to become inquorate. So let us all put this into the mix: if some people were away and the debate was going the wrong way for some people, how many would have to leave for the States to become inquorate? No one is forced to sit in here, even though the ushers have become a little bit more forceful in encouraging us to count the numbers before we leave. I think the States have become more inquorate recently, as has been said, because of the length of speeches, the types of debates that we have been getting into and, more importantly, the increase in the number of Members that are needed. I think that we need to consider very, very carefully, and I am appealing to the more intellectual Members here than myself, most of you as Members, that if we adjourn the States business is put off. There have been times that we have been close to becoming inquorate during some extremely important debates recently and I believe those were in relation to some budget debates so I think there needs to be a little bit more work done upon this before we increase the quorum. I do not think it is the right thing to do. I would also just finish by saying this: it is very rare these days, if ever there was any day, that a Back-Bencher can have the ear of a Minister or a Member that is a busy Member. Coming into this Assembly to conduct our business enables us to speak to, throughout the course of the proceedings, different Ministers, different Members about different issues that pertain to our constituencies and our political views and beliefs. I know for one, having gone out today and yesterday as one of those members of the Planning Applications Panel, that counted 8; including the Minister for Planning and Environment, it would have been, yesterday, 9. I also know more recently, and I still thank and applaud the Minister for Health and Social Services for this, the time that she took with her Assistant Ministers in listening to me during States debates in appealing for them to consider my propositions that were coming forward before some very sensitive issues and we spent a considerable period of time. I would not have had that opportunity had I been forced to stay in this Assembly, and as we have been prohibited from communicating through laptops, *et cetera*, this is a very important opportunity and I have been urged by doctors, lawyers, parents and support workers to talk to my more influentially-placed politicians during States days. If we are all sat in here unable to speak with each other, I cannot do that so, yes, debates are important, yes, it is important to be courteous. Most of the time most Members have got a pretty good idea as to which way they are going to vote anyway and I would like to see, and continue to see, the opportunity that I have and be able to leave this Chamber to take advantage of the fact that I might be able to speak for 5 or 10 minutes with an important Member of this Assembly, or a Back-Bench Member of this Assembly, that I need help from for myself and for the people that have elected me.

#### **6.1.10 The Deputy of St. Mary:**

I see I have a time limit of 3 minutes. We already have a high quorum. The low quorum is not within our tradition; the public expect, and indeed Standing Orders demand and the comments of P.P.C. demonstrate, that we are expected to be here and that is unequivocal. However, there is a problem with this and leaving aside the issue of shopping which is, of course, inexcusable, but there is a problem. The reason for this Assembly having difficulty in being quorate is that people are busy. I have gone down many times to the computer room and found 3, 4, 5 even 6 people working on the computers and listening to the debates at the same time because there is so much to do. What they are doing is they are checking their emails, in some cases, they are writing the next speech, they are dealing with constituents, I do not know what they are doing but they are all on the computers working. As a previous speaker pointed out, sometimes you need to talk to people and so on. There are other things to do apart from being here listening to the debates and, if we go ahead and increase the quorum on the hoof, then it follows as night follows day that we have to have access to laptops in here. We cannot do all the work we have to do without being able to basically double-task, even though most of us are blokes, and do the emails and listen to the debate

at the same time. I already often am reading something and listening to a speaker at the same time because there is so much to do. So I think we have to grow up and accept, and the public - some of who do not realise that we have free laptops, and we have to have these tools of the trade - that sometimes we are downstairs listening and doing other work at the same time. So that is my first point; there is an implication here for the way we do business and for what we are expected to do and what we are expecting ourselves to do. The second point is what is parliament for. We read in the report of the proposer that he has a very strong emphasis on listening to the debates, on coming with an open mind, being persuaded and so on. I agree, debate is important but that goes into the pot of thinking about this issue because it is not an easy issue. That brings me to my third point which is this really belongs with P.P.C. I am afraid, but it does, and to be discussing 27 or 35 on the floor of the House in a committee of 53 really does not make any sense at all and so I will be voting against this and I plead and, as the P.P.C. representative has already said, this is going to be part of the efficiency review and that is where it belongs.

