

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 10th JULY 2012

|  |    |
|--|----|
| QUESTIONS.....   | 9  |
| 1. Written Questions .....   | 9  |
| 1.1. DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING AIRPORT HANGAR FACILITIES:.....   | 9  |
| 1.2 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE NATIONALITIES OF THOSE IN RECEIPT OF INCOME SUPPORT:.....                            | 9  |
| 1.3 BY DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING AN UPDATE OF EXISTING MOTOR TRAFFIC REGULATIONS:.....           | 11 |
| 1.4 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE RECENT RED ENSIGN CONFERENCE:.....   | 13 |
| 1.5 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE EFFECT OF POWER CUTS ON SERVICES FOR JERSEY TELECOMS' FIBRE OPTIC CABLE CUSTOMERS:..... | 14 |
| 1.6 DEPUTY M. TADIER OF ST. BRELADE OF H.M. ATTORNEY GENERAL REGARDING THE COURT COSTS ASSOCIATED WITH DRUG OFFENCES IN 2011: .....  | 15 |
| 1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING STAFFING AT THE HEALTH AND SOCIAL SERVICES DEPARTMENT:.....                | 15 |
| 1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE FUTURE OF HAUTLIEU AND HIGHLANDS COLLEGE:.....                       | 19 |
| 1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE REMOVAL OF FINAL SALARY PENSIONS FOR PUBLIC SECTOR EMPLOYEES: .....        | 20 |
| 1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CSR SAVINGS PROPOSALS:.....   | 21 |
| 1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE AUTOMATIC INFORMATION EXCHANGE UNDER THE EUROPEAN UNION SAVINGS TAX DIRECTIVE: .....           | 22 |
| 1.12 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING POLICE SEARCHES AT INCORRECT ADDRESSES:.....                                      | 25 |
| 1.13 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE ELECTION OF JURATS: .....   | 25 |
| 1.14 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING CASES TRIED BY JURY: .....  | 26 |

|   |           |
|---|-----------|
| 1.15 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL<br>REGARDING THE PROFESSIONAL BACKGROUND OF JURATS:.....                       | 27        |
| 1.16 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL<br>REGARDING DISCIPLINARY SANCTIONS FOR LAWYERS AND ADVOCATES:<br>.....        | 28        |
| <b>2. Oral Questions.....</b>   | <b>29</b> |
| 2.1 Deputy R.G. Le Hérisssier of St. Saviour of the Chief Minister regarding the Council of<br>Ministers' views on independence: .....        | 29        |
| Senator P.M. Bailhache (Assistant Chief Minister - rapporteur): .....   | 29        |
| 2.1.1 Deputy R.G. Le Hérisssier: .....  | 29        |
| 2.1.2 Deputy G.P. Southern of St. Helier: .....   | 29        |
| 2.1.3 Senator S.C. Ferguson: .....  | 29        |
| 2.1.4 Senator S.C. Ferguson: .....  | 30        |
| 2.1.5 Deputy J.A.N. Le Fondré of St. Lawrence: .....  | 30        |
| 2.1.6 Deputy J.G. Reed of St. Ouen: .....   | 30        |
| 2.1.7 Connétable P.J. Rondel of St. John: .....   | 31        |
| 2.1.8 Deputy M. Tadier of St. Brelade: .....  | 31        |
| 2.1.9 Deputy M. Tadier: .....   | 31        |
| 2.1.10 Deputy T.M. Pitman of St. Helier:.....   | 32        |
| 2.1.11 Deputy J.A. Hilton of St. Helier: .....  | 32        |
| 2.1.12 Deputy G.C.L. Baudains of St. Clement: .....   | 32        |
| 2.1.13 Senator L.J. Farnham: .....  | 32        |
| 2.1.14 Deputy R.G. Le Hérisssier: .....   | 32        |
| 2.2 Deputy G.P. Southern of the Minister for Treasury and Resources regarding changes to<br>public sector pensions:.....                      | 33        |
| Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....   | 33        |
| 2.2.1 Deputy G.P. Southern: .....   | 33        |
| 2.2.2 Deputy G.P. Southern: .....   | 34        |
| 2.2.3 Senator S.C. Ferguson: .....  | 34        |
| 2.2.4 Deputy J.A. Hilton:.....  | 34        |
| 2.2.5 Deputy G.P. Southern: .....   | 34        |
| 2.3 Connétable D.J. Murphy of Grouville of the Chief Minister regarding reputational<br>attacks on the former head of Property Holdings:..... | 35        |
| Senator I.J. Gorst (The Chief Minister): .....  | 35        |
| 2.3.1 The Connétable of Grouville:.....   | 35        |
| 2.3.2 The Connétable of Grouville:.....   | 36        |
| 2.3.3 Deputy M. Tadier: .....   | 36        |
| 2.3.4 Senator S.C. Ferguson: .....  | 36        |
| 2.3.5 Senator S.C. Ferguson: .....  | 37        |
| 2.3.6 The Connétable of St. John: .....   | 37        |
| 2.3.7 Deputy M.R. Higgins of St. Helier:.....   | 37        |
| 2.3.8 Deputy M.R. Higgins:.....   | 38        |
| 2.3.9 Deputy T.A. Vallois of St. Saviour: .....   | 38        |
| 2.3.10 Deputy J.A. Martin of St. Helier:.....   | 38        |
| 2.3.11 Deputy J.H. Young of St. Brelade: .....  | 38        |
| 2.3.12 The Connétable of Grouville: .....   | 39        |
| 2.4 The Connétable of St. John of the Minister for Economic Development regarding the<br>grant of £75,000 to the Jersey Rugby Club: .....     | 39        |
| Senator A.J.H. Maclean (The Minister for Economic Development):.....  | 39        |

|  |    |
|--|----|
| 2.4.1 The Connétable of St. John:  | 39 |
| 2.4.2 Deputy T.M. Pitman:  | 40 |
| 2.4.3 Deputy G.P. Southern:  | 40 |
| 2.4.4 Deputy M. Tadier:  | 40 |
| 2.4.5 Senator L.J. Farnham:  | 40 |
| 2.4.6 Senator S.C. Ferguson:   | 41 |
| 2.4.7 The Connétable of Grouville:   | 41 |
| 2.4.8 Connétable D.W. Mezbourian of St. Lawrence:  | 41 |
| 2.4.9 The Connétable of St. John:  | 42 |
| 2.5 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding sites identified for any potential rebuild of Les Quennevais School?:  | 42 |
| Deputy P.J.D. Ryan of St. John (The Minister for Education, Sport and Culture):  | 42 |
| 2.5.1 Deputy M. Tadier:  | 42 |
| 2.5.2 Deputy M. Tadier:  | 43 |
| 2.6 Deputy J.H. Young of the Minister for Planning and Environment regarding the reappointment of the Jersey Architectural Commission:   | 43 |
| Deputy R.C. Duhamel (The Minister for Planning and Environment):   | 43 |
| 2.6.1 Deputy J.H. Young:   | 43 |
| 2.6.2 Deputy J.H. Young:   | 43 |
| 2.7 Deputy G.C.L. Baudains of the Minister for Education, Sport and Culture regarding personnel changes within the Youth Service:  | 44 |
| Deputy R.G. Bryans of St. Helier (Assistant Minister for Education, Sport and Culture - rapporteur):   | 44 |
| 2.7.1 Deputy G.C.L. Baudains:  | 44 |
| 2.8 Deputy M.R. Higgins of the Minister for Economic Development regarding recent scandals involving the U.K. banking industry and their impact upon the Jersey financial services industry:                     | 45 |
| Senator A.J.H. Maclean (The Minister for Economic Development):  | 45 |
| 2.8.1 Deputy M.R. Higgins:   | 45 |
| 2.8.2 Deputy J.A. Martin:  | 46 |
| 2.8.3 Deputy R.G. Le Hérisier:   | 46 |
| 2.8.4 Deputy R.G. Le Hérisier:   | 46 |
| 2.8.5 Deputy J.H. Young:   | 46 |
| 2.8.6 Senator A. Breckon:  | 47 |
| 2.8.7 Senator Ferguson:  | 47 |
| 2.8.8 Deputy M.R. Higgins:   | 47 |
| 2.9 Deputy T.M. Pitman of the Chief Minister regarding access to the transcript of the States' <i>'in camera'</i> session relating to the suspension of the former Chief Officer of the States of Jersey Police: | 47 |
| Senator I.J. Gorst (The Chief Minister):   | 48 |
| 2.9.1 Deputy T.M. Pitman:  | 48 |
| Deputy M. Tadier:  | 48 |
| Deputy T.M. Pitman:  | 48 |
| 2.9.2 Senator F. du H. Le Gresley:   | 50 |
| 2.9.3 Deputy R.G. Le Hérisier:   | 50 |
| 2.9.4 Deputy T.M. Pitman:  | 50 |
| 2.10 The Deputy of St. Ouen of the Chief Minister regarding the authority of the Assistant Minister with responsibility for External Affairs to comment on significant constitutional matters:                   | 50 |
| Senator I.J. Gorst (The Chief Minister):   | 50 |

|         |   |    |
|---------|---|----|
| 2.10.1  | The Deputy of St. Ouen:.....  | 51 |
| 2.10.2  | Deputy G.P. Southern: .....   | 51 |
| 2.10.3  | Deputy J.A.N. Le Fondré: .....  | 51 |
| 2.10.4  | Deputy R.G. Le Hérissier: .....   | 51 |
| 2.10.5  | Deputy J.H. Young.....  | 52 |
| 2.10.6  | Senator S.C. Ferguson:.....   | 52 |
| 2.10.7  | Deputy M.R. Higgins: .....  | 52 |
| 2.10.8  | Senator L.J. Farnham: .....   | 53 |
| 2.10.9  | Deputy T.M. Pitman:.....  | 53 |
| 2.10.10 | Deputy M. Tadier:.....  | 53 |
| 2.10.11 | The Deputy of St. Ouen: .....   | 54 |
|         | Mr. H. Sharp, H.M. Solicitor General: .....   | 54 |
|         | Deputy M.R. Higgins:.....   | 55 |
| 2.11    | Deputy J.A. Martin of the Minister for Economic Development regarding the repayment of Payment Protection Insurance in Jersey: .....  | 55 |
|         | Senator A.J.H. Maclean (The Minister for Economic Development):.....  | 55 |
| 2.11.1  | Deputy J.A. Martin: .....   | 55 |
| 2.11.2  | Deputy M.R. Higgins: .....  | 56 |
| 2.11.3  | Senator A. Breckon: .....   | 56 |
| 2.12    | Deputy G.C.L. Baudains of the Minister for Planning and Environment regarding wind farms on Jersey's offshore reefs and their impact on RAMSAR designation: .....   | 57 |
|         | Deputy R.C. Duhamel of St. Saviour (The Minister for Planning and Environment): .....   | 57 |
| 2.12.1  | Deputy G.C.L. Baudains: .....   | 57 |
| 2.13    | Deputy J.A. Martin of the Minister for Housing regarding the sale of houses to housing trusts:.....   | 57 |
|         | Deputy A.K.F. Green of St. Helier (The Minister for Housing):.....  | 57 |
| 2.13.1  | Deputy J.A. Martin: .....   | 58 |
| 2.13.2  | Deputy T.M. Pitman:.....  | 58 |
| 2.13.3  | Deputy G.P. Southern: .....   | 59 |
| 2.13.4  | Deputy G.P. Southern: .....   | 59 |
| 2.13.5  | Deputy J.A. Martin: .....   | 59 |
| 2.13.6  | Deputy J.A. Martin: .....   | 59 |
| 2.14    | The Deputy of St. Ouen of the Minister for Economic Development regarding comments made by the Assistant Chief Minister with responsibility for External Affairs to the Guardian newspaper in relation to the issue of independence for Jersey: ..... | 59 |
|         | Senator A.J.H. Maclean (The Minister for Economic Development):.....  | 59 |
| 2.14.1  | The Deputy of St. Ouen:.....  | 59 |
| 2.14.2  | Senator S.C. Ferguson:.....   | 60 |
| 2.14.3  | Deputy R.G. Le Hérissier: .....   | 60 |
| 2.14.4  | Deputy T.M. Pitman:.....  | 60 |
| 2.14.5  | Deputy M. Tadier:.....  | 61 |
| 2.15    | Deputy G.P. Southern of the Minister for Education, Sport and Culture regarding reforms to the tertiary sector and the reduction of grants to the fee-paying provided sector: .....   | 61 |
|         | The Deputy of St. John (The Minister for Education, Sport and Culture): .....   | 62 |
| 2.15.1  | Deputy G.P. Southern: .....   | 62 |
| 2.15.2  | Deputy G.C.L. Baudains: .....   | 62 |
| 2.16    | Deputy M.R. Higgins of the Minister for Home Affairs regarding the alleged loss of evidence relating to child abuse in Jersey:.....   | 63 |
|         | Senator B.I. Le Marquand (The Minister for Home Affairs): .....   | 63 |
| 2.16.1  | Deputy M.R. Higgins: .....  | 63 |

|        |  |    |
|--------|--|----|
| 2.16.2 | Deputy T.M. Pitman.....  | 63 |
| 2.16.3 | Deputy R.G. Le Hérissier:.....   | 64 |
| 2.17   | Deputy T.M. Pitman of the Chief Minister regarding the terms of reference drawn up by Verita for the proposed Historic Abuse Committee of Inquiry: ..... | 64 |
|        | Senator I.J. Gorst (The Chief Minister):.....  | 64 |
| 2.17.1 | Deputy T.M. Pitman:.....   | 64 |
| 2.17.2 | Deputy J.M. Maçon of St. Saviour: .....  | 65 |
| 2.17.3 | Deputy M.R. Higgins:.....  | 65 |
| 2.17.4 | Deputy M.R. Higgins:.....  | 65 |
| 2.17.5 | Deputy M. Tadier:.....   | 65 |
| 2.17.6 | Deputy J.M. Maçon:.....  | 66 |
|        | Senator P.F.C. Ozouf:.....   | 66 |
|        | Deputy M. Tadier: .....  | 66 |

### **3. Questions to Ministers without notice - The Minister for Treasury and Resources....68**

|       |   |    |
|-------|---|----|
| 3.1   | Deputy J.A. Martin:.....  | 68 |
|       | Senator P.F.C. Ozouf (The Minister for Treasury and Resources): ..... | 69 |
| 3.2   | Deputy T.M. Pitman: .....   | 69 |
| 3.3   | Deputy J.A. Hilton:.....  | 69 |
| 3.4   | Connétable A.S. Crowcroft of St. Helier:.....                         | 69 |
| 3.5   | Deputy M.R. Higgins:.....   | 70 |
| 3.6   | The Connétable of St. John:.....                                      | 70 |
| 3.7   | Deputy M. Tadier: .....   | 70 |
| 3.8   | Deputy R.G. Le Hérissier: .....                                       | 71 |
| 3.8.1 | Deputy R.G. Le Hérissier: .....                                       | 71 |
| 3.9   | Senator S.C. Ferguson: .....  | 71 |
| 3.10  | Deputy G.P. Southern:.....  | 71 |
| 3.11  | Senator L.J. Farnham:.....  | 72 |
| 3.12  | Deputy J.M. Maçon:.....   | 72 |
| 3.13  | Deputy J.H. Young:.....   | 72 |
| 3.14  | Deputy S.G. Luce of St. Martin: .....                                 | 72 |
| 3.15  | Deputy J.A.N. Le Fondré:.....   | 73 |

### **4. Questions to Ministers without notice - The Chief Minister.....73**

|      |   |    |
|------|---|----|
| 4.1  | The Connétable of St. John:.....              | 73 |
|      | Senator L.J. Gorst (The Chief Minister):..... | 73 |
| 4.2  | Deputy M.R. Higgins:.....                     | 74 |
| 4.3  | Deputy M. Tadier: .....                       | 74 |
| 4.4  | Deputy J.A.N. Le Fondré:.....                 | 75 |
| 4.5  | Deputy T.M. Pitman: .....                     | 75 |
| 4.6  | The Connétable of St. Lawrence:.....          | 75 |
| 4.7  | Deputy G.P. Southern:.....                    | 76 |
| 4.8  | The Connétable of Grouville:.....             | 76 |
| 4.9  | Deputy J.A. Martin:.....                      | 76 |
| 4.10 | The Deputy of St. Martin.....                 | 77 |