**6.1.11 Deputy S. Pitman:**

Just a couple of points. I do think that with this proposition we should be looking at it in terms of the principles of democracy and, after all, we are a democratic government. The more Members voting in this Chamber, the more political representation our voters have and, as the Connétable of St. Lawrence said, it is our duty; they voted for us to do this, to put policy through, legislation through so we should be in here representing them as much as we can.

[17:30]

Just lastly, I would ask the Constable of St. Clement to, if he can, remember the last time because Deputy Pitman is proposing that we allow 18 Members not to be in this Chamber; when was the last time 18 Members were out of this Chamber and, if they were, were they out chatting in the coffee rooms? I can remember only about 4 times in which that amount of Members have had to be out of the room in my time since I was elected.

**Deputy R.G. Le Hérisier:**

Sir, unless Deputy Trevor Pitman wishes to refer this to P.P.C., and indeed if he wishes, can I call for the adjournment?

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

Yes. It is 5.30 p.m. The States do have a duty under Standing Orders to consider, at 5.30 p.m. how to proceed.

**Deputy J.A. Martin:**

Sir, can I quickly step in? I do not know if everyone did hear that Deputy Pitman has already decided not to debate P.201 and Deputy Southern has already pulled P.8. If we could dispatch this and that leaves 2 very small items, I would counteract that and suggest ... it really does not matter to me, Sir, because I am flying off tomorrow, but I think I am being generous to give these [Members: Oh!] no, no. I am declaring an interest and it is not a selfish one. I would like to see this out tonight and I think we could if we sit to 6.00 p.m. with the other items that have been ... so I just put that before the adjournment, Sir.

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

Well, I do have 2 contrary propositions on the floor of the Assembly: from Deputy Le Hérisier that we should adjourn and from Deputy Martin that we should continue. We cannot deal with both but we will take one in a moment. Chief Minister?

**Senator T.A. Le Sueur:**

I was going to say, Sir, if it would be helpful, I think there are 2 propositions in my name which hopefully were short anyway, I would be prepared to defer if needs be in the interests of expediency and I support the view of Deputy Martin that we should continue until 6.00 p.m. and dispatch today's business today.

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

So you are saying, Chief Minister, that you would defer ...

**Senator T.A. Le Sueur:**

P.198 and P.204.

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

P.198 and P.204 which would simply leave the States to decide whether to take P.210 and then deal with that matter if they agreed it should be listed for today's business. Well, Deputy Le Hérisier, are you content for me to put the proposition of Deputy Martin to the vote to test the water on the 6.00 p.m. or do you wish to push the adjournment?

**Deputy R.G. Le Hérisier:**

Yes, Sir.

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

Are Members content to continue to conclude the business tonight? Very well, does any other Member wish to speak on the proposition of Deputy Trevor Pitman?

**6.1.12 Deputy M.R. Higgins:**

I am just going to make a very brief point. I am going to vote against this proposition but there is one thing that I do feel very strongly about: there are certain States Members who make an appearance and then disappear on occasion and there are some who, well, we hardly see at all at times and I think that for self-discipline, the Members know who they are. I am not going to name and shame them, but I think they are supposed to be here and if they continue not being here then I will name and shame them because I think they are being not only disrespectful to the House but also to the electorate who elected them.

**6.1.13 Senator A. Breckon:**

Just a couple of points. We sort of clock-in, as it were, with a roll call and then, during the session, there is no monitoring of who is sitting in their seats. I have thought about this before about getting some sort of a pressure pad but, of course, you could put a bundle of papers on the seat or something like that to cover that. Somebody suggested that the Chamber should be televised and that way people could see you. As the Deputy of St. John has mentioned, he is sad enough to watch other parliaments so perhaps somebody might find this very interesting. But the question is, how do we address that because I think for some of it, what it is about, it is about respect. If you get an individual Member who is bringing a report and proposition, and I have seen there sometimes can be a mass exodus: "Somebody is going to start, right, it is a good time for 'off we go'." This is not something new, it has happened over the years. It should be said, some issues are more interesting than others so therefore everybody might want to hang on everybody's word but that is not usually the case. Then, of course, it is the procedure; what are we talking about? Is it a Minister? Sometimes when the Minister is centre stage, get the equipment out, let us have this, this is important, and then if it is a Back-Bencher, well okay, we will put up with this. That is probably not good enough. So perhaps we should all be a bit more tolerant with each other. This then begs the question: "Is this the answer?" Well, in one respect it might be, but from a practical point of view, as we have seen, it will cause chaos because of where we are. I remember a situation about October/November time when there happened to be - I am not sure whether it was a Licensing Assembly or there was a swearing at the Royal Court or something, but the Connétables stealthily

moved on to another part of the building. As it happened, we did stay quorate but if, as the Constable of St. Clement has mentioned, there had been a number of Members who had been out the Island on business or holiday or whatever it had been, family circumstances, then we would have struggled with what Deputy Pitman is suggesting. So although on one hand I think the sentiment is right, the practicality is wrong and I think it was the Deputy of St. Martin who mentioned sometimes you are looking round: "Hang on" and then the ushers or somebody are shaking their head: "No, you cannot", I have seen somebody get as far as the door and say: "No, you will have to go ..." It has been ticked out, they signal you: "You have to go back." But then, other Members have indicated: "Well perhaps some Members are in here" and I know because sitting over there the Deputies of St. Mary and St. Lawrence at that time hardly moved at all and they had bottles of water and sweets and all sorts of things to keep them in place, as it were. But other Members were in and out, and then it is a case of how do we monitor who is here? Perhaps that is something that P.P.C. might like to consider while they are considering all these other things. How do we record who is in the Chamber and how long for? Because if you were doing your job and you went and clocked-in in the morning and then you said: "Well, I have got a few other things to do: I am going for a haircut, I have got to do a bit of shopping, I am going to do a bit of work for somebody else" then you would not be in that job very long and they would say: "Well, where have you been?" So the question is who are we accountable to? We probably should be accountable to each other and maybe show that respect so if it is somebody ... it could well be Deputy Gorst presenting something on his own account, not as a Minister, he has done it before to do with employing people with learning difficulties. He brought a proposition on his own account and he got the respect for that that he would do, I would like to think, as the Minister for Social Security, which he was at the time. But I think that is what we should do but I do have a problem with this number because I think, although I can see the reason for it, it is not workable as we are and it is something that I think we would all welcome batting in the direction of P.P.C. While they are looking at other things, it is something that they may address and I would like to think as a courtesy that we pay to each other, in fact, I would agree with the Deputy of St. John, or whoever else it might be but, at the same time, I accept and respect their right to bring those propositions and give them that attention so that they get a fair hearing rather than having made a mind up. Having said that, we have seen sometimes a proposition, or whatever, dispense fairly quickly but, at the same time, we must respect each other's right to do that and perhaps give it a bit more attention than we do rather than Members regularly doing a runner and, with that, just for the avoidance of doubt, I cannot support this as it stands.

#### **6.1.14 Deputy K.C. Lewis:**

Senator Breckon just mentioned that a possibility is television in the Chamber; I would not wish that on anyone. I have got a good radio face myself, and quite odd today - I think twice today - I am going to agree with the Deputy of St. John and I am going to agree now with the Deputy of St. Mary, which is quite a surprise. I will be going for the *status quo*, I think we have got it about right. I do not know of people leaving the premises, if that does happen that is deplorable; most people are downstairs working on their computers, writing to their constituents, but are listening very attentively to the speakers. Anyone who has been privileged enough to go to Westminster will often hear the bell ringing and a green light goes on which means the Commons is about to vote or a red light comes on, the Lords are about to vote, and that is the way it is done. I think we have got it about right so I will be opposing this proposition.