## **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY.....77**

### **5. Statement by the Minister for Treasury and Resources regarding the vote of censure .....78**

|     |  |    |
|-----|--|----|
| 5.1 | Senator P.F.C. Ozouf (The Minister for Treasury and Resources):..... | 78 |
|-----|--|----|

|   |           |
|---|-----------|
| 5.1.1 Senator S.C. Ferguson: .....  | 80        |
| 5.1.2 Senator S.C. Ferguson: .....  | 80        |
| 5.1.3 Deputy M. Tadier: .....   | 80        |
| 5.1.4 Deputy J.A.N. Le Fondré: .....  | 81        |
| 5.1.5 Deputy J.A.N. Le Fondré: .....  | 82        |
| 5.1.6 Deputy G.P. Southern: .....   | 82        |
| 5.1.7 Connétable J.M. Refault of St. Peter: .....   | 82        |
| 5.1.8 Deputy R.G. Le Hérisier: .....  | 82        |
| 5.1.9 Deputy R.G. Le Hérisier: .....  | 83        |
| 5.1.10 The Connétable of St. Lawrence: .....  | 83        |
| <b>LUNCHTIME ADJOURNMENT PROPOSED .....</b>   | <b>83</b> |
| <b>LUNCHTIME ADJOURNMENT .....</b>  | <b>83</b> |
| <b>6. The Chairman of the Education and Home Affairs Scrutiny Panel will make a statement regarding its review of the proposed introduction of Tasers in Jersey .....</b>   | <b>84</b> |
| 6.1 Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel): .....  | 84        |
| 6.1.1 Deputy T.M. Pitman: .....   | 85        |
| 6.1.2 Deputy T.M. Pitman: .....   | 85        |
| 6.1.3 The Connétable of St. Lawrence: .....   | 85        |
| <b>7. The Vice-Chairman of the Corporate Services Scrutiny Sub-Panel will make a statement on the Panel's Review of the use of the Tourism Development Fund to provide assistance to the private sector. ....</b> | <b>86</b> |
| 7.1 Deputy R.J. Rondel of St. Helier (Vice-Chairman, Corporation Services Scrutiny Sub-Panel): .....  | 86        |
| 7.1.1 Deputy M. Tadier: .....   | 87        |
| 7.1.2 Deputy M. Tadier: .....   | 87        |
| 7.1.3 The Connétable of St. Lawrence: .....   | 88        |
| 7.1.4 Senator P.F.C. Ozouf: .....   | 88        |
| 7.1.5 Senator F. du H. Le Gresley: .....  | 88        |
| 7.1.6 Senator L.J. Farnham: .....   | 89        |
| 7.1.7 Deputy C.F. Labey of Grouville: .....   | 89        |
| 7.1.8 Senator S.C. Ferguson: .....  | 89        |
| 7.1.9 Deputy J.A. Martin: .....   | 89        |
| 7.1.10 Senator A.J.H. Maclean: .....  | 90        |
| 7.1.11 Deputy M. Tadier: .....  | 90        |
| <b>8. Statement made by the Chief Minister regarding all those involved in the recent gas works incident .....</b>  | <b>90</b> |
| 8.1 Senator I.J. Gorst (The Chief Minister): .....  | 90        |
| 8.1.1 The Connétable of St. Helier: .....   | 91        |
| 8.1.2 Deputy G.C.L. Baudains: .....   | 91        |
| 8.1.3 The Connétable of St. Peter: .....  | 92        |
| 8.1.4 Deputy T.A. Vallois: .....  | 92        |
| <b>PUBLIC BUSINESS .....</b>  | <b>93</b> |
| <b>9. Disciplinary Panel of the Law Society of Jersey: reappointment of lay members (P.50/2012) .....</b>   | <b>93</b> |
| 9.1 Senator I.J. Gorst (The Chief Minister): .....  | 93        |

|   |            |
|---|------------|
| <b>10. Tourism Development Fund: assistance to the private sector (P.26/2012) .....</b>                 | <b>94</b>  |
| 10.1 Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....                              | 94         |
| 10.1.1 Connétable M.P.S. Le Troquer of St. Martin: .....  | 95         |
| 10.1.2 Deputy J.A. Martin: .....  | 97         |
| 10.1.3 The Deputy of Grouville: .....   | 98         |
| 10.1.4 Deputy M.R. Higgins: .....   | 99         |
| 10.1.5 Deputy M. Tadier: .....  | 99         |
| 10.1.6 Deputy J.H. Young: .....   | 101        |
| 10.1.7 Deputy G.P. Southern: .....  | 103        |
| 10.1.8 The Deputy of St. Ouen: .....  | 104        |
| 10.1.9 Senator A.J.H. Maclean: .....  | 105        |
| 10.1.10 Senator P.F.C. Ozouf: .....   | 109        |
| <b>11. Draft Employment Tribunal (Amendment No. 3) (Jersey) Regulations 201-<br/>(P.51/2012) .....</b>  | <b>111</b> |
| 11.1 Senator F. du H. Le Gresley (The Minister for Social Security): .....                              | 111        |
| 11.1.1 Deputy G.P. Southern: .....  | 112        |
| 11.1.2 Deputy R.G. Le Hérissier: .....  | 112        |
| 11.1.3 Senator F. du H. Le Gresley: .....   | 112        |
| Deputy K.L. Moore of St. Peter (Chairman, Health, Social Security and Housing Scrutiny<br>Panel): ..... | 113        |
| <b>12. Draft Petroleum (Amendment No. 3) (Jersey) Law 201- (P.52/2012) .....</b>                        | <b>114</b> |
| 12.1 Senator B.I. Le Marquand (The Minister for Home Affairs): .....                                    | 114        |
| 12.1.1 Deputy G.C.L. Baudains: .....  | 114        |
| 12.1.2 Deputy G.P. Southern: .....  | 115        |
| 12.1.3 Senator S.C. Ferguson: .....   | 115        |
| 12.1.4 Senator B.I. Le Marquand: .....  | 115        |
| Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel): .....                          | 115        |
| 12.2 Senator B.I. Le Marquand: .....  | 115        |
| 12.2.1 The Connétable of St. John: .....  | 115        |
| 12.2.2 Senator L.J. Farnham: .....  | 116        |
| 12.2.3 Senator B.I. Le Marquand: .....  | 116        |
| <b>13. Draft Petroleum Substances (Jersey) Regulations 201- (P.53/2012) .....</b>                       | <b>117</b> |
| 13.1 Senator B.I. Le Marquand (The Minister for Home Affairs): .....                                    | 117        |
| 13.1.1 Senator S.C. Ferguson: .....   | 118        |
| 13.1.2 Deputy G.C.L. Baudains: .....  | 118        |
| 13.1.3 The Connétable of St. John: .....  | 118        |
| 13.1.4 Deputy R.G. Le Hérissier: .....  | 118        |
| 13.1.5 Senator B.I. Le Marquand: .....  | 118        |
| 13.2 Senator B.I. Le Marquand: .....  | 119        |
| 13.2.1 The Connétable of St. John: .....  | 120        |
| 13.2.2 Senator S.C. Ferguson: .....   | 120        |
| Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel): .....                          | 120        |
| 13.2.3 Deputy G.C.L. Baudains: .....  | 120        |
| 13.2.4 Connétable J. Gallichan of St. Mary: .....   | 120        |
| 13.2.5 Deputy M. Tadier: .....  | 120        |
| 13.2.6 Senator L.J. Farnham: .....  | 120        |
| 13.2.7 Deputy T.A. Vallois: .....   | 120        |

|                          |   |            |
|--------------------------|---|------------|
| 13.2.8                   | Senator B.I. Le Marquand: .....   | 121        |
| <b>14.</b>               | <b>Draft Fire Precautions (Amendment No. 2) (Jersey) Law 201- (P.54/2012) .....</b>   | <b>121</b> |
| 14.1                     | Senator B.I. Le Marquand (The Minister for Home Affairs): .....   | 121        |
| 14.1.1                   | Deputy J.M. Maçon: .....  | 122        |
| 14.1.2                   | Deputy J.H. Young: .....  | 123        |
| 14.1.3                   | The Connétable of St. Lawrence: .....   | 123        |
| 14.1.4                   | Deputy G.C.L. Baudains: .....   | 123        |
| 14.1.5                   | Senator B.I. Le Marquand: .....   | 123        |
| 14.2                     | Senator B.I. Le Marquand: .....   | 124        |
| 14.2.1                   | Deputy J.H. Young: .....  | 125        |
| 14.2.2                   | The Deputy of St. Martin: .....   | 125        |
| 14.2.3                   | Senator B.I. Le Marquand: .....   | 126        |
| 14.3.                    | Senator B.I. Le Marquand: .....   | 126        |
| 14.3.1                   | Deputy M.R. Higgins: .....  | 126        |
| 14.3.2                   | Senator B.I. Le Marquand: .....   | 126        |
| <b>15.</b>               | <b>Public Employees Contributory Retirement Scheme: Committee of Management -<br/>appointment of member (P.58/2012) .....</b> | <b>128</b> |
| 15.1                     | Senator I.J. Gorst (The Chief Minister): .....  | 128        |
| <b>16.</b>               | <b>States of Jersey Development Company Limited: appointment of Non-Executive<br/>Director (P.59/2012) .....</b>              | <b>129</b> |
| 16.1                     | Senator P.F.C. Ozouf (The Minister for Treasury and Resources): .....   | 130        |
| 16.1.1                   | Deputy J.H. Young: .....  | 131        |
| 16.1.2                   | Senator A. Breckon: .....   | 132        |
| 16.1.3                   | Deputy M.R. Higgins: .....  | 133        |
| 16.1.4                   | Senator P.F.C. Ozouf: .....   | 133        |
| <b>ADJOURNMENT</b> ..... |   | <b>135</b> |



[9:30]

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1. DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING AIRPORT HANGAR FACILITIES:**

##### **Question**

Can the Minister advise –

- (a) how much hangar space is available at the Airport for commercial aircraft that may need covered maintenance or repair?
- (b) whether the Blue Islands ATR aircraft that recently suffered undercarriage collapse can be housed in any hangar?
- (c) what covered facilities, if any, are available for air accident investigators to study such incidents?

##### **Answer**

- a) The available hangar space at Jersey Airport is limited by aircraft size and availability. The three hangars that could accommodate a commercial aircraft have varying limitations in aircraft size; the largest being able to accommodate small commercial aircraft in the region of the 20 to 30 seats range; while the smallest hangar has the capacity to accommodate aircraft in the region of 8 to 10 seats.
- b) Unfortunately, the Blue Islands ATR aircraft cannot be suitably accommodated in any hangar at Jersey Airport. One privately owned hangar could partially accommodate the ATR aircraft. However, the aircraft's tail section would not be able to fit and part of it would remain outside, which would result in not being able to fully close the hangar doors.
- c) If the aircraft is of a size that could fit into a privately owned hangar then there are three potential facilities available. However, if the size of the aircraft is deemed too large (which the majority of commercial aircraft types operating in Jersey are) then there are no permanent covered facilities available. Aircraft operators do have the option of establishing a temporary structure in a suitable location on the aerodrome to accommodate investigations and subsequent repairs.

#### **1.2 DEPUTY M. TADIER OF ST. BRELADE OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE NATIONALITIES OF THOSE IN RECEIPT OF INCOME SUPPORT:**

##### **Question**

Will the Minister –

- (a) provide a breakdown of adult recipients of Income Support by nationality, including a comparison with the nationality breakdown provided in the 2011 Census;
- (b) state what percentage of Income Support claimants have –
  - (i) lived in Jersey for more than 10 years;
  - (ii) lived in Jersey for between five and 10 years;
- (c) provide a breakdown of Social Security contributors by nationality, including a comparison with the nationality breakdown provided in the 2011 Census?

## Answer

Using data extracted on 18 June 2012, nationality information<sup>1</sup> is available in respect of 7,690 adult recipients of income support. Under the Income Support law an adult is defined as anyone over compulsory school leaving age.

The table provides a breakdown of these recipients by nationality.

| Nationality            | No of adults | % of adults |
|------------------------|--------------|-------------|
| Jersey / British Isles | 6,147        | 80%         |
| Portugal / Madeira     | 1,005        | 13%         |
| Poland                 | 219          | 3%          |
| Republic of Ireland    | 147          | 2%          |
| Other European country | 123          | 2%          |
| Elsewhere in the world | 49           | 1%          |
| Total                  | 7,690        |             |

This compares with place of birth information gathered through the 2011 Census:

| Census Place of Birth, 2011 | %   |
|-----------------------------|-----|
| Jersey / British Isles      | 78% |
| Portugal / Madeira          | 8%  |
| Poland                      | 4%  |
| Ireland (Republic)          | 2%  |
| Other European country      | 4%  |
| Elsewhere in the world      | 4%  |

These percentages are in respect of adults in Jersey at the time of the census (March 2011) aged 16 and above.

Information held by the Social Security Department for contribution purposes includes the dates when individuals register with the Department. An individual who leaves the island and returns at a later date will have two (or more) dates recorded. However, this data does not provide a complete record of individuals living in Jersey as, for example, individuals may leave the island without informing the Department. The following statistics have been collated by cross-referencing this information against details of current Income Support claimants.

- 80% of adults included on income support claims have been registered with Social Security for at least the last 10 years.
- 13% of adults included on income support claims have been registered with Social Security for at least the last five years.
- 7% of adults included on income support claims were most recently registered less than five years ago.

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<sup>1</sup> Nationality information is collected at the time of initial registration with the Department. Historically, this information was not always consistently recorded and it is not possible to identify the nationality of some individuals who were registered in the past.

As noted above many adults spend some time in Jersey, and some time in other countries. The 7% of adults with their most recent registration date less than five years ago will include a large number of Jersey born individuals who have lived in Jersey for many years, left the island for a period, and recently returned.

It will also include individuals who have recently arrived in Jersey as the partner of an individual who is entitled to income support. Proposition P.56 proposes a change to Income Support so that each adult in an Income Support household will need to individually satisfy the Income Support residence test in order to receive the adult component and this proposition will be debated at the next States sitting.

Information on nationality<sup>2</sup> is available for 46,294 adults with employed earnings in December 2011 as submitted to the Department. This includes all adults over compulsory school leaving age who were working for an employer in this month. It does not include individuals who were solely self employed. It does include individuals above pension age who remain in paid employment.

| <b>Social Security Class 1 Contributors by Nationality, in December 2011</b> | <b>%</b> |
|--|----------|
| Jersey / British Isles   | 73%      |
| Portugal / Madeira   | 13%      |
| Poland   | 6%       |
| Ireland (Republic)   | 3%       |
| Other European country   | 4%       |
| Elsewhere in the world   | 2%       |

Census data on place of birth is available for men aged 16-64 and women aged 16 -59.

| <b>Working age population by place of birth, Census March 2011</b> | <b>%</b> |
|--|----------|
| Jersey / British Isles   | 75%      |
| Portugal / Madeira   | 10%      |
| Poland   | 5%       |
| Ireland (Republic)   | 2%       |
| Other European country   | 4%       |
| Elsewhere in the world   | 5%       |

### **1.3 BY DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING AN UPDATE OF EXISTING MOTOR TRAFFIC REGULATIONS:**

#### **Question**

Can the Minister outline what plans the Department has for overhauling and updating certain provisions under the Motor Traffic Regulations (referred to during questions without notice on 26th June 2012) and whether consideration has been or will be given -

\_\_\_\_\_

<sup>2</sup> As above, there are some individuals registered some years ago, for whom nationality information is not available.

- (a) to sub-contracting out the inspection and registration of all new vehicles coming into Jersey?
- (b) to allowing the registration and use of Quad bikes with differentials by changing the Regulations?
- (c) to allowing the ownership and use of Segway machines by modifying Regulations?
- (d) to Jersey recognising advanced heavy motorcycle training and licensing qualifications gained at UK government approved motorcycle centres?