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

Just briefly. I was not going to speak because I think the Constable of St. Lawrence has said most of what I wanted to say. It is just listening to a few of the extras now; you have got every excuse from too long in the sandwich queue to: "Well, I have got to be busy on my computer so I cannot be in here." Well, I am very sorry I remember, and it was not that many years ago, we did not have computers downstairs; we did not have any excuse. When you take the oath you: "... will attend

the meetings as officers of the States whenever you are called upon to do so”, not do every other thing on your list. Yes, we do have constituents but they live in the real world as well. They are listening now, and I bet your answer phones have got more calls on a Tuesday or a Wednesday when you are sitting in the States and you know it is going to be a long day. You have got tomorrow to deal with it. It has not got to be dealt with and sometimes very quick off-the-cuff decisions are not always the best decisions. I really cannot deal with it, being one of the people who are often in here at 6.40 p.m. wondering when I can get out to go for a comfort break or have a coffee. I think we need to test this. I am going to support 35. We discussed it at Privileges and Procedures. I think it will enhance people to stay in the House, get the work done that we need to be doing for the States. You all want that job when you go round knocking on the doors or you sit in the hustings and that is what you tell people. You do not say, you know: “I am going to be downstairs listening” or: “The seats are a bit uncomfortable”, that is the best one I have heard today. I do feel sorry for the Deputy of St. John, I know he has a bad back but the seats were the same when he was here before and he knew that when he came in when he asked to be re-elected. We could maybe overcome that. We could maybe get the Deputy of St. John a comfortable seat or a bigger cushion. **[Laughter]** Maybe one for his bottom, not only his back. But what I am saying is that - I will not go on - but I really think that you do take an oath, the oath is to be here. We are busy. “It is not a second job” I have written here. No, it is not a second job, this is the first job. People seem to think: “Oh, debates go on.” That is what P.P.C. is looking at. We have put comments out that said: “If this is passed today we will have to come up with a way of working with it.” There may be occasions, as the Constable of St. Clement has said, that when there are too many people away there is just a quorum that is obviously going to be totally out of the window. But that can be easily remedied. I will go with it. As far as I am concerned, when I have asked to be in the States I am here and if I cannot be here then I am marked défaut and I am away and I fully accept that. But when I am here I am in this room and I fully participate.

**The Connétable of St. Clement:**

A point of clarification, the Deputy said that when a situation arises when there are less than 35 Members present it can be easily rectified. Could she tell us how, please?

**Deputy J.A. Martin:**

If the Constable had been listening I said: “If this is passed today P.P.C. will have to find a way this is to be managed.” Obviously that will be something we have to take into consideration. If at the beginning of the day there are only 43 people signed in there will have to be a mechanism that the quorum will have to probably drop. But we do not know yet. The Constable is putting words ... I do not know. It said: “We will have to find a way to work with it.” But it still leaves 18 people, 35 from 53. I mean, if you really do not want the job we should lower the States Members to about 44 and then what would the quorum be?

[17:45]

**6.1.16 Deputy A.E. Jeune:**

I think everybody has said what needs to be said **[Approbation]** but I am not going to support this proposition, not because I do not think there should be 35 Members in this Chamber but because I am not going to make it more difficult for myself or other Members to get out for a comfort break, coffee, or any other short break.

**6.1.17 Senator J.L. Perchard:**

I do not think everything quite has been said that needs to be said. Deputy Hill used a word that I thought was spot on, he said “discipline” and he is right. But it is not about the discipline of being able to sit here and grit your teeth during the 8 “incinerator” debates **[Laughter]** or the fifth “no exemptions on G.S.T. (Goods and Services Tax) food exemptions” debate. It is not about the discipline of being able to do that, that is just torture **[Laughter]** and we should not inflict that on

anybody. The discipline is about the way this House manages its affairs and I look again at P.P.C. This is part of a bigger picture. A private Member can bring 10 propositions a sitting if they so wish, all off the wall and we are bound to debate them. P.P.C., please pay attention to the way this House conducts its business and perhaps then we can look at the quorum.

**The Deputy of St. Peter:**

If I could just add to what I said earlier as a clarification, we are looking at it.

**6.1.18 Deputy G.P. Southern:**

We open up a can of worms when we open up these sorts of debates, I am afraid. I understand some of the complaints the proposer was making. I do believe this is the wrong solution and will make things worse. I hear the words of Senator Perchard and I shudder, in fact. Let us remove all power from any Back-Bencher to bring anything at any stage whatsoever because Senator Perchard does not want to grit his teeth.

**6.1.19 Deputy J.B. Fox:**

As a Member of P.P.C. can I implore people that want P.P.C. to do things to put it down in writing, on paper, so we can get on with it and do the job that we are asked to do. The chairman of the sub committee has already spoken. We had 5 people turn up out of 53 - that gives you an indication. One of the things that could be said is that they want it on the floor so their electorate can hear it through B.B.C. Radio. I cannot do anything about that. But if you want P.P.C. to deal with things, please use the facilities that are available. For the P.P.C. members, I know you are all busy and you have got everything else but we have also got to ensure that we are quorate to be able to deal with all the things that are going on as well.

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

I call on Deputy Trevor Pitman to reply.

**6.1.20 Deputy T.M. Pitman:**

I am really looking forward to ... and I can finish by 6.00 p.m. Right, Deputy of St. John, I think you made a fair point there about anyone who has got a physical problem. I would not treat that in any way as a frivolous matter, it is a reasonable point. I think it can be overcome. Something that I have noticed in the year I have been here is the arms on these things are absolutely appalling. I have got problems with both my arms now from sitting here. Perhaps my next proposition will be nice comfy cushions for all Members, so that will be fun to debate. Senator Ferguson thought that there probably should be a lower quorum and that P.P.C. should look at it. Well, it does worry me. I respect your view but it does worry me that everything seems to be: "Let us get P.P.C. to look at it" because I do not know how they are going to manage to do all that because they are certainly struggling now, for whatever reason. Deputy Power suggested it would worsen matters. I have to differ; I think it would focus our minds, as a couple of people - the Constable of St. Lawrence and Deputy Judy Martin - pointed out. He said if it was not broken why fix it. Well I have to disagree, it clearly is broken or we would not have gone inquorate so many times. The Constable of St. Clement highly upset me. I have such affection for him but I am not going to attack him over populism because I am sure he knows a lot more about it than I do, it has kept him in office for many years. Deputy ... I cannot read my own writing, so I will move to the Constable of St. Lawrence. I am very pleased with the Constable's very incisive, concise, eloquent, correct, quite brilliant speech. It was not populist, the proposition. We are meant to be here doing what we are paid for, she said, and I was very pleased that the Constable picked up on the fact that now that all the Ministers can have the BlackBerries we really should not need to disappear from the Chamber so often. The Deputy of St. Martin supported again. He said it was not populist. I am now totally convinced I was not being populist. He said discipline was needed and I think it is. If nothing else, perhaps that is something that this debate will have triggered. The Constable of St. Brelade, you have to be a capitalist to look at why we seem to have these problems. Deputy Le Claire talked

about his long speeches and he valued his opportunities to talk to important people. I do not think we need to be out of the Chamber to talk to important people, but I respect his views. The Deputy of St. Mary talked about the work that needed to be done. He mentioned the efficiency review, as did someone else which, I have to point out like Deputy Fox, only 5 or 6 people had bothered to attend that, I was one of them, Deputy S. Pitman was another. Indeed, we were so efficient that we went together. We saved on electricity and whatever, so there we go, socialists do save money. Deputy S. Pitman pointed out by highlighting the fact that she could barely remember any time when 18 people were missing from the Chamber, you know, with regard to shopping, sandwich-queuing or being ill. Deputy Higgins, now he was 2 months late. I really could not understand his speech because he said he supported “name and shame”, so where was he coming from? But I am going to take that approach too because I think it was really wrong that I bumped into a Senator yesterday lunchtime who was not here at all during the day and there was clearly nothing wrong with him, nothing whatsoever. He was helping get his daughter ready for university. Now, I do not think that is a valid reason not to be here. Senator Breckon spoke just on respect. He felt the sentiment was right but in practicality it possibly was not. “How do we record people who are missing?” he said, and I would very much like to see television because I do think it would have an impact on this. Deputy Lewis supported the *status quo*. Deputy Martin of St. Helier: “We are meant to be here if we were doing our job” and she was going to support and I thank her for that. I think it was also the Deputy who pointed out that this is not a second job or, at least, it is not meant to be. I think risking being populist that is what some members of the public will see when there are so many people missing for no apparent reason. I cannot remember what Deputy Jeune said so I apologise to her and will just wind up by saying in many ways if the issue leads to improvement in this area then I will have achieved what I wanted, whether I win, lose or draw. One fact I have to observe, if this was not about going inquorate would we have as many people in the Chamber? No, we most definitely would not. That is an absolute fact. With that I will thank everyone who spoke. With the ones who took it seriously, hopefully some discipline will come out of this and whatever happens I hope P.P.C. do follow through and look at it because clearly there are some issues at hand here. It cannot be right when people just disappear for hours, sign-in and do not even bother to come back. That is totally wrong; it is totally disrespectful and some of these are senior politicians. We all need a break, none of us would argue with that. But just signing-in to the school register and disappearing because we know that we will not be found out - the *J.E.P.* do not report it, the radio cannot show it, maybe if we ever get TV streaming people will have a rude awakening. So with that I call for the appel.