**Answer**

DVS is a small specialist organisation with a large volume of primary statutory duties to fulfil, which the public rely upon. As a result of the Comprehensive Spending Review and previous reviews, it has become a lean organisation with little capacity for contingency. Recently, it has unavoidably suffered from the long term sickness of key personnel whose roles, due to their specialist nature, are difficult to backfill. As a result of this, discretionary tasks have to be prioritised on the basis of their contribution to road safety and the proportion of the population which will benefit from the initiative.

At present the capacity does not exist to undertake the research and consultation overhauling Road Traffic legislation requires (Motor Traffic legislation applies to public service vehicles and public service vehicle drivers). I am aware that it might be desirable to amend the legislation to afford a small number of residents the opportunity to operate certain vehicles for personal use on roads in Jersey but I am afraid this cannot be a priority for the department or law drafting.

In respect of the Deputy's specific queries:-

- (a) While I am aware of agencies that have been established in other European jurisdictions to inspect and register motor vehicles, I am not aware of the private sector assuming responsibility for registering motor vehicles. Registering motor vehicles is considered essential to maintaining safe vehicles on our roads, reducing the opportunities for motor vehicle crime, money laundering and terrorism and is governed to a great extent by the need for reciprocity and European Directives. Where possible, opportunities to improve efficiency in the processes of inspecting and registering vehicles are and will continue to be implemented.
- (b) Quad bikes used for the purposes of agriculture are registered in Jersey. Agricultural vehicles are exempted from a number of requirements of the Road Traffic Law's Construction and Use and Lighting Orders. Primary and secondary legislation will have to be amended to permit quad bikes designed for road use to be registered for and ridden on Jersey's roads. Amending the legislation is likely to require significant officer time and law drafting time. Regulations will have to be debated and approved by the States. Previous Ministers have considered promoting amendments to legislation to permit quad bikes for general use, however, there has been little in the way of political support. For example, when consulted in 2010, the Comité des Connétables decided "*it does not support amending legislation to permit quad bikes to generally circulate on roads in Jersey at the present time.*"
- (c) My predecessors also considered Segways. There is nothing preventing a person owning a Segway or using it on private land, however, it cannot be used legally on public roads. Due to the narrowness of our pavements and the extensive use of pedestrian areas, it is expected there would be resistance from the general public to the use of such vehicles in these areas, in much the same way that cycle use is resisted. It is also questionable whether the Segway should be looked at in isolation from other similar means of personal transport not covered by existing legislation, such as other electric personal vehicles. If it was to be argued that the

Segway should be treated in a similar fashion to electric mobility scooters, electrically assisted pedal cycles and the like, ie it is not a motor vehicle, then it would still be necessary to stipulate certain criteria as to construction, rider ability and suitability and safety (for riders and other road users, particularly pedestrians). This will require Regulations to exempt the vehicle from being a motor vehicle and an Order to provide for certain matters in the construction, restrictions on riders and safe use of this vehicle. Whilst, the Sustainable Transport Policy requires that I take *“a proactive role in identifying low or zero emissions personal transport and ensure that legislation encourages their use, providing that safety is not compromised”* there is little evidence from elsewhere to suggest that the resources involved in addressing the above mentioned issues would be a worthwhile investment. With a price tag of circa £5,000, the number of Segways likely to be sold and used in Jersey would be small unless organisations such as the police or Jersey Post decided that there was an argument to purchase and use a fleet of the vehicles.

- (d) A heavy motorcycle licence obtained via “direct access” by a UK resident who then moves to Jersey is recognised for exchange for being granted a Jersey licence. However, it is not feasible to recognise *“advanced heavy motorcycle training and licensing qualifications gained at UK government approved motorcycle centres”* for Jersey residents. A Jersey resident cannot be granted a UK provisional licence to ride a heavy motorcycle nor can a Jersey resident ride a heavy motorcycle in the UK while only holding a category A provisional licence. As with other issues raised in the Deputy’s question, I expect the Road Safety Strategy to consider and make recommendations on a number of these issues.

#### **1.4 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE RECENT RED ENSIGN CONFERENCE:**

##### **Question**

Further to the press release dated 27th June 2012, would the Minister supply details of who attended the Red Ensign Conference in the Isle of Man and the total cost of the entire trip and its duration.

Given that one of the key outcomes of the conference was to remind British Consuls overseas of their duties to support the interests of British and not just UK shipping worldwide, does the Minister consider that Jersey has been appropriately represented in relation to Jersey registered Vessels overseas and, if so, give examples?

##### **Answer**

Conference –

1. The delegates from Jersey were as follows:

Economic Development Department: Registrar of Shipping and Assistant Registrar

Chief Minister’s Department: International Relations Officer

Law Officers Department: Legal Adviser

2. Total cost £2,489, including all travel and accommodation. Most food costs were covered by the host Administration in the Isle of Man.
3. Duration 3 days.

British Consuls –

The extent of the support available overseas to British seafarers and British shipping was not an issue that was raised by Jersey. The issue arose from a recent situation where a consulate was unclear as to its responsibilities regarding a seafarer in a ship registered in a UK Overseas Territory. The Foreign and Commonwealth Office brought the matter to the conference. Notwithstanding that position, the Jersey delegation were pleased the matter was discussed as it served as a useful reminder of the potential value of the consulates.

The Jersey Registry provides services to consular officers based in the Island, but there has been no contact with British consular officers based overseas in recent times. That situation would more likely arise where an owner has perhaps had his Certificate of Registry stolen or it has been lost and assistance was needed in providing alternative documentation. There used to be more evidence of consular activity when the stipulations for the qualifications of a witness were less lenient and officers were frequently used for witnessing signatures on a Declaration of Eligibility or other registration documents.

There is a general comfort factor in having access to a consular officer wherever a boat owner may be in the world (indeed that is one of the marketing factors for the Red Ensign flag). So, there is no harm in high-lighting their responsibilities and the need for them to remain accessible and approachable.

A list of some of the services available are to be found in the UK Consular Fees Order 2012 and these include verifying the authenticity of a copy of a document (such as the ship's papers), witnessing signatures, administering an application for the registration of a birth or a death, and administering an application for Emergency Travel Documents or passports.

## **1.5 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE EFFECT OF POWER CUTS ON SERVICES FOR JERSEY TELECOMS' FIBRE OPTIC CABLE CUSTOMERS:**

### **Question**

Will the Minister, as the shareholder representative, advise whether Jersey Telecom's fibre optic line customers were unable to make a fixed line call to the emergency services during the recent power cuts and, if so, outline what options are under consideration to remedy this situation to ensure that in the event of a power cut vulnerable members of our community are able to make calls and, if emergency batteries are to be supplied, who will meet the costs – Jersey Telecoms or the consumer and has this been included into the overall cost of installing the fibre optic line throughout the Island?"

### **Answer**

JT customers were able to make fixed line calls to the emergency services during the recent power cuts if they had a battery backup installed. However, the kinds of cordless handsets currently used by the vast majority of households also need electrical power for the telephone line to work so to that extent there is no difference between the fibre optic network being rolled out and the legacy copper network that it is replacing. From a network perspective, as JT has invested in backup power supply for its fibre optic network, it continued to operate as normal during the recent power outage.

JT is currently working with interested parties to agree how to ensure that vulnerable members of our community are properly catered for and this may include providing battery backup for the equipment provided in their homes. The cost of providing backup services for vulnerable users was included in the business case as a cost to JT. Any other users who want backup units can buy them from JT or from other sales outlets.

**1.6 DEPUTY M. TADIER OF ST. BRELADE OF H.M. ATTORNEY GENERAL REGARDING THE COURT COSTS ASSOCIATED WITH DRUG OFFENCES IN 2011:**

**Question**

What were the total court costs incurred from the prosecution of drug offences in 2011?

What was the breakdown for cannabis related offences and for other drug offences?

What money, if any, was recovered from these offences and paid into the Criminal Offences Confiscation Fund and what was the net difference between cost incurred and funds seized?

**Answer**

It is not possible to provide an estimate of 'the total court costs' incurred in drugs prosecutions as this involves many different departments including the Bailiff's Chambers, Judicial Greffe and Viscounts Departments all of which are involved in the criminal justice system. However, in terms of prosecution costs, the following information is available.

In 2011, there were 24 cases sentenced in the Royal Court for drugs offences. Of these, eight were prosecuted by external Crown advocates for which the total expenditure was £71,940. This figure includes fees to Crown advocates and other miscellaneous costs such as interpreters fees, etc.

Two of the cases were for offences involving only cannabis, and both were prosecuted by Law Officers' Department staff. Of the remaining 22 cases, four cases included charges involving cannabis as well as more serious offences involving for example heroin and cocaine.

Confiscation orders in the total sum of £31,809 were made by the Court at sentencing, of which £770 was attributable to the two cannabis only cases. Money recovered as a result of the prosecution of drugs offences is paid into the Drug Trafficking Confiscation Fund.

The above information covers only the cost of drugs related prosecutions in the Royal Court. It does not take into account the cost of prosecutions in the Magistrate's Court but no external Crown advocates were used in the Magistrate's Court during 2011.

**1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING STAFFING AT THE HEALTH AND SOCIAL SERVICES DEPARTMENT:**

**Question**

Will the Minister expand on her answers to oral question 6960 of 26th June 2012 by providing –

- (a) a list of all current unfilled FTE posts across all departments in Health and Social Services(HSS), whether currently advertised or not, along with their respective grades;
- (b) a similar list of the additional 145 FTE posts needed in 2013 to start to deliver the new HSS strategy, including the increases to be delivered by the third sector, and advise whether any additional outsourcing has already taken place: and,
- (c) a list of those clinical staff approaching retirement by the end of phase 1 of the strategy in 2015?

Will the Minister further inform members whether she realistically expects to be able to deliver these posts by 2015 under the current public sector wage offer of 0% for 2012, 1% unconsolidated

for 2013 and up to 3% subject to changes of terms and conditions for 2014, and if not, why not?

**Answer**

- a) a list of current vacant FTE posts in HSSD is below. 196 vacancies out of a total workforce of 2311 FTE represents a vacancy rate of approximately 8.5%. HSSD cannot provide more detailed information about the status of these posts without undertaking a time intensive cross referencing process that will divert essential resources from priority tasks.

|                               | <b>FTE vacant: 03 July 2012</b> |
|-------------------------------|---------------------------------|
| Ambulance                     | 1.0000                          |
| Civil Servants                | 63.1250                         |
| Doctors                       | 6.3200                          |
| Nursing and Midwives          | 81.1390                         |
| Family Support Workers        | 1.2033                          |
| Registered Childcare Officers | 11.4607                         |
| Manual Workers                | 31.4380                         |
|                               | 195.6860                        |

- b) i) a list of additional posts potentially required to deliver the initiatives outlined in the White Paper is attached. This is a working document. It will change, subject to the States debate and the ongoing refinement of the White Paper business cases, hence the total FTE listed is different to that referred to in Question 6960.

- ii) It has been clearly established that HSSD envisages that the Third Sector and other providers will have an active role in delivering new and/or extended community based health and social services. This will almost inevitably require the organisations that are successful at tender to increase their staff numbers, but that is a decision for those organizations not for HSSD.

It is possible that some of the new roles outlined in b i) may work out of third party organization as opposed to HSSD but this level of detail is not known at this early stage.

- iii) HSSD already outsources a range of services to Third Sector organisations, such as FNHC, and has historically always done so.

- c) the number of medical staff due to retire by 2015 is 7. HSSD cannot produce a list of all clinical staff, including medical staff, due to retire without diverting essential resources from priority tasks.

Issues relating to the public sector wage offer form part of ongoing negotiation and discussion between the States and Trade Unions. Until these are concluded and the outcome known I cannot comment on the potential impact, if any, on staff recruitment.

**Potential additional staffing requirement associated (2013 – 2015)**

| <b>Service area</b> | <b>Staffing skills required</b> |
|---------------------|---------------------------------|
|---------------------|---------------------------------|



|   |   |
|---|---|
| <b>EARLY INTERVENTION</b>                                     | <ul style="list-style-type: none"> <li>• Midwifery</li> <li>• Nursing</li> <li>• Health Visitor</li> <li>• Family Support Workers</li> <li>• CAHMs 'Early Years' co-ordinator</li> <li>• Therapy</li> <li>• Crèche workers</li> </ul> |
| <b>Potential FTE</b>  | <b>11.10</b>  |
| <b>SWS - SERVICES FOR CHILDREN</b>                            | <ul style="list-style-type: none"> <li>• Fostering co-ordinators</li> </ul>   |
| <b>Potential FTE</b>  | <b>2.00</b>   |
| <b>ALCOHOL</b>  | <ul style="list-style-type: none"> <li>• Consultation nursing and nursing</li> <li>• Hospital consultant</li> <li>• HCA</li> <li>• Social work</li> <li>• Admin</li> </ul>  |
| <b>Potential FTE</b>  | <b>6.8</b>  |
| <b>IMPROVED ACCESS TO PSYCHOLOGICAL THERAPY</b>               | <ul style="list-style-type: none"> <li>• High intensity workers</li> <li>• Psychological Well-being Practitioners</li> <li>• Admin</li> </ul>   |
| <b>Potential FTE</b>  | <b>14.00</b>  |
| <b>DEMENTIA</b>   |   |
| Personalisation agenda and promotion of health and wellbeing  | <ul style="list-style-type: none"> <li>• Independent advocacy</li> <li>• Nursing</li> </ul>   |
| Active Ageing and Wellbeing Centre                            | <ul style="list-style-type: none"> <li>• Centre Manager</li> <li>• Centre Workers</li> </ul>  |
| Memory Assessment and Support Service                         | <ul style="list-style-type: none"> <li>• Community Psychiatric Nursing</li> <li>• Psychologist</li> <li>• Associate Specialist</li> <li>• Consultant Geriatrician</li> <li>• Admin</li> </ul>   |
| Treatment Services  | <ul style="list-style-type: none"> <li>• Social work</li> <li>• Social work</li> <li>• Admin</li> <li>• Community Psychiatric Nursing (recruitment 2017)</li> <li>• Occupational Therapists</li> <li>• Psychology</li> </ul>          |
| Care Co-ordinators  | <ul style="list-style-type: none"> <li>• Mental Health Professionals</li> <li>• Social work</li> </ul>  |
| Carers Support  | <ul style="list-style-type: none"> <li>• Psychology Assistants</li> <li>• Peer Support Network</li> </ul>   |
| Hospital and Care Home liaison/in-reach                       | <ul style="list-style-type: none"> <li>• Community Psychiatric Nursing</li> </ul>   |
| <b>Potential FTE</b>  | <b>35.00</b>  |
| <b>INTERMEDIATE CARE</b>                                      |   |
| 24/7 Community Respite Services - Step Down / Step Up Service | <ul style="list-style-type: none"> <li>• Intensive Home Care Support</li> <li>• HCAs</li> <li>• Nursing</li> </ul>  |

|  |   |
|--|---|
| Rapid Response Team                                    | <ul style="list-style-type: none"> <li>• Social work</li> <li>• Occupational Therapist</li> <li>• Physiotherapist</li> <li>• Occupational Therapist Assistant</li> <li>• Team Assistants</li> <li>• Nurse</li> <li>• HCAs</li> </ul>                                  |
| Re-ablement Team (recruitment 2016 - 2018)             | <ul style="list-style-type: none"> <li>• Occupational Therapy and assistant</li> <li>• Speech &amp; Language Therapy</li> <li>• Physiotherapy</li> <li>• Social work</li> <li>• Psychologist</li> <li>• Dietetics</li> </ul>  |
| <b>Potential FTE</b>                                   | <b>95.90</b>  |
| <b>CHRONIC OBSTRUCTIVE PULMONARY DISEASE</b>           |   |
| COPD Specialist Team                                   | <ul style="list-style-type: none"> <li>• Nursing</li> <li>• Specialist Nursing</li> <li>• Admin</li> <li>• Dietetics</li> <li>• Physiotherapy</li> <li>• Speech &amp; Language Therapy</li> </ul>   |
| Oxygen Provision                                       | <ul style="list-style-type: none"> <li>• Clinical Physiology</li> <li>• Engineer</li> </ul>   |
| Expert Patient Programme                               | <ul style="list-style-type: none"> <li>• Programme Manager</li> </ul>   |
| Pulmonary Rehabilitation                               | <ul style="list-style-type: none"> <li>• Physiotherapy</li> <li>• Physiotherapy</li> <li>• Rehabilitation Assistant</li> </ul>  |
| <b>Potential FTE</b>                                   | <b>8.67</b>   |
| <b>SWS - LONG TERM CONDITIONS</b>                      |   |
| Diabetes - Specialist Team (Consultant Physician Lead) | Nursing   |
| CHD - Clinical Investigations Dept                     | Admin, Clinical Physiologist, Engineer  |
| <b>Potential FTE</b>                                   | <b>4.75</b>   |
| <b>END OF LIFE</b>                                     | <ul style="list-style-type: none"> <li>• Palliative Care Associate Specialist</li> <li>• GP</li> <li>• Admin</li> <li>• Nursing</li> <li>• Nursing</li> <li>• Nursing</li> <li>• Co-ordinator</li> <li>• Admin</li> <li>• Non Medical Prescribing Backfill</li> </ul> |
| <b>Potential FTE</b>                                   | <b>8.50</b>   |
| <b>CROSS CUTTING WORKSTREAMS</b>                       |   |
| Workforce Planning                                     | <ul style="list-style-type: none"> <li>• Leadership / Management Training</li> <li>• Admin</li> <li>• Lean Trained OD Practitioner</li> <li>• Communications</li> </ul>   |
| Informatics and Infotech                               | <ul style="list-style-type: none"> <li>• Development Information Team Management and support</li> </ul>   |

|                      |  |
|----------------------|--|
|                      | <ul style="list-style-type: none"> <li>• Technical editor</li> </ul>   |
| Procurement          | <ul style="list-style-type: none"> <li>• Commissioning team</li> </ul> |
| <b>Potential FTE</b> | <b>10.00</b>   |