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

Very well, the appel is called for in respect of the proposition of Deputy Pitman. If Members are in their designated seats I will ask the Greffier to open the voting.

<b>POUR: 8</b>		<b>CONTRE: 36</b>		<b>ABSTAIN: 1</b>
Senator P.F.C. Ozouf		Senator T.A. Le Sueur		Deputy of St. Peter
Connétable of St. Lawrence		Senator P.F. Routier		
Deputy R.C. Duhamel (S)		Senator J.L. Perchard		
Deputy of St. Martin		Senator A. Breckon		
Deputy J.A. Martin (H)		Senator S.C. Ferguson		
Deputy S. Pitman (H)		Senator A.J.D. Maclean		
Deputy T.M. Pitman (H)		Senator B.I. Le Marquand		
Deputy D. De Sousa (H)		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Connétable of St. Saviour		
		Connétable of St. Clement		

	Connétable of St. Peter		
	Connétable of St. Mary		
	Deputy R.G. Le Hérisssier (S)		
	Deputy J.B. Fox (H)		
	Deputy G.P. Southern (H)		
	Deputy of St. Ouen		
	Deputy of Grouville		
	Deputy J.A. Hilton (H)		
	Deputy P.V.F. Le Claire (H)		
	Deputy J.A.N. Le Fondré (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy K.C. Lewis (S)		
	Deputy I.J. Gorst (C)		
	Deputy of St. John		
	Deputy A.E. Jeune (B)		
	Deputy A.T. Dupré (C)		
	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)		

**7. Draft Foundations (Additional Annual Charge) (Jersey) Regulations 200- (P.210/2009)**

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

Very well, there is one matter which still remains following the deferrals. This is a matter where the States must agree, under Standing Order 32, to take the matter as it was not listed in December for debate at this meeting, that is the matter of the Draft Foundations. Do you wish that matter to be taken this evening, Minister?

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

Yes, if I could just request that the States could deal with this matter very quickly. It relates to a foundations charge to bring it in line with companies' charges. We could deal with the matter very quickly and I would appreciate it if the States would allow me to do so. If we can agree it in today's sitting then this charge can come in for this year and it is important that we get the revenue.

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

Are Members content to take this matter at the present sitting?

**The Deputy of Grouville:**

Yes, I would like to speak on the matter, other members might as well. I am just making the point ...

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

Well certainly if Members agree to take it there must be a complete debate. Are Members content to commence the debate?

**The Deputy of St. John:**

Yes. Can I propose we deal with the debate and finish the business.

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

Very well. There has been no dissent so the Greffier will read the citation to the Regulations.

**The Assistant Greffier of the States:**

P.210/2009: Draft Foundations (Additional Annual Charge) (Jersey) Regulations 201-. The States, in pursuance of Article 37(3) of the Foundations (Jersey) Law 2009, have made the following Regulations.

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

The Foundations (Jersey) Law 2009 provides for foundations registered in Jersey to pay an additional annual charge to the States. The draft Regulations provide that the additional annual charge will be £115 which is the same amount as that paid by Jersey-registered companies. The Foundations Law was approved by the States on 22nd October 2008 and came into force in July 2009. Article 37 of the Law provides that foundations must pay an annual administration fee to cover the administration costs of the registrar. As well as the administration fee, foundations must also pay an additional annual charge which the States may determine by Regulations. In order to keep down collection costs, both components of the fee will be paid by foundations to the registrar who will then forward the additional annual charge component to the Treasurer of the States. A public consultation was carried out by the Jersey Financial Service Commission on the basis that both components of the foundations fee should be aligned with those of Jersey companies which are £35 and £115 respectively. Following this consultation, the Minister for Treasury and Resources has approved the proposed level of the additional annual charge for foundations. The draft Regulations, therefore, provides that the additional annual charge for foundations will be £115. If the draft Regulations are adopted there would be an additional annual income to the States of £115 for each registered foundation. There are currently 20 Jersey-registered foundations but this number is expected to rise as the use of the foundation becomes more familiar and following the introduction of provision for foundations continuances and mergers late last year. I propose the principles of the Regulations.

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

Are the principles seconded? **[Seconded]** Does anyone wish to speak on the principles of the Regulations? The Deputy of Grouville.

**7.1.1 The Deputy of Grouville:**

I would, just very briefly, like to make the point that when Senator Breckon brought to the Budget debate the opportunity to raise £4.9 million with the increase of annual return fees this was rejected by the Minister for Treasury and Resources and the Minister for Economic Development.

[18:00]

The points they were making were things like that the Jersey finance industry is founded upon stability and certainty and, therefore, they both felt that the finance industry could not stomach the increase. Indeed, Senator Perchard... I have some things that he was demanding at the time as to why the annual return fee could not be increased. He was demanding for a cost benefit analysis of all of this and I just wondered if these Senators are going to be consistent now. Well, they are obviously not because here we are in January asking for these foundation fees to be put in place. We had a wonderful opportunity to make an extra £4.9 million which all these 3 Senators rejected. I would like to see some consistency and I would like to hear their reasons why these foundation fees are okay but the increase in annual return fees was not.

**7.1.2 Senator A. Breckon:**

Just following on from that, just to say that what the Deputy of Grouville has highlighted that the fee that was there for those returns has been £150 since 1998. So it does seem that if this is done it probably needs to be approved today with the proviso that it would be reviewed fairly quickly - the other review - and I am sure the Minister for Treasury and Resources will take that on board. We had the Assistant Minister for Treasury and Resources yesterday saying that in the gambling

industry the fees must generate the regulation and it must do so now and we have now got something which probably does not wash its own face that we are being asked to approve. So I think with that I hope the Ministers will take on board that if this fee is introduced then it will need to be reviewed and moved on fairly quickly.

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

Very quickly, we have had a debate about company fees and we have said quite clearly that we think that there is scope for increasing and reviewing company fees but what we did not wish to do was to increase fees without consultation, in the manner that was previously proposed by Senator Breckon, and also to watch the international developments of how company fees and other registered fees which, I am pleased to say, are increasing. Cayman have introduced a number of new fees and there is going to be scope to increase fees, going forward. This is designed to bring the foundation fee structure in line with that for companies. As I have said, there is scope for fees to be brought in and that will be looked at and I do believe that we will be coming forward, after consultation, with revisions and increases in fees across the board.

#### **7.1.4 The Deputy of St. Martin:**

Just a quick word because Senator Breckon has mentioned some of the things I was going to say, it is about full cost recovery. I know yesterday they were going to charge a Crown and Anchor operator £115 every time he goes out and that is to pay for full cost recovery. We have an explanatory note here of all 6 lines. We have had this before; we have mentioned about the Economic Development coming across with reports and propositions with almost nothing and yet here we are at 6.05 p.m. trying to get something through the House. It is just not good enough. Now if a Back-Bencher had come across with a report like this... no chance at all. Even well-researched reports by Back-Benchers get thrown out on the grounds there is not enough information. I just feel rather disappointed again that here we have a report coming from the same department with so little information in it. So maybe the Minister could tell us what is the full cost recovery? How many people are employed? We know we need 4 people to look after 29 betting shops, how many people do we need to employ here to raise this money? Also, there is no mention whatsoever in this report about consultation, maybe we could be told what sort of consultation there was.

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

I call on the Minister to reply.