## **1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE FUTURE OF HAUTLIEU AND HIGHLANDS COLLEGE:**

### **Question**

1. Will the Minister explain to members why he failed to announce plans for the appointment of a single head for Hautlieu and Highlands in the States Assembly and chose instead to give the details to the press?
2. Does the Minister accept that by adopting the approach he has, he has closed down any possibility of public debate of the principles involved in the Assembly and elsewhere?
3. Do the terms of reference of the review into “enhancing options for students” include:
  - a) targets for efficiency savings, other than the £1million identified for the tertiary sector by Tribal in 2010;
  - b) the potential scrapping of 14+;
  - c) the amalgamation of Hautlieu and Highlands into a single institution;
  - d) the savings that could be made by having a single tertiary centre to meet the needs of all the Island’s post-16 students, to include the fee paying sixth forms?
4. Will he also state whether this new initiative is intended to replace the missing £3.6 million from his CSR savings targets resulting from the abandonment of proposals to reduce the subsidies to the fee-paying sector and, if not, does he intend to re-introduce reductions in these subsidies in the period to 2016?

### **Answer**

1. This is not ‘the appointment of a single head for Hautlieu and Highlands’ rather it is the appointment, on a two-year temporary basis, of an Interim Executive Principal for the specific purpose of carrying out a review of enhancing options for students at both institutions.
2. No. This is a two-year review. There are no predetermined outcomes and, at this early stage, no proposals for any change.
3.
  - a) No. No savings targets have been identified.
  - b) No.
  - c) No. Each institution will retain its own character and ethos throughout the two-year review.
  - d) No. This review is looking only at Highlands and Hautlieu and any opportunities that may exist for giving students wider choice in the courses they take and better educational outcomes.

The terms of reference will be finalised by the Joint Steering Group shortly.

4. No and no. The Deputy will note that a revised set of CSR savings for ESC, for the extended period to 2016, were published last week. Highlands and Hautlieu are not included.

### **1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE REMOVAL OF FINAL SALARY PENSIONS FOR PUBLIC SECTOR EMPLOYEES:**

#### **Question**

Will the Minister explain why his major proposal to remove final salary pensions for public sector employees appeared in the press in advance of any statement to States members or to public sector representatives?

Does he not consider that while negotiations on pay, terms and conditions for the public sector are at a sensitive stage, his statement may be seen as inflammatory?

Will he explain to members:

- a) why this issue was not left to the States Employment Board to consider as part of its modernisation programme for the public sector;
- b) why this problem is so urgent when “Jersey is far better placed than other jurisdictions” and “the Island’s public sector pension pot has a very enviable balance of £1.2 billion”;
- c) whether he intends to renege on the recently negotiated agreement that the States were to cover pre-1987 shortfalls in return for higher contributions/smaller pensions;
- d) whether he is including teachers pensions in this proposal, despite the fact that the teachers’ pension fund which is financed differently to that in the UK and currently has assets of \$300 million which makes it ‘healthy’?

#### **Answer**

In common with many other jurisdictions the States Employment Board is in the process of reviewing existing public sector pension provision. Many members will be aware of the independent review undertaken by Lord Hutton of UK public sector pensions – this important report has already led the way to some significant changes in the contributions and benefit structures of UK public sector pensions. Future pension arrangements in Jersey must have regard to Lord Hutton’s recommendations, to facilitate movement of staff to and from the UK through Jersey’s continued membership of the Public Sector Transfer Club.

A review of PECRS is underway and a Technical Working Group was set up at the request of the States Employment Board in 2011. The Group’s key principles are sustainability (for hopefully some 25 years), affordability (for employees and Jersey tax payers), and fairness for all employees. After the normal process of discussion and negotiation with the trade unions, it is expected that revised pension arrangements will be in place by January 2015.

It is the Treasury Minister’s job to ensure that all aspects of States expenditure are dealt with in an appropriate way. To ignore pension issues is not acceptable –increasing longevity places a real risk on these schemes which must be addressed.

- a) The Technical Working Group was set up by the States Employment Board and the Treasurer reports to the SEB on progress at key points. Pensions are a highly complex and technical area and require specialist knowledge, expertise and advice. Changing a pension scheme involves long term strategic decisions. The underlying structure of these Schemes is fundamental to the benefits package that is offered to employees.

- b) In addition to the Hutton report, two independent reviews – one commissioned by the States Employment Board, the second undertaken by the Committee of Management who run the PECRS - agree that the final salary pension schemes are unsustainable in their current form. Increasing longevity and expected lower investment returns on assets mean changes are necessary. Doing nothing is not an option.
- c) The States took responsibility for the Pre-87 debt and is paying that debt within the 10 point agreement with the Committee of Management. There is no intention to renege on this agreement.
- d) PECRS is one of two final salary schemes for States of Jersey employees - it is by far the larger of the two which is why it is being tackled first. Both schemes are funded schemes and have investments to pay pensions but if we do not address the structural issues, such as increasing longevity and lower investment returns, neither scheme will remain 'healthy'.

**1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING CSR SAVINGS PROPOSALS:**

**Question**

Further to the CSR savings and user pays proposals listed in a press release on 25th June 2012, will the Minister state –

- a) how he can make additional savings of £1,086,000 from demographic changes when both primary and tertiary numbers are increasing;
- b) what data will enable savings of £1.5 million (17%) on tuition fees and how confident is he that these will be delivered by 2016;
- c) how will the increase in grant assessment savings be calculated and staged?
- d) how will the introduction of an out of school placement for key stage 4 (already achieved by Trident) produce a £250,000 saving?
- e) how will the additional £90,000 charges be delivered, how will it be staged over the period and what will the average cost of instrumental music lessons now be?
- f) what cost/benefit analysis has been performed on the loss of a trainee librarian?
- g) what additional posts will be lost in restructuring the youth service and sports management, will these involve redundancies and, if so, how many?
- h) how the £320,000 saving on property charges for provided schools and £312,000 grant to independent schools will be achieved and how it is to be staged?
- i) what “consistent application of funding formula to fee-paying schools” means?

**Answer**

- a) This saving relates to secondary school demographics. Numbers are going up in primary schools and tertiary education but they are currently going down in secondary schools. The dip in the number of secondary age students is predicted to reach the lowest point at 2016, which is when there will be the smallest year groups. After that the numbers will start to rise again. Schools are funded 'per student' so the effect of lower pupil numbers is that there will automatically be less money going into schools. In future the picture will change. As the large number of children now in primary schools move up to secondary, the trend will be reversed and growth bids will have to be submitted.

- b) In 2010 the ESC Department received notice of a major change in the UK government's policy regarding university tuition fees. This change was expected to result in a significant increase in higher education costs for Jersey and a successful growth bid for £1.5 million was submitted at the time in preparation. Subsequently, the UK government delayed implementation of the new tuition fee structure for a year. In addition, officers negotiated a 6% reduction in fees for students who started in September 2010. These two factors meant the £1.5m was not required and could be returned. However, negotiations are still underway for September 2013 and beyond, and there is still considerable uncertainty about the fee levels for the future and provision for this may have to be made in the Medium Term Financial Plan.
- c) I am considering the introduction of a new form of means-testing based on household income. The savings which have been identified are based on the experience in other jurisdictions who adopted this method of assessment. If this is implemented it will only affect new students from 2013. The full saving will be realised by 2016 when all Jersey students are under the new system.
- d) This is not connected to Trident, which is a work placement scheme. It relates to the reorganisation of special needs at the Alternative Curriculum. A new model will be developed that offers greater opportunities for these students to access vocational options for their education.
- e) Details are being finalised but the charges will be kept as low as possible. This is a new user-pays charge and will be the subject of a report and proposition.
- f) The Library Service is fully staffed and trained at the moment and succession planning is not an issue in the next few years. This saving will have no impact on frontline services.
- g) One administration post will be lost when the incumbent retires. There will be no redundancies. Other savings will be generated by reorganisation but all frontline services will be maintained.
- h) The property charges have been agreed with the States fee-paying schools. Payments commenced in 2011 and will be gradually increased over a five year period to 2016. The £312,000 grant reduction for independent schools relates to St Michael's School, whose grant is being phased out over five years to 2016.
- i) Fee-paying secondary schools receive a grant equivalent to 50% of the cost of funding a student in a non fee-paying States school. Similarly, most fee-paying primary schools receive a grant equal to 25% of the cost of a States non fee-paying primary school place. The existing policy also allows for funding of 'up to 40% of the cost of education a pupil in a provided primary school when the school is only providing for the primary phase of education and can demonstrate financial difficulty'. This assistance was given to one primary school when numbers were low. The school is now in a much stronger position and the grant will revert to the normal level.

**1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE AUTOMATIC INFORMATION EXCHANGE UNDER THE EUROPEAN UNION SAVINGS TAX DIRECTIVE:**

**Question**

Will the Minister explain to members why it is not in the Island's interest to join Guernsey and the Isle of Man in signing up to the automatic information exchange under the European Union (EU) Savings Tax Directive?

To prevent any repeat of the recent K2 publicity and to improve our reputation for transparency, will the Minister explain whether the coverage of the EU Savings Tax Directive will be extended to include disbursements from Jersey based trusts to residents in the UK and elsewhere and, if not, why not?

Will the Minister also state whether the introduction of a requirement for full public disclosure of the ultimate beneficial owners of all companies registered in Jersey has been considered and, if not, why not?

Will he further state whether the introduction of a requirement for all Jersey based paying agents (i.e. banks, trust administrators, company administrators, etc) to declare income and capital distributions to persons resident in the UK and elsewhere in the world to the Jersey tax authorities, in order that the Island authorities are able to meet their commitment to co- operate with international exchange of tax information has been discussed with regulators and, if not, why not?

### **Answer**

The question is in four parts and they are taken in turn as follows –

#### **First paragraph**

When in 2004 Jersey agreed to help the EU Member States in the implementation of the EU Savings Tax Directive (EUSD) the initial thought was to follow the Member States in adopting automatic exchange of information. However when a key competitor among the Member States, Luxembourg, and others, decided to favour the withholding tax option Jersey, along with Guernsey and the Isle of Man, considered that it should follow suit to protect its economic interests. However the agreements signed with each of the 27 EU Member States provided that as soon as all the Member States adopt automatic exchange of information Jersey would do the same.

The question posed is why is Jersey's position different from that of Guernsey and the Isle of Man both of whom have adopted automatic exchange of information for the EUSD without waiting for the EU. The answer lies in the fact that Jersey has a different business mix and therefore a different degree of competitive pressure. This is reflected in the fact that the finance industry in Guernsey and the Isle of Man saw less competitive threat from the early adoption of automatic exchange of information than the industry in Jersey. Jersey's position, as explained to and understood by officials in the European Commission, has remained that Jersey should not be expected to bear an economic cost from making a change which the EU Member States themselves cannot agree on. Accordingly, Jersey continues to wait for the Member States to set a date for when automatic exchange of information would apply to all 27 Member States.

#### **Second paragraph**

Luxembourg and Austria are currently blocking progress on the planned extension of the scope of the EUSD to cover trusts and companies. Jersey has indicated to the European Commission that it is prepared to give further support to the EU by providing for the extension through the necessary amendment to the existing EUSD Agreements with the individual Member States. However, it has also been mentioned to the Commission that it may prove difficult to obtain the States' ratification of the amended Agreements if at that time Jersey is being discriminated against by Member States in allowing access to financial markets within the EU.

The next step is for the Member States to agree on the mandate to be given to the European Commission to negotiate amendments to the existing EUSD agreements with non-EU jurisdictions. We have been informed that once that mandate has been agreed negotiations will commence with Switzerland and, when it is clear that good progress is being made, negotiations will be opened with the Crown Dependencies and other associated or dependent territories. We are therefore waiting on the EU, for the extension of the existing EUSD Agreements to cover trusts and companies is not something that can be done independently of the EU.

### **Third paragraph**

On the matter of the availability of information on the ultimate beneficial ownership of companies registered in Jersey, we are currently recognised as a leader. Information is available both in the company registry in respect of all Jersey incorporated companies and in the hands of the regulated trust and company service providers in respect of companies administered incorporated in Jersey and elsewhere.

At a recent Tax and Crime Forum held by the OECD in Rome Jersey was held up by the World Bank as the example for others to follow in complying with the current international standards. Specifically it was stated that Jersey leads the way in combining effective company registry requirements with the rigorous regulation of trust and company service providers to ensure that beneficial ownership information is available. Mention was also made of the fact that in the World Bank report on “how the corrupt use legal structures to hide stolen assets and what to do about it” the Jersey model is used to describe the conditions under which the company registry can be considered a viable option for providing beneficial ownership information. At meetings of FATF working groups the USA also has referred to Jersey as a leader, and has indicated that because of resistance from individual States such as Delaware they believe it is unlikely that they will be able to get agreement in the foreseeable future on the placing of the same high level of obligations on those providing trust and company services.

Jersey is committed to complying with all relevant international standards. Currently there is no indication of international support for the full public disclosure of ultimate beneficial ownership. None of the international standard setters have proposed this. The FATF has just revised its recommendations and issued a new interpretative note on beneficial ownership which states that countries should ensure that either; (a) information on the beneficial ownership of a company is obtained by that company and available at a specified location in their country; or (b) there are mechanisms in place so that the beneficial ownership of a company can be determined in a timely manner by a competent authority. Jersey fully meets the latter requirement, as independent assessments have shown.

If in the future the international standard setters agree on a global requirement for public disclosure of ultimate beneficial ownership Jersey can be expected to respond to this alongside other countries. In the meantime we will watch with interest the steps taken by the USA, UK and others to match Jersey in the availability of information on beneficial ownership which can also be accessible when it is properly required.

### **Fourth paragraph**

The Island authorities continue to honour their commitment to co-operate in the international exchange of information in accordance with current international standards. To-date 115 requests for information have been received and in no cases have those approached for information presented any difficulty in supplying the information requested. Where required this includes



information on income and capital distributions to the taxpayer concerned. As with other countries who are similarly meeting their international obligations, and in an equally satisfactory way, Jersey's ability to meet the current international obligations does not call for a general and extremely burdensome requirement to be placed on all institutions to declare all income and capital distributions to persons resident in the UK and elsewhere in the world to the Jersey tax authorities.

**1.12 DEPUTY R.G. LE HÉRISSEY OF ST. SAVIOUR OF THE MINISTER FOR HOME AFFAIRS REGARDING POLICE SEARCHES AT INCORRECT ADDRESSES:**

**Question**

In each of the last 5 years, how many police searches have been carried out at incorrect addresses and what procedures, if any, are in place to prevent this happening?

**Answer**

The question could be understood in 3 different ways, as follows:-

- (a) that the police search was conducted at different premises to those which the police intended to search;
- (b) that the police search was conducted at the premises which they intended to search but the description of the premises on the warrant was not correct; or
- (c) that the police search was conducted at the premises which they intended to search and the description of the premises in the warrant was correct but the information which led to the obtaining of the warrant was incorrect.

In relation to (a) the senior police officers are not aware of any such occasion during the last 5 years.

In relation to (b) they are aware of only one during the last five years (in 2011), which has been previously publicised. This has resulted in a change of procedure in that officers are now instructed, where there is any degree of uncertainty, to use the local knowledge of the Parish Honorary Police in order to check the accuracy of the description of the premises.

In relation to (c) it is not possible without a huge amount of work to give an answer, although on occasions the execution of a warrant may not produce the anticipated evidence either because relevant items have been removed earlier, or because the underlying information is incorrect.

**1.13 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE ELECTION OF JURATS:**

**Question**

Will H.M. Attorney General provide the following information relating to all individuals elected to the position of Jurat since 1987 (a 25 year period) –

- 1. name
- 2. date of appointment
- 3. gender
- 4. ethnicity
- 5. secondary education background
- 6. professional background?

## Answer

This subject of this question is not within the responsibility of the Attorney General. However, in an effort to assist the Attorney General has made enquiries of the Judicial Greffe who have provided the following information:

| <u>Name</u>                      | <u>Year of swearing<br/>in</u> | <u>Gender</u> |
|----------------------------------|--------------------------------|---------------|
| Mazel Joan Le Ruez               | 1987                           | Female        |
| Alfred Vibert                    | 1989                           | Male          |
| Earnest William Herbert          | 1990                           | Male          |
| Michael Arthur Rumfitt           | 1990                           | Male          |
| Edward James MacGregor Potter    | 1994                           | Male          |
| Philip John de Veulle            | 1995                           | Male          |
| Colin Clive Jones                | 1996                           | Male          |
| Arthur Philip Quérée             | 1996                           | Male          |
| Sally Carolyn Anne Le Brocq      | 1997                           | Female        |
| John Clude Tibbo                 | 1997                           | Male          |
| Roy Malcolm Bullen               | 1998                           | Male          |
| John Lyndon Le Breton            | 1998                           | Male          |
| Donald Henry Georgelin           | 1999                           | Male          |
| Geoffrey Charles Allo            | 1999                           | Male          |
| Jill Meredith Clapham            | 2001                           | Female        |
| Lorna Jean King                  | 2003                           | Female        |
| Stanley John Le Cornu            | 2004                           | Male          |
| Peter John Morgan                | 2004                           | Male          |
| Catherine Mary Newcombe          | 2004                           | Female        |
| John Richard Paul Frith Liddiard | 2006                           | Male          |
| Geoffrey William Fisher          | 2009                           | Male          |
| Robert John Kerley               | 2009                           | Male          |
| Suzanne Elizabeth Marett-Crosby  | 2009                           | Female        |
| Paul Nicolle                     | 2010                           | Male          |
| Collette Anne Crill              | 2011                           | Female        |
| Sylvia Margaret Milner           | 2011                           | Female        |
| Anthony John Olsen               | 2011                           | Male          |
| Michael Joseph Liston            | 2012                           | Male          |

The information sought in 4, 5, and 6 is not readily obtainable.

### **1.14 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING CASES TRIED BY JURY:**

#### **Question**

Given that trial by jury ensures that both the plaintiff and defendant's case is heard by an entirely random cross-section of the community, will H.M. Attorney General outline why individuals initiating civil actions in Jersey are denied access to trial by jury as enjoyed by their counterparts in the UK; further still, what are the obstacles, if any, to the current position being reformed to ensure parity with the UK?

## **Answer**

The question is incorrect in that it asserts that persons in the United Kingdom are entitled to trial by Jury in all civil actions. Today, almost all English civil cases feature a Judge and not a Jury. The only exceptions relate to an allegation of fraud, malicious prosecution, false imprisonment and libel/slander proceedings. This right is not absolute and a Judge can order otherwise if the trial requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury.

On 10th May 2012, the UK government presented the Defamation Bill to Parliament. Section 11, as presently drafted, removes the presumption of a jury trial in libel cases.

Of course, Jersey has its own constitution and history. Jurats determine all civil matters including libel actions. Many other jurisdictions in Europe feature similar systems whereby judges and not juries decide civil cases. The European Court of Human Rights has ruled that a Court comprising of a Judge and Jurats provides a fair and impartial tribunal which is compliant with Article 6(1) of the European Convention of Human Rights and Fundamental Freedoms.

Save in relation to specific cases highlighted above, there is no material difference between the United Kingdom and Jersey and the question of ensuring parity does not therefore arise.

### **1.15 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE PROFESSIONAL BACKGROUND OF JURATS:**

#### **Question**

As the criteria precluding an individual from serving as a Jurat includes reasons as diverse as criminal convictions; holding a paid office with either the States or a parish and also being or being employed by a brewer and given that Jurats are sitting in judgment upon others and thus need both a commitment to justice and the law as well as sound and unsullied personal judgment, to what degree does evidence of such individuals putting the welfare of minors at risk of abuse by failing to comply with legislation also preclude election to the role of Jurat, and if such actions do not, why not?

#### **Answer**

The factors that prohibit someone from being elected as a Jurat are contained in Article 3 of the Royal Court (Jersey) Law 1948 and are:

- (a) the person holds any paid office or other place of profit under the Crown or the States or any administration of the States;
- (b) the person is a paid officer of any parochial authority;
- (c) the person has a curator of his or her person or property;
- (d) the person has an attorney without whom he or she may not act in matters real or personal;
- (e) an application made by the person to the Royal Court to place his or her property under the control of the Court (*de remettre ses biens entre les mains de la Justice*) has been granted;
- (f) the person's property has been declared *en désastre*;
- (g) an application made by the person to the Royal Court to make a general cession of his or her property (*de faire cession générale de tous ses biens-meubles et héritages*) has been granted;

- (h) the person's property has been adjudged by the Royal Court to be renounced (*adjugée renoncée*);
- (i) the person has made a composition or arrangement with his or her creditors;
- (j) the person has, within the 12 months immediately preceding the day of his or her appointment, received poor relief;
- (k) the person has, within the 7 years immediately preceding the day of his or her appointment, been convicted anywhere in the British Commonwealth of any offence and ordered to be imprisoned for a period of not less than 3 months without the option of a fine;
- (l) the person is the holder in his or her own name of a licence for the sale and consumption of spirituous liquors granted by the Assembly of Governor, Bailiff and Jurats, or is in the employment of any person to whom any such licence has been granted by the said Assembly;
- (m) the person is conducting in Jersey the business of a brewer or is in the employment of any person by whom the business of a brewer is conducted in Jersey

Anything other than that are matters for the Electoral College which can take all relevant matters into account.

#### **1.16 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING DISCIPLINARY SANCTIONS FOR LAWYERS AND ADVOCATES:**

##### **Question**

What disciplinary sanctions are in place in instances of lawyers/advocates being found to have attempted to charge incorrect amounts of money to clients - whether their own or, in an instance of adverse costs rulings, to clients of others; further still, how many disciplinary sanctions have been imposed in the past ten years and what form have these sanctions taken?

##### **Answer**

A client is entitled to challenge his advocate's bill of costs by reference to the terms and conditions of the contract between them. In the event of a dispute, the client and advocate can agree to partake in the voluntary fee adjudication process operated by the Law Society. In the event of an adverse costs rulings, the person subject to the order can request that the costs incurred by other advocates be assessed by the Judicial Greffe.

Deliberate overcharging constitutes a disciplinary offence. The current disciplinary process was introduced in 2007 when The Law Society of Jersey Law 2005 came into force. There are a range of sanctions from private rebuke to suspension to being struck off. On 14<sup>th</sup> May, 2012, the Royal Court exercised its power to strike off an advocate in a judgment recorded at [2012] JRC 099.

Since 2007, 23 complaints have been passed to the Law Society's Disciplinary Panel:-

8 complaints were dismissed by disciplinary committees.

4 private rebukes were issued by disciplinary committees.

7 complaints were finally withdrawn by the complainant.

1 public rebuke was issued by a disciplinary committee but a subsequent appeal was upheld by the Royal Court.

3 matters are in the process of determination.

None of these matters concerned fee overcharging cases.

## **2. Oral Questions**

### **2.1 Deputy R.G. Le Hérissier of St. Saviour of the Chief Minister regarding the Council of Ministers' views on independence:**

Has the Council of Ministers discussed the issue of independence? Do the views on independence recently expressed by the Assistant Chief Minister with responsibility for External Relations represent those of the Council and if not, what is the Council's position?

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

As you will be aware, there are 2 questions this morning on this issue and I propose to ask my Assistant Minister with responsibility for External Relations to answer the first and I will answer the second.

#### **Senator P.M. Bailhache (Assistant Chief Minister - rapporteur):**

I am glad to have the opportunity, both personally and on behalf of the Council of Ministers, to answer this question and to make clear to Members the views of the Council of Ministers on independence. My understanding is that the position of the Council of Ministers has not changed since the Council considered the Second Interim Report of the Constitutional Review Group in 2008. It is not Government policy to seek independence from the United Kingdom. However, it is Government policy to ensure that the Island is prepared for independence as part of any normal contingency planning process.

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

Would the Assistant Chief Minister identify whether he gave interviews at the instigation of the Council of Ministers or whether this was a freelance effort on his own behalf?

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

The interview to the *Guardian* was given as a result of consultation among Ministers and at the request of Ministers. The correspondent concerned interviewed a large number of people in Jersey and my understanding is that a number of articles in the newspaper resulted from those interviews.

[9:45]

#### **2.1.2 Deputy G.P. Southern of St. Helier:**

Has the Assistant Chief Minister, in his current role or in his previous role, had papers prepared examining the consequences of possible independence and, if so, will he release those papers so that Members of this Assembly can understand fully what the consequences of any preparation for independence might be?

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

The Second Interim Report of the Constitutional Review Group laid out a number of issues. That report was laid before the Assembly in 2008. It is a public document. It is available for anyone to see and, so far as I am aware, all the relevant information concerning the workings of that group were put into the public domain at that time.

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

Does the Assistant Chief Minister accept that this particular quotation has caused some considerable damage to the reputation of the Island as a stable jurisdiction?

**Senator P.M. Bailhache:**

I am not sure what statement the Senator is referring to. Perhaps she could clarify.

**Senator S.C. Ferguson:**

The Assistant Chief Minister has been quoted as talking about independence for the Island and this has reached a number of newspapers, not just the *Guardian*, which is known for its leftist tendencies, but also newspapers on the Continent. Would the Assistant Chief Minister not accept that this particular quotation, whether or not it was taken out of context, has caused some damage to the reputation of the Island as a stable jurisdiction?

**Senator P.M. Bailhache:**

Could the Senator, for a point of clarification, repeat the quotation that she is referring to for Members' benefit please?

**Senator S.C. Ferguson:**

I really cannot remember the French one.

**Senator P.M. Bailhache:**

I do not think that I have said anything to any newspaper correspondent. I have just repeated that to the Assembly in answer to the question of Deputy Le Hérissier. It is unfortunate that the *Guardian* newspaper chose to couple the comments, which had been made on contingency planning, with publicity that had been given to unfair tax of witnesses in the United Kingdom and sought to portray the comments on contingency planning as if that were a reaction to the controversy in the United Kingdom. That was not the case and the newspaper, in my view, was quite wrong to put that connection into the public domain.

**2.1.4 Senator S.C. Ferguson:**

Given that, whether or not the newspaper misquoted the Assistant Chief Minister, what measures are being undertaken to rectify the damage to the Island's reputation?

**Senator P.M. Bailhache:**

I do not accept that there has been any damage to the Island's reputation. I think that any sensible person would recognise that contingency planning is a sensible thing for any Government to do and I do not accept the premise to the Senator's question.

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

The Assistant Chief Minister made reference to the report or that was identified as a report to the Assembly but has the policy of being ready or to make preparations for independence if necessary ... I will give the quote: "The Island should be prepared to stand up for itself and should be ready to become independent if it were necessary in Jersey's interests to do so." That is what the *Guardian* has said. When was that policy, if that is a policy, endorsed by this Assembly?

**Senator P.M. Bailhache:**

I am not sure that it is the policy of the Assembly because it was the view that I was expressing to the journalist that if it was in the interests of the Island to become independent, that was a matter which should be considered. I think I expressed the view that it was not sensible to put one's head in the sand like an ostrich and refuse to accept that a possibility existed if that were in the interests of the Island.

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

For the sake of clarity, could the Assistant Chief Minister confirm the position of the present Council of Ministers and when this matter was considered by them?

**Senator P.M. Bailhache:**

The position of the Council of Ministers is exactly the same as the position of the Council of Ministers in 2008. It is not the Government's policy to seek independence. It is the Government's policy to make contingency plans.

**The Deputy of St. Ouen:**

The Assistant Chief Minister has not answered my question because he is suggesting that the view has not changed since 2008. He is not acknowledging that we have a new Council of Ministers made up of new States Members and I am asking the question, does this Council of Ministers support the issue as suggested by the Assistant Chief Minister?

**Senator P.M. Bailhache:**

I am sorry that I misunderstood the Deputy and I just perhaps should make it clear that I do not believe that the Council of Ministers has given detailed consideration to this issue during the currency of the term of office of the present Government. There was a brief discussion at the last meeting of the Council of Ministers but it went no further than that.

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

Could I ask the Assistant Chief Minister to pass on to his colleagues and the Chief Minister the thanks of many Islanders for keeping this on their agenda because we have to be prepared at any time to move forward in other directions and, on my behalf, I would like him to pass those thanks on.

**Senator P.M. Bailhache:**

I am grateful to the Deputy. I shall certainly pass them on to the Chief Minister. **[Laughter]**

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

Following on from the Deputy of St. Ouen's question, on what basis is the Assistant Chief Minister or the Chief Minister making statements on behalf of the Council of Ministers to the international community to a left-wing newspaper in the U.K. (United Kingdom) when the common foreign policy on independence has not even been discussed with this present Council of Ministers?

**Senator P.M. Bailhache:**

I think the answer to that is the answer that I have already given. I do not believe that the policy of the Government of Jersey has changed in the last 4 years. It is perfectly legitimate, it seems to me, for the Chief Minister or for his Assistant Minister with the responsibility for External Affairs to reflect that policy in any discussions with a journalist.

**2.1.9 Deputy M. Tadier:**

The Assistant Chief Minister is saying he does not believe. That is not the same as knowing. Does the Assistant Chief Minister accept that perhaps on this occasion in hindsight he has made an error of judgment and that he should have checked with the Council of Ministers and the Chief Minister first so that he knew for certain what the policy was rather than just having a guess that it may be the same as the previous Council of Ministers?

**Senator P.M. Bailhache:**

No, I do not accept that there was any error of judgment. I think there is no doubt or dispute as to what the policy of the Government is and I have expressed it several times.

**2.1.10 Deputy T.M. Pitman of St. Helier:**

On the same theme really, can the Assistant Chief Minister advise whether he does not perhaps think that, as the External Relations role is not a Minister elected by the States, that perhaps it would be better to avoid confusion if the Chief Minister alone made these kinds of statements?

**Senator P.M. Bailhache:**

I would certainly agree with the Deputy that it is important that any Assistant Minister should endeavour to ensure that any views that he expresses are those which are shared by the Minister whom he represents. I am satisfied that the Chief Minister is entirely *ad idem* with the views that I expressed to the *Guardian* newspaper.

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

Is the Assistant Chief Minister able to tell Members whether he or any other Minister or Member of the Executive has had discussions with their counterparts in Guernsey on the matter of independence?

**Senator P.M. Bailhache:**

I think the answer to that is that the subject has arisen tangentially in terms of contingency planning with Ministers in Guernsey. I hope I am not going beyond my brief by saying that the responsible Ministers in Jersey are due to meet the equivalent Ministers in Guernsey towards the end of this month or the beginning of next month in order to discuss a whole range of issues and this may be one of the issues under consideration.

**The Deputy Bailiff:**

I am going to allow 2 more questions and then the first questioner the final supplementary, because we have been going for 11 minutes so far and this is not the final question on the subject. Deputy Baudains?

**2.1.12 Deputy G.C.L. Baudains of St. Clement:**

While reviewing our relationship with the U.K., which in my view is welcomed inevitably, would the Assistant Chief Minister not agree that perhaps his discussion with the U.K. media was unfortunate?

**Senator P.M. Bailhache:**

The discussion with the *Guardian* journalist was undertaken after a great deal of consideration because, as Members will be aware, that particular newspaper is not known to be a particular supporter of the Island. It was therefore a matter for considerable discussion as to whether the interview should be given. It was a long interview and a number of areas were covered during the course of that interview of which preparations for independence were only a relatively small part. I do not regret in any sense responding to the questions that were put to me by the journalist because to have refused to answer those questions, I think, would have excited his interest even more.

**2.1.13 Senator L.J. Farnham:**

Would the Assistant Chief Minister confirm to the Assembly, if it is indeed the case, that despite rather unbalanced newspaper articles, the Island does still enjoy a very good and productive political working relationship with the U.K.?

**Senator P.M. Bailhache:**

I am sure the answer to that is yes.

**2.1.14 Deputy R.G. Le Hérissier:**



Can the Assistant Chief Minister put to bed the feeling widespread among this population that he, in fact, is an earnest advocate of independence and is simply disguising it under the heading of preparation for independence? Would he state his views on independence?

**Senator P.M. Bailhache:**

No, I will not. I have made my position absolutely clear on several occasions. I am not in favour of independence at the present time. I am in favour of making contingency plans if it should ever in the future be in the interests of the Island.

## **2.2 Deputy G.P. Southern of the Minister for Treasury and Resources regarding changes to public sector pensions:**

I love that phrase “at the present time”. At the present time, does the Minister consider that his announcement of major changes to public sector pensions in the media rather than directly to employee representatives is an appropriate way to initiate negotiations over this very sensitive issue?

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

Pension schemes all over the world are experiencing financial strains due to increases in longevity. While, of course, this is good news, it is putting immense strains on the funds as pensions are being paid for longer than previously expected. Secondly, as a result of the economic global downturn, particularly for funded schemes like P.E.C.R.S. (Public Employees Contributory Retirement Scheme), estimates for future investment returns have also been reduced. The 2010 actuarial valuation revealed that for new entrants joining the scheme, i.e., new employees, the contribution rate is 1 per cent below the required level. These emerging trends are causing a real crisis in terms of long-term sustainability and affordability of those schemes in the future. It would be more wrong if I, as Minister for Treasury and Resources, with regard to financial planning, did not include a statement to the public that the Public Sector Pension Schemes are and should be under review. As a result of these trends, a review of P.E.C.R.S. is underway and a technical working party has been set up. The working group will consider a report for wider discussion in the near future and the principles that the group is working for are sustainability, affordability and fairness. Once we are in the position to do so, the Chief Minister and I will formally invite the Public Employees Pension Scheme joint negotiating group on behalf of most of the public sector employees to consider the report and the various options and enter into proper consultation and negotiation with them.

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

That is a minute and a half wasted because the Minister never addressed the question once. Does he believe that announcing policy changes or his opinion of policy changes in the press is an appropriate way to start negotiations with those who are concerned and affected by the pensions?

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

I do not know whether the Deputy has had an opportunity of reading the speech that I gave to the Chamber of Commerce. It was simply saying that there were appropriate issues on the States balance sheet that needed to be dealt with. It should come, and will come as no surprise to the Deputy or any Member of this Assembly, that there are issues in relation to pension schemes that have to be dealt with. In fact, I would be not doing my job if I were to not raise issues of sustainability in terms of public finances. This is not a new issue, it is not an issue that is going to go away, and it is an issue that has to be tackled jointly and properly.

[10:00]

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

Yet again, he did not answer the question. Nonetheless did the Minister clear his speech with the Chief Minister or with the Treasurer? Did he inform anybody else that he was going to announce a major change in public policy to the Chamber of Commerce?

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

There has been no announcement of major policy changes. This is the same statement that is being made by local authorities, third sector organisations and private companies around the world, that because of longevity, there are issues in terms of the sustainability of pensions. This has been the subject of numerous questions in this Assembly in the past. The previous Chairman of the P.A.C. (Public Accounts Committee) raised these issues. I was simply signalling that work is underway and that should not be a surprise to the Deputy.

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

Yes, this has been known for some years so why is the Minister for Treasury and Resources only just addressing it now?

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

The Minister for Treasury and Resources is not addressing it now. The Minister for Treasury and Resources has been considering options and working on this which is forming the basis of the Treasurer's work in relation to pension schemes. There is nothing new in this issue. If there is anything new, it is the Treasurer's and my view that we should be at least looking at the possibility of clearing the pre-1987 debt earlier, and I would say that that is something that employees and pension holders of the scheme should welcome as something new and positive for the scheme.

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

Is the £14 million worth of savings on terms and conditions and savings on salaries for States employees, in his current work looking at the pension scheme, all part and parcel of going towards the £14 million worth of savings? Is the Minister able to tell the House whether he thinks that is going to be achievable within the timescale?

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

The Chief Minister will address the Assembly, no doubt, in his questions on the issue of pay and conditions. Certainly, I am aware and my Assistant Minister sits on the S.E.B. (States Employment Board)... I understand that discussions are ongoing in relation to pension levels. What I can also say to the Deputy is that while the Medium Term Financial Plan is going to be lodged in 10 days or so, we are making provisions in order to make progress into repaying the pre-1987 debt earlier. As I said earlier, I think that is something that employees and pension holders will welcome as a prudent measure and something that improves the pension scheme.

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

Is it not the case that the technical working group that is working on this issue has not produced its paper and that the Minister has pre-empted the options it will present? Is it not also true that he said that he wanted to see an end to the final salary pensions, even for existing members, and therefore has made a significant move towards changing the terms and conditions of public sector workers before he addressed it with their representatives? Does he not feel that this is wrong?

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

I am accused of not answering questions but when a barrage of questions is made, it is rather difficult to deal with it. I am perfectly happy to deal with it. [Aside] I think I have just been called "sweetheart".

**The Deputy Bailiff:**

That is unparliamentary, Deputy, and I would ask you to withdraw it.

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

These are serious issues which require proper debate. Lord Hutton in the United Kingdom has set out the future of pensions for United Kingdom employees. We are in a far stronger position in Jersey, having a fund to pay our Civil Service pensions but changes have to be made. Those changes need to be done properly, they need to be done in a sustainable way and they need to be done after proper consultation and that is exactly what will happen. I wish the Deputy to send back a signal to the people that he is proposing, no doubt, to represent in relation to this issue that the Government of Jersey is prepared to continue with good pensions, proper pensions that are sustainable and that are also affordable to the public sector.

**Deputy G.P. Southern:**

Can I have one last go, Sir, a clarification?

**The Deputy Bailiff:**

No, you may not.

**Deputy G.P. Southern:**

Thank you.

**The Deputy Bailiff:**

But Deputy, I am going to say this to you. I required you to withdraw the word “sweetheart” and I now have decided in accordance with Standing Orders to require you to apologise for the use of that expression.

**Deputy G.P. Southern:**

I am quite willing and able to apologise and I do so, Sir.

**2.3 Connétable D.J. Murphy of Grouville of the Chief Minister regarding reputational attacks on the former head of Property Holdings:**

Will the Chief Minister arrange to release the former Head of Property Holdings from the clause within his severance agreement which restricts his speaking out about the events leading to his resignation, in order that he can defend himself against reputational attacks?

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

The employer and former Head of Jersey Property Holdings signed a compromise agreement in good faith. In principle, an employer is unlikely to agree to a variation of a settlement without good reason.

**2.3.1 The Connétable of Grouville:**

Does the Chief Minister not think that the controversy surrounding the report released by the Comptroller and Auditor General is sufficiently good reason for him to be able to defend himself against the attacks against him?

**Senator I.J. Gorst:**

As far as I am aware, the agreement did not limit the former Director from speaking freely or unhindered to the Scrutiny Panel and to the former Comptroller and Auditor General.

### **2.3.2 The Connétable of Grouville:**

That does not put it in the public domain. Those are normally held under rules of secrecy and they do not allow him to speak out in the public domain as Ministers have spoken out in the public domain about him.

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

Who are you referring to, Connétable, when you say “about him”?

#### **The Connétable of Grouville:**

I am sorry, would the Chief Minister not agree that he has not had the opportunity to speak out in public in order that he may defend himself against attacks from the other Ministers in this House?

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

The former Head of Property Holdings.

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

As I said, as far as I am aware, the contract did not limit the former Director from speaking freely and unhindered to the Scrutiny Panel. Also, as far as I am aware, although I have not quite had the time to check, I imagine that the transcript of that hearing is available in the public domain. The Comptroller and Auditor General will have used statements and evidence presented by the former Director to compile his report and I do not think I can say any more.

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

I already have 7 Members asking questions. I give notice that we are going to deal with those and then we will go back to the Connétable.

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

Does the Chief Minister acknowledge as a general principle that there is a matter of natural justice that needs to be dealt here? Because if somebody is released from their position, they can have all sorts of allegations thrown at them in the public domain in the media by Ministers or by any States Members, which may or may not be factual, and that person cannot, because of the gagging clause, respond in the same way. Does the Chief Minister accept that there is an issue there and will he give an undertaking to address that?

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

I am not aware of allegations that fall into the category that the Deputy is suggesting. The States Employment Board has quite clearly, however, said going forward the terms under which they might consider clauses of confidentiality in compromise agreements and that is what we will work to in future.

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

Is the Chief Minister aware that various assemblies such as the Welsh Assembly do not consider that gagging clauses are appropriate and what steps will the Chief Minister, as Chairman of the S.E.B., be taking to ensure that all Ministers comply with the contractual terms of compromise agreements?

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

As I said, we hope in the States Employment Board that confidentiality clauses will be used as an absolute last resort, and I believe I can speak for probably most members of the States Employment Board, who cannot imagine when they would wish to use a confidentiality clause in future.

However, there might be cases where that is the case and therefore I hope that this particular issue will not arise.

**2.3.5 Senator S.C. Ferguson:**

Will the Chief Minister release that particular ex-employee from that clause so that he also may have the freedom of talking to the media as the Minister has?

**Senator I.J. Gorst:**

As I said, the former Director, as far as I am aware, has been free to talk unhindered to the Scrutiny Panel and to the Comptroller and Auditor General and those reports have resulted from his unhindered comments to those panels.

**Senator S.C. Ferguson:**

Will he be able to talk to the media?

**The Deputy Bailiff:**

You have had your answer, Senator.

**2.3.6 The Connétable of St. John:**

Given that in recent times the Chief Minister has made in part 2 apologies to a former employee at the hospital, he has reneged on their agreement by not signing a letter to the former consultant at the hospital. Is that correct?

**The Deputy Bailiff:**

That does not arise, Connétable, in relation to this particular question.

**The Connétable of St. John:**

Well, Sir, it is all to do with employment and the Employment Board and it does fall within the wider scope.

**The Deputy Bailiff:**

Any question on any employees, I think not.

**Senator I.J. Gorst:**

I am sorry, Sir, but there is an allegation there, which I do not feel that I can leave unanswered. I am not quite sure what it is but it seems to be that I have dealt inappropriately with previous former employees and that is not the case. I have made 2 statements or answered questions in this Assembly with regard to that. I am aware that a letter is still to be returned to that former employee. I have made amendments to that letter and I expect that it will be going out very shortly. I do not believe that there has been any reneging on any agreement.

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

This is a very important issue and I would just like to try and pin down the Chief Minister. First of all, the Chief Minister says he has no knowledge of the gagging clause or any confidentiality clause. Can he first of all give a statement that he will check to see what is there? If there is a confidentiality clause that is preventing the former Director of Property Holdings speaking, that he will release him from any clauses that prevent him from speaking so again he can get his side of the story out? Will he give an undertaking first of all to check on the nature of the agreement? If it restricts his ability to speak, will he lift that restriction?

**Senator I.J. Gorst:**

I have not said that there is not a confidentiality clause. I have said that there was a confidentiality clause undertaken by the former, I imagine, States Employment Board and the former Director. What I said was that that clause did allow for that individual to speak freely and unhindered to the Scrutiny Panel and to the Comptroller and Auditor General. I am not sure that it is my job and the job of the current States Employment Board to undo agreements previously reached.

**Deputy M.R. Higgins:**

It strikes me that it is good for one person to have things released and not for others and I do believe that until ...

**The Deputy Bailiff:**

Not a speech, please, Deputy, this is question time.

**2.3.8 Deputy M.R. Higgins:**

The question is to restore public confidence in this Council of Ministers - which is pretty ragged at the moment - would the Chief Minister go to the States Employment Board and release this individual from the ability to speak to anybody?

**Senator I.J. Gorst:**

As I said, the agreement was, as far as I am aware, entered into in good faith. I do not believe that we should go and undo all contractual agreements that were previously entered into. What this States Employment Board and what this Council of Ministers is committed to doing and is doing - not that you would necessarily know it - is moving forward and addressing the issues that the Members are referring to. That is exactly what we are doing.

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

Could the Chief Minister confirm that the agreement can be removed if both the ex-employee and the employer agree to remove that clause and in the interests of openness and transparency, would he not believe that it would be the appropriate thing to do?

**Senator I.J. Gorst:**

Of course, if a request came, then it would be considered as any request would be but I am simply saying and reiterating that, as far as I am aware, the former Director was able to speak freely and unhindered to the Scrutiny Panel which resulted in a report. As I said, I suspect the transcript is available in the public domain and others can comment on that and to the Comptroller and Auditor General.

[10:15]

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

Surely this is partly irrelevant because the Chief Minister has undertaken, with the Chairman of the Public Accounts Committee, to do a full investigation of all statements - and hopefully there will be no gagging orders in his thorough investigation to come - on evidence given on the Lime Grove property. When the Minister re-interviews all the people involved, as he has promised in the investigation, will there be gagging orders on those?

**Senator I.J. Gorst:**

I am not sure what investigation has been promised and by whom.

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

Would the Chief Minister confirm that an agreement signed is binding on both parties and the requirement for confidentiality by the employee on public statements also binds on the employer to

refrain from public statements? In view of the comments made by the Minister, which are critical of this particular officer, is it not the case that if he gets a request, that this should be released from this agreement?

**Senator I.J. Gorst:**

As I said, any request would be appropriately considered. Some questioners have suggested that allegations have been made by Ministers with regard to specific individuals. I am not sure which allegations they are referring to.

**2.3.12 The Connétable of Grouville:**

It is refreshing to hear the Chief Minister ducking behind the sentry box of the Scrutiny Panel saying that they are free to speak to the Scrutiny Panel but not to speak to the press. Once more - and I am going to ask a question - can we have a yes or a no? If the Chief Minister is approached by the former Director of Property Holdings to release him from the gagging order, will he agree, yes or no, please?

**Senator I.J. Gorst:**

If only life were so simple. I have said that I would appropriately consider it with appropriate advice and that is the answer I stand by.

**2.4 The Connétable of St. John of the Minister for Economic Development regarding the grant of £75,000 to the Jersey Rugby Club:**

Following the previous announcement that the budget for grants to all clubs and societies from Jersey Sports Council will be reduced, can the Minister explain why his department chose to provide funding of £75,000 to just one club, the Jersey Rugby Club, and was this sanctioned by the Minister for Treasury and Resources? Also, is this for one year or 3 years?

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

I am not sure, first of all, that the last part of that question is in the question but I am happy to answer it. I think the Connétable was using some licence there to extend his question. I must make it clear that this is not a sports grant. It is a business opportunity aimed at delivering economic and commercial gains for the Island. The agreement with Jersey Rugby Club takes the form of a commercial sponsorship as part of my department's promotional activity to encourage tourism and inward investment. This sponsorship investment provides an on and off-Island promotional opportunity that I believe will be capable of stimulating future economic growth and the results of which will be monitored. The funds for this sponsorship form a small part of the overall economic development marketing and promotional budget that was approved by the States within our 2012 Business Plan. It was therefore not a matter for my colleague, the Minister for Treasury and Resources.

**2.4.1 The Connétable of St. John:**

Given the Minister's reply, at the time of considering the £75,000 gift to the rugby club, was this large sum of money discussed with Minister for Treasury and Resources, and we know it was not. Given this is the case, why was the sum not granted in such a way that it would underwrite the money so that if it was not required therefore it would not come out of the budget or out of his funding? Why was it not as an underwrite instead of a gift?

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

I am not sure the Connétable understands. This is not a gift. It is a sponsorship arrangement. This is not an unusual arrangement in many respects. Other countries do this. There are examples like

Malta Tourism Authority which sponsor Sheffield United on their shirts. You have got Malaysia doing the same for Cardiff City. You have got Invest in Africa doing the same. This is not unusual. We have got to be more creative in terms of promoting the Island and this is one way in which we can help to lift the profile of the Island by promoting it to a wider, new and targeted audience.

**2.4.2 Deputy T.M. Pitman:**

Given what the Minister said, would it not perhaps be more productive money-wise if we were perhaps to sponsor Manchester United or someone? We would get our name everywhere.

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

I am not sure there is an answer there but as a Manchester United supporter, I would feel conflicted. [Laughter]

**2.4.3 Deputy G.P. Southern:**

How appropriate. Can the Minister confirm or deny whether he is a member of the rugby club or has an office in that club?

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

I am not sure that is an appropriate question but nevertheless I have never served or been involved in playing with the Jersey Rugby Club. I do, however, have a family membership as my 2 young children, if the Deputy is interested, are part of the Academy at under 7 and under 8 age group.

**2.4.4 Deputy M. Tadier:**

I do not have a problem with this money being given. I see the rugby club as a great success story for Jersey, which needs to be supported. But nonetheless the Minister has told us on many occasions that Government is not good at picking the winners and that he seems to be saying to us today that well we thought we would take a punt on the Jersey rugby team and see if we get any money back for it in the vernacular. Is the Minister not being slightly contradictory in trying to pick a winner here and should it not be for private sponsorship to sponsor the Jersey rugby team if they so wish?

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

The Deputy selectively quotes me. I am not, and we are not, trying to pick a winner. Jersey Rugby Club is already a winner. They are a huge success. They have reached the championship; that is the second tier of English Rugby. All we are simply doing is riding on the back of that success and helping to promote the Island and leveraging the marketing spend in a targeted way. I think that is absolutely appropriate. There is private sector sponsorship in the rugby club, a huge amount of sponsorship. We are not seeking to replace that. We are simply seeking to get advantage for the Island by building on the success the Jersey Rugby Club has achieved to date and I hope they build on it.

**2.4.5 Senator L.J. Farnham:**

While I am a huge fan of the success and the achievements of Jersey rugby, I would like to ask the Minister if it was necessary to provide £75,000 of sponsorship to take advantage of the on and off-Island promotional and marketing opportunities. I am always at the front of the queue to take advantage of opportunities but I believe that perhaps a joint marketing effort would have been more appropriate because it seems that there is a huge opportunity for the rugby club to gain financial sponsorship from the private sector. Was a sponsorship appropriate, given the current climate?

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



The sponsorship package will allow us to market, including joint promotional marketing opportunities, with industry partners within the Island and that includes airlines, ferries, hotels and so on. We do realise that clearly supporters of clubs in the U.K. and the championship coming to Jersey will come anyway to a certain degree but what we are seeking to do is to build on that. We wanted to add and we believe we can add at least 300 fans per visit. If you work out the figures, an additional 300 fans with on-Island spend will generate, in our view, in excess of £100,000 in G.S.T. (Goods and Services Tax), a total spend on the Island in excess of £2 million and tax take in excess of £150,000. Those are what we believe are conservative figures.

**2.4.6 Senator S.C. Ferguson:**

Yes, it does occur to me there are teams such as the Newcastle Falcons, should we be calling them the Jersey Bulls? But what I would like to ask the Minister is how many youngsters are members of the Academy?

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

The Academy is a huge success. There are, I believe, in excess of 700 children in the Island as part of the Academy. The Academy caters for age groups from under 7's all the way up and it gives fantastic training. Volunteers go off each Sunday to train these youngsters and that is the way in the future we are going to see our young people featuring more and more as they do currently. There are already youngsters who have worked through the Academy and played for the Jersey First 15 and I believe that is to be applauded.

**2.4.7 The Connétable of Grouville:**

The last point was one I was going to make and I would just like to say that I am going to congratulate the Minister and say what a wonderful job I think he has done in this regard with the rugby club, but would he not have avoided more controversy if he had just put it simply down as a marketing exercise?

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

I am smiling before answering because we did try when we launched this to get across exactly what it was we were seeking to achieve. Unfortunately, somewhat sensational media headlines about taxpayers' money used for rugby leads the debate into a certain direction, which one might assume is somewhat negative. That, I hope I have explained today, is not what the position is and I hope Members and members of the public can appreciate that this is a marketing exercise. I have said it before several times. I have repeated it again today and I hope the point will be put across that it is aimed at delivering economic advantage for the Island, bringing more people here to spend money and support our local businesses.

**2.4.8 Connétable D.W. Mezbourian of St. Lawrence:**

I must say that I have no problem with this money having been given because I am sure that the benefits to the Island will be returned but my question to the Minister is how will the return on the investment be calculated and will it be made public?

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

I did say in my opening remarks that we were obviously going to be monitoring the success of this particular marketing promotional activity. That can be done in a number of ways. With advertising there will be specific codes to assess what sort of take up there is to the advertising, linking advertising around matches in the U.K. where, of course, I should add there are exceptionally good air links to just about all the championship sides that will be coming to the Island. We will, on top of that, be working with the hotels and on-Island businesses that record where their visitors come from. We will be assessing the numbers, looking at the spend levels, and looking at more accurate

figures. I am more than happy to keep Members up-to-date with how successful we believe this is going to be. At the end of the year, we are going to have to make the decision as to whether to continue the sponsorship into a second or a third year but we will do that once we have a clearer view as to whether it has been successful. I strongly believe it will be, I hope it will be, but clearly nobody can guarantee marketing information activity of this nature.

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

As the Minister did not answer my first part of my question whether it was for one to 3 years, can he also declare an interest, given that his children are involved in the club? As I believe he should have declared an interest and stood aside on this.

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

I think I have declared an interest if that is what the Connétable thinks is necessary. I think more relevant is the fact that, and the Connétable has not asked the question but I am going to answer it anyway, I have been invited on a couple of occasions this year to corporate hospitality at the rugby club by businesses in the Island and that appears on my register of gifts and hospitality, and I think that is appropriate. That is much more relevant than my children's attendance at the Academy, which has nothing to do with this sponsorship at all.

#### **The Connétable of St. John:**

Would the Minister answer the question; is it for one or 3 years?

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

I think I have answered that one as well a moment ago. I said that the current arrangement is for one year. We would monitor it at the end of this year. If it is successful, we would be looking to doing a second and a third year but it will depend on the success.

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

It has taken us 45 minutes to deal with 4 questions so can I ask Members to consider carefully whether they want to ask supplementaries?

### **2.5 Deputy M. Tadier of the Minister for Education, Sport and Culture regarding sites identified for any potential rebuild of Les Quennevais School?:**

Would the Minister advise what sites, if any, have been identified for any potential rebuild of Les Quennevais School and whether there are any plans to build on Les Quennevais playing fields?

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

No sites have yet been identified for a new Les Quennevais School - if there is to be one - and there are no plans to build on Les Quennevais playing fields.

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

Thank you, I think I can deal with this Minister; concise answers. When the Minister says that no sites have been identified, I presume that there must have been some sites which have been looked into already. Would the Minister give some more information first of all whether the preference would be to refurbish Les Quennevais School or to rebuild it, which is most likely to happen, what the timescale is and which sites have been looked at in a preliminary sense?

[10:30]

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

There will be a review of the last feasibility study from 2002, which contained options for refurbishing and extending the existing building. The States have set aside £7.7 million for that work to commence in 2016. However, this review of the last feasibility study has not yet started, so I do not want to prejudge what the findings might be of that feasibility study.

**The Deputy Bailiff:**

Thank you. If there are no other questions, then ...

**2.5.2 Deputy M. Tadier:**

Sorry, I will ask one more. Does the Minister have a timescale for when we will know what the future of Les Quennevais School is, because this is becoming a more and more urgent question, I think, for all those involved.

**The Connétable of St. John:**

I can simply say that it is urgent and my department understands the urgency. We are well aware of the kinds of pressures that there are on Les Quennevais School and we will get on to it as soon as possible. I cannot give the Deputy precise timescales yet but I will endeavour to do that over the next few weeks so that he does know when we are likely to see the results of the review of the feasibility study.

**2.6 Deputy J.H. Young of the Minister for Planning and Environment regarding the reappointment of the Jersey Architectural Commission:**

Would the Minister advise the Assembly whether he has reappointed the members of the Jersey Architectural Commission formed by the previous Minister and if so, whether its role includes setting of architectural policy and commissioning design reviews of significant planning applications?

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

In February of this year I endorsed by ministerial decision the continuation of the Jersey Architectural Commission, set up as an external advisory group to provide independent expert advice on guidance to major and sensitive developments, as set out in Supplementary Planning Guidance Practice Note 21. The Commission does not set architectural policy or commission reviews, but works with my department on request as well as with agents and developers to promote good architecture and urban design.

**2.6.1 Deputy J.H. Young:**

Would the Minister confirm that 2 members of that Commission that he has reappointed were previously appointed as employees, architectural advisers to the former Minister and that they were responsible for advising him in such major and loved schemes as Portelet, Zanzibar and other architectural sculptures. Did he not consider that his objective of achieving buildings in keeping with their surroundings would be helped by a review of that Commission?

**Deputy R.C. Duhamel:**

The Deputy is correct in that 2 members were previous advisers to the department but, indeed, under the remit and the protocols for behaving on the Commission, members who do have any previous involvement, so to speak, are excluded from taking part in those discussions. Since the inception of the Commission, the Commission has met on 10 occasions and discussed 42 planning briefs.

**2.6.2 Deputy J.H. Young:**

Would the Minister agree to publish the minutes of the meetings of the Architectural Commission so that the public applicants and others can see the advice that the Minister is receiving on these schemes in a transparent way, as should be the case in all planning matters?

**Deputy R.C. Duhamel:**

The Deputy will know that this body is a non-statutory, informal consultee of the Department for Planning and Environment, presenting an external, independent voice for architecture and design in Jersey. I am happy that the minutes are made available to anyone who would choose to read them.

**2.7 Deputy G.C.L. Baudains of the Minister for Education, Sport and Culture regarding personnel changes within the Youth Service:**

Would the Minister clarify the purpose of recent personnel changes within the Youth Service, and advise whether all youth clubs now have a qualified youth worker and if not, why not?

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

My Assistant Minister, Deputy Rod Bryans, has responsibility for the Youth Service and I would seek your leave and the Assembly's that he answers the question.

**Deputy R.G. Bryans of St. Helier (Assistant Minister for Education, Sport and Culture - rapporteur):**

I thank the Deputy for bringing to the Assembly a question relating to the Youth Service. All youth projects currently have a qualified senior youth worker who is either entirely dedicated to them or shared with another project. Precise arrangements vary between projects according to the demand from young people. Training is mandatory for all other adults working with young people in the service and this is ongoing. Personnel changes involve moving staff between projects to meet the needs of young people in the service. Frontline youth workers are the priority. Any reorganisation is designed to create a stronger, more modern service. While the C.S.R. (Comprehensive Spending Review) process has been a catalyst for change, it would have taken place anyway in order to provide professional developmental opportunities for staff. There are also areas where the team wants to investigate new initiatives so that it can reach more young people and target specific groups. They are eager to review, refresh and refocus what they do. Youth culture is constantly changing so the Youth Service has to reflect this. Jersey has an outstanding Youth Service, which I have experienced first-hand over the past few months. I have been closely involved in discussions with staff, Parishes and young people about the changes taking place, putting the right resources in the right place at the right time. I think if the Deputy has specific concerns, I know he sits on one of the Youth Committees for St. Clement, I am more than happy, as would be the principal youth worker, to have a meeting with him should he request that. Thank you.

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

I am grateful for the Assistant Minister's comments. I wonder if he could tell the Members whether in fact he is happy with the example of the failures where we have a constantly changing population with the redevelopment of the estate, and stability is needed, but what we are getting is a transit youth officer; and the youth officer that was with us is now doing a job that is probably not the best use of her skills. Could the Assistant Minister explain why this cost-saving exercise has left the situation as it is?

**Deputy R.G. Bryans:**

I think I have partially explained that but I will just go a little bit further to say there are circumstances, which I explained in the private conversation with the Deputy, that relate to

confidences and I would not want to bring those in front of the Assembly, so like I say, I am more than willing and happy to have a private conversation with him if he so wishes.

## **2.8 Deputy M.R. Higgins of the Minister for Economic Development regarding recent scandals involving the U.K. banking industry and their impact upon the Jersey financial services industry:**

In light of the most recent scandals involving the U.K. banking industry, does the Minister believe that there are any lessons which can be learned and does he consider that he needs to take any further steps to ensure that the users of the Jersey financial services industry are fully protected against wrongdoing by individuals and firms operating in the Island?

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

The Deputy is imprecise as to which recent scandal he is referring to. [Laughter]

**Male speaker:**

There are a lot of them.

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

There may well be lessons to be learned, but these will become apparent, following, for example, findings of U.K. inquiries and any subsequent actions the U.K. authorities may take in the coming weeks and months. In terms of offering locals an additional layer of protection, I am certain that, like me, the Deputy will welcome the progress currently being made towards bringing forward a financial ombudsman service to Jersey.

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

In particular, the 2 most recent scandals, which I am sure the Minister is well aware of, is one to do with the London Interbank Offered Rate where the Barclays Bank and other major banks have been accused of rigging the rate to their favour and the second is another mis-selling scandal. It is mis-selling in particular that I am concerned with because we already have the case of Mr. George Burrows and Standard Chartered Bank where he has made allegations and I have seen internal correspondence from the bank, which does prove that the adviser did lie to Mr. Burrows. I would like to know what his department is doing on the question of mis-selling in general and mis-selling in particular, especially when, under Jersey Law, it is a criminal offence and also a regulatory offence whether a person is fit and proper; what is your department doing in this area?

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

First of all the Deputy raises the issue about L.I.B.O.R. (London Interbank Offered Rate). Now, clearly that is a matter, as I alluded to in my opening remarks, which is being investigated by the U.K. authorities at the moment. We will watch with interest to see what the outcome and results of that are and indeed consider whether any further changes are or may indeed be necessary as a result. With regard to mis-selling, in particular the Deputy refers to the case of Mr. Burrows, which is well known to Members who have been circulated on all the correspondence. That particular issue has been, as the Deputy is well aware, investigated in a number of different areas and I do not wish to comment on it any further as discussions and investigations are ongoing, again, as the Deputy is fully aware. With regard to the wider issue of mis-selling, yes there are, again as the Deputy is aware, certain laws and powers that are available to the authorities; those are quite appropriate in my view at this stage. If there is anything that is raised that suggests that they are not appropriate, then of course we will look at taking additional action. I think perhaps the Deputy is getting confused where there may be allegations that are not necessarily proven or cannot

necessarily be taken to court because the evidence is perhaps not as robust as it may appear at face value.

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

The Minister states that we are in a “wait and see” position on what the U.K. authorities will do and how they will act on certain things. So is the Minister saying that whatever the U.K. approves to be proper and right and as mis-sold, all Jersey residents will be entitled to as well?

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

No, I am not. What I was talking about in that particular instance was the issue relating to L.I.B.O.R., which is not a matter that directly affects the Island insofar as L.I.B.O.R. rates are not set here. Jersey’s banking system is very straightforward in terms of its lending activities and so on, so I was referring specifically to the L.I.B.O.R. issue, which is under investigation in the U.K. and we will watch and see what the result of that is, which is quite appropriate and as to whether anything is indeed relevant to Jersey.

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

The Minister mentioned a case where the evidence might not be as robust as the complainant thinks it to be. Would he put to the Assembly the procedure that is available where there is a disputation about the evidence? How should such a person proceed if they feel they have a genuine grievance and they wish their evidence to be properly evaluated?

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

Well, of course, there is one option available if all courses... such as, for example, if the J.F.S.C. (Jersey Financial Services Commission) have investigated an allegation. Ultimately, the complainant could indeed take a civil action if they so chose. It would be entirely up to them.

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

Is the Minister happy with the procedure that has been followed to date? Is he happy with the fact that the complainant has had a thorough investigation into his complaints and nothing further can be done short of a civil action?

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

All I can say is that there have been extensive investigations by a number of bodies in relation to the case that the Deputy is referring to. I am satisfied that the issue has been thoroughly examined. I am also aware, and that is why I am cautious about what I say, that discussions are still ongoing in this matter and so I do not feel it appropriate to give any greater detail. I am not in position to do so.

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

Accepting the Minister’s point about the complaint of mis-selling being under investigation by the authorities, is the Minister aware of the detailed note produced by the complainant in that case of the shortcomings that he has experienced of the complaints procedures, and the difficulties in communication between the J.F.S.C. and the Jersey Financial Crimes Unit. Is he open to investigating the procedure to ensure that people do have genuine complaints, do have access to a robust and satisfactory complaints procedure?

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

I should perhaps add that it is a case of alleged mis-selling and I think until the matter is concluded, I do not think I can add anything further. But, having said that, if the Deputy has particular

concerns on the conclusion of this particular issue that he feels should be looked into, then I am more than happy and open to discuss those.

**2.8.6 Senator A. Breckon:**

The Minister mentioned the interbank lending rate, L.I.B.O.R., and that it does not really apply to Jersey in cases of compensation, but is he aware that many people, individuals and businesses, will have borrowed money which is based on that rate and therefore, if it is incorrect, then they might also be seeking compensation and would seek a forum in which to do so?

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

Yes, I apologise if I misled the Senator. I did not mean that it does not apply to Jersey; clearly the rates do apply to Jersey. What I was alluding to was the fact that the L.I.B.O.R. setting mechanism is not related to Jersey, they are not set here in Jersey, but clearly we are interested in watching very closely the investigation that the U.K. authorities are undertaking in this matter.

**2.8.7 Senator Ferguson:**

With regard to the particular allegation of mis-selling, can the Minister be sure that the matter has been taken up by the main board of Standard Chartered, not just the local one?

[10:45]

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

Yes, I understand that indeed the gentleman in question was invited to meet the senior management in London and indeed had his travel arrangements paid for him in order to do so and that meeting has taken place.

**2.8.8 Deputy M.R. Higgins:**

Does the Minister think that a person, whose internal memos within Standard Chartered have been shown to have misled a client, is a fit and proper person to be working in the Jersey financial services industry?

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

The Deputy is making allegations that I am afraid have not been substantiated and I am afraid I am not going to comment any further on this.

**Deputy M.R. Higgins:**

Has the Minister read the memo?

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

I am not going to comment any further on this particular issue at this time.

**The Deputy Bailiff:**

Very well. We now come to question 9. Perhaps I can just remind Members that there was a debate on whether or not the transcripts of the “*in camera*” session should be published and the Assembly determined that they should not and so great care needs to be taken by any questioner in relation to any supplementary questions which arise out of this question.

**2.9 Deputy T.M. Pitman of the Chief Minister regarding access to the transcript of the States’ ‘in camera’ session relating to the suspension of the former Chief Officer of the States of Jersey Police:**

Will the Chief Minister clarify whether Mr. Brian Napier QC had access to the transcript of the States “*in camera*” session where the former Minister for Home Affairs informed the Assembly that he had seen the preliminary report that was so damning that he was left no option but to suspend the former Chief Officer of the States of Jersey Police?

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

I had a slightly longer answer but I think in light of your guidance at the start of this question, I might simply say this; it is my understanding that Mr. Napier was not aware of the States income recession.

**2.9.1 Deputy T.M. Pitman:**

I hope I am not going to fall foul of anything. Deputy Higgins earlier talked about public confidence and the Council of Ministers being ragged. So given that the Assembly incredibly voted, in my view, to keep from the public the fact that there was, of course, no such damning report for either Mr. Napier or the former Minister for Home Affairs to see, does he not think that it is time that a public statement was issued to clarify this matter and perhaps bring some closure to what went on?

**Senator I.J. Gorst:**

I am not sure quite which matter to the Deputy refers to. Of course, the Napier Report is in the public domain.

**Deputy M. Tadier:**

Sir, can I raise a point of order? I would like to move that we go “*in camera*” for this question and the reason I do that, I can either make the argument now or in a moment, Sir, but I think it is relevant though. If we are asking questions about something which was debated “*in camera*”, the transcripts were decided not to be released. It is very important that we are able to ask questions in this Assembly without let or hindrance and to receive answers in the same way. Our hands are tied, so if the debate and the transcripts remain “*in camera*” we have no choice but to be able to receive full and frank information in an “*in camera*” way, which I know is wholly unsatisfactory but it is probably the only way to do that, Sir.

**The Deputy Bailiff:**

Well, Standing Order 81 says that: “A Member of the States may propose without notice that the States conduct any debate or part of a debate, which this is not, on a proposition or any other part of its business, so this is, *in camera* for a specified purpose.” The Deputy is entitled to make that proposition. Is it seconded? **[Seconded]** Very well, make your proposition, Deputy Tadier, if you wish to make it, but bear in mind that we are not yet *in camera*.

**Deputy M. Tadier:**

Sir, I make the proposition that we move *in camera* just for this question or any part of the question.

**The Deputy Bailiff:**

Very well. I trust that Members do not wish to have a debate about it and we can proceed fairly quickly to a vote, Deputy Trevor Pitman.

**Deputy T.M. Pitman:**

As it is me who is asking the question, I do not think this is necessary. All I want to raise is the issue that the Chief Minister seems to have misunderstood, is that there was no damning report and that is the issue that the public need to know.



**The Deputy Bailiff:**

So, no other Member wishes to speak? All those in favour of going *in camera*, will you kindly show?

**Deputy M. Tadier:**

Can we have a vote, please?

**The Deputy Bailiff:**

Then I ask Members to return to their seats. The vote is on whether to go *in camera* for the purposes of this question. I ask the Greffier to open the voting.

| <b>POUR: 12</b>            | <b>CONTRE: 32</b>            | <b>ABSTAIN: 0</b> |
|----------------------------|------------------------------|-------------------|
| Connétable of St. Clement  | Senator P.F. Routier         |                   |
| Connétable of St. Brelade  | Senator A. Breckon           |                   |
| Connétable of St. Martin   | Senator S.C. Ferguson        |                   |
| Deputy R.C. Duhamel (S)    | Senator A.J.H. Maclean       |                   |
| Deputy of St. Ouen         | Senator B.I. Le Marquand     |                   |
| Deputy J.A. Hilton (H)     | Senator F. du H. Le Gresley  |                   |
| Deputy K.C. Lewis (S)      | Senator I.J. Gorst           |                   |
| Deputy M. Tadier (B)       | Senator L.J. Farnham         |                   |
| Deputy T.A. Vallois (S)    | Senator P.M. Bailhache       |                   |
| Deputy M.R. Higgins (H)    | Connétable of St. Helier     |                   |
| Deputy G.C.L. Baudains (C) | Connétable of Trinity        |                   |
| Deputy of St. Mary         | Connétable of Grouville      |                   |
|                            | Connétable of St. Peter      |                   |
|                            | Connétable of St. Lawrence   |                   |
|                            | Connétable of St. Ouen       |                   |
|                            | Connétable of St. Saviour    |                   |
|                            | Deputy R.G. Le Hérissier (S) |                   |
|                            | Deputy J.A. Martin (H)       |                   |
|                            | Deputy G.P. Southern (H)     |                   |
|                            | Deputy of Grouville          |                   |
|                            | Deputy J.A.N. Le Fondré (L)  |                   |
|                            | Deputy of Trinity            |                   |
|                            | Deputy T.M. Pitman (H)       |                   |
|                            | Deputy A.K.F. Green (H)      |                   |
|                            | Deputy J.M. Maçon (S)        |                   |
|                            | Deputy of St. John           |                   |
|                            | Deputy J.P.G. Baker (H)      |                   |
|                            | Deputy J.H. Young (B)        |                   |
|                            | Deputy S.J. Pinel (C)        |                   |
|                            | Deputy of St. Martin         |                   |
|                            | Deputy R.G. Bryans (H)       |                   |
|                            | Deputy R.J. Rondel (H)       |                   |

**Deputy J.A. Martin:**

Sir, can I just ask if that debate on questions whether we go *in camera* is taken off our time for questions that we are going to cover, because I think that is totally unfair.

**The Deputy Bailiff:**

I might start taking your speech off the time. **[Laughter]** Very well, another question? Senator Le Gresley?

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

Does the Chief Minister share my concern that the transcripts of the *in camera* session that we discussed at the last sitting have appeared on a blog site?

**Senator I.J. Gorst:**

Yes, I do and I hope that the Privileges and Procedures Committee will be considering how that happened.

**2.9.3 Deputy R.G. Le Hérissier:**

I wonder if the Chief Minister could say when Mr. Napier undertook this report, was he handed evidence or did he say: “Provide me with all the evidence that is available and relevant”?

**Senator I.J. Gorst:**

As I was not Chief Minister at that point and had nothing to do with Mr. Napier’s engagement, writing of report or publication of the report, I cannot say. I have, of course, done a provisional inquiry in order to allow me to make the opening answer that I did. I would need to undertake further work in order to answer the question that the Deputy has raised.

**2.9.4 Deputy T.M. Pitman:**

If it is final supplementary, perhaps because of the intervention, the Minister never answered my original question. Does the Minister not feel that given that there was no such damning report at all- so it could not have been seen by anyone- that this should be made public? The fact is, it is mentioned on a website: I think it is Mr. Rico Sorda’s website... but these things happen. It happened with the *J.E.P. (Jersey Evening Post)*. So should we not put out a press statement?

**The Deputy Bailiff:**

It sounds to me as though you just have. Chief Minister?

**Senator I.J. Gorst:**

As far as I am aware, the copy that I have in front of me of Mr. Napier’s report is one which is in the public domain and was lodged as a report to this Assembly in 2010 and its findings are quite clear with regard to letters and reports that Ministers and officers might have seen at that point, and Mr. Napier makes comments upon them which are quite clear.

**2.10 The Deputy of St. Ouen of the Chief Minister regarding the authority of the Assistant Minister with responsibility for External Affairs to comment on significant constitutional matters:**

Would the Chief Minister advise the Assembly what authority, if any, his Assistant Minister with responsibility for External Affairs has to comment on significant constitutional matters and, in particular, those reported on 27th June 2012 in the *Guardian* newspaper?

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

The comments were made when reporters visited the Island in order to conduct a series of interviews with a number of different people. The *Guardian* sought to present selective comments made over 6 weeks ago as part of a longer interview as if they were a direct response to recent

stories relating to U.K. tax avoidance schemes. This was not the case. The comments, when restored to their proper context, are consistent with the position of the Council of Ministers, which is that it is not Government policy to seek independence from the United Kingdom, but rather that the Island should be prepared as part of any normal contingency planning process.

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

I am struggling to hear but I did ask: “Would the Minister advise us what authority his Assistant Minister had” but also I would like the Chief Minister to confirm that under the States of Jersey Law, one of the functions of the Chief Minister and not a selected Assistant Minister includes conducting external relations in accordance with the common policy agreed by the Council of Ministers. Could he confirm that that is indeed the case?

**Senator I.J. Gorst:**

The Deputy is absolutely right. Of course, in fulfilling those functions, I have appointed an Assistant Minister with responsibility for External Relations and I take advice from other Ministers as well, which we call the External Relations Group and Ministers are co-opted on to that, dependant on the area that we need to consider and how it affects their portfolio.

**2.10.2 Deputy G.P. Southern:**

Is the Chief Minister aware of any further research or investigations into this contingency that have been performed since the report in 2008 was issued and, if so, will he agree to release them to Members?

**Senator I.J. Gorst:**

Well, of course, a number of pieces of work have been considered, resulting not least in the setting up of a Channel Islands Brussels Office and co-operation between Jersey and Guernsey. The setting up of, in effect, a department under the Chief Minister’s Department of External Relations, all things which were part of the recommendations of the second constitutional review group, so Members have seen some of those recommendations being put into action.

**2.10.3 Deputy J.A.N. Le Fondré:**

Does the Minister accept that this story, irrespective of whether it has been misquoted or not, has spread around the world? For example, just to get my French in for the day, the headline for Le Figaro is “*L’île de Jersey menace de prendre son indépendance*”, which in my interpretation is: “The Island of Jersey is threatening to take or declare its independence.” So, does he accept, irrespective of whether it has been misquoted or not, it has spread around the world?

**Senator I.J. Gorst:**

Unfortunately, I do accept that, yes. There has been a lot of interest in the international media and certainly officers have, when being contacted, tried to discuss the context with those international journalists, as instructed to do so.

**2.10.4 Deputy R.G. Le Hérissier:**

Would the Chief Minister not acknowledge that, aside of whether it was right or wrong to talk about this story to the press, alarm and despondency has been spread among the local population? Of course, it came out as a very incomplete analysis, based solely on constitutional issues. For example, there was no economic analysis and it seemed to be based upon the premise that the U.K. is acting in a hostile fashion. So therefore we must be prepared. It was the limitations and the bias of the analysis that worried people.

**Senator I.J. Gorst:**

I think politicians always have concerns in that regard when they read matters relating to their portfolios across the international media. I am absolutely committed, as is, I believe, the Council of Ministers and my Assistant Ministers, to building positive relationships with the United Kingdom Government. To that end, I have already spoken and this Assembly will have the ability to vote upon whether they wish to provide funding for the creation of a London Jersey office to further enhance that relationship and to also encourage inward investment. So that is the direction in which we need to go. It is the right direction. We must ensure that that relationship remains strong, but equally, any Government, I believe, would be criticised if it was not appropriately considering contingencies and this is one area where we should consider those contingencies.

**2.10.5 Deputy J.H. Young**

In view of the risks of further increasing speculation on this subject and the risk of turning possibilities into self-fulfilling events, would the Minister propose that the contingency planning in future will be done in public, through the pages of the media or be done in private?

[11:00]

**Senator I.J. Gorst:**

It seems to me that most of the questions arising today and the negative publicity that unfortunately has arisen is because we have been trying to talk about contingency planning in public. It is very difficult for governments who want to encourage debate and make sure that the population is satisfied that we are considering all the issues and concerns about eventualities and yet at the same time when we do that we get criticised for doing that, so it is a difficult but fine balance. Of course the second constitutional review group back in 2008 did its work, as far as I am aware, in private and then published that work and that is probably the appropriate way to go.

**2.10.6 Senator S.C. Ferguson:**

The Chief Minister has talked about the London office or the possibility of a London office, what other damage control measures will he be taking or has he planned?

**Senator I.J. Gorst:**

This is not a damage control measure, I should be absolutely clear about that. As I have said many times before, our