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

The Deputy of Grouville I think is confused with this matter. She talked about consistency and, in fact, that is exactly what this is all about. Foundations is a new product and as such a charge is being introduced and that is perfectly correct, and it is bringing the charge in line with Jersey-registered companies. There is nothing more to it than that. As far as Senator Breckon is concerned, yes, the Minister for Treasury and Resources has already undertaken that company fees will be reviewed and, indeed, if they are going to be reviewed it is quite consistent that foundations with this new product would also be reviewed (the charging mechanism) therein at the same time. The Deputy of St. Martin makes some very unjust comments and I would say it was nothing more than a cheap shot on his behalf. The matter has been consulted upon with the J.F.S.C. (Jersey Financial Services Commission), fully consulted upon. I do ask him ... there is very little one can write about a fee; a fee is a fee. The figure is there, it is consistent with the Jersey-registered company fee. I do not think anything much more needs to be written or mentioned on the particular subject. I maintain the proposition.

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

The principles are proposed and the appel is called for on the principles. If Members are in their designated seats I will ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy of St. Martin		
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy S. Pitman (H)		
Senator B.E. Shenton		Deputy T.M. Pitman (H)		
Senator J.L. Perchard		Deputy D. De Sousa (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
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)				

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

Deputy Higgins, this falls within the remit of your panel ...

**Deputy M.R. Higgins (Chairman, Economic Affairs Scrutiny Panel):**

No, we do not.

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

You do not wish to scrutinise it. Do you wish to propose the Regulations *en bloc*, Minister?

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

Yes, Sir.

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

Is it seconded? [**Seconded**] Does anyone wish to speak on either of the Regulations? I put the Regulations. Those Members in favour of adopting kindly show? Against the Regulations? They are adopted in Second Reading. Do you propose the Regulations in Third Reading, Minister?

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

Yes, Sir.

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

Seconded? [**Seconded**] Does anyone wish to speak? The appel is called for on the Regulations in Third Reading. If Members are in their designated seats I will ask the Greffier to open the voting.

<b>POUR: 38</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur		Deputy of St. Martin		
Senator P.F. Routier		Deputy G.P. Southern (H)		
Senator P.F.C. Ozouf		Deputy S. Pitman (H)		
Senator B.E. Shenton		Deputy T.M. Pitman (H)		
Senator J.L. Perchard		Deputy D. De Sousa (H)		
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. John				
Deputy A.E. Jeune (B)				
Deputy A.T. Dupré (C)				
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)				

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

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

The Assembly comes finally to the arrangement of Public Business for future meetings. I call on the Chairman of P.P.C.

**8. The Connétable of St. Mary:**

The arrangement for future business is as per the pink sheet with the following alterations: firstly, on the meeting of 2nd February the Ann Court site petition, P.202, is deferred until 9th March and the following propositions are added: P.198, Draft Employment of States of Jersey Employees (Amendment No. 4) (Jersey) Regulations 200-; P.201, Strategy for Dealing with Young Offenders; P.204, Draft Public Holidays and Bank Holidays (Jersey) Act; P.208, Brighter Futures and P.1/2010, The Waterfront Planning Application: Zephyrus Scheme. As I said, the only alteration to Business further down the line is the addition on 9th March of P.202. I would estimate that we will need 3 days for the next Business, I regret to say.

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

Very well. The chairman has proposed the arrangements with the matters deferred from this sitting added to the next sitting and the move of the Ann Court petition. Are there any comments on the arrangement of Business? Deputy Le Claire.

**8.1 Deputy P.V.F. Le Claire:**

The Minster for Planning and Environment and his Assistant, Deputy Duhamel, have begun a process of talking to the fuel companies in relation to the carbon intensity issues. I think it is only sensible to put back, at the very least anyway, P.156 from 23rd February - at this stage - to 9th March. I will keep P.157 if possible. That will help, I would imagine, Members with their preparation for the 23rd.

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

Very well, thank you, Deputy Le Claire. Any other comments? The arrangement is approved and the Assembly meeting is closed. The Assembly will reconvene on 2nd February.

**ADJOURNMENT**

[18:09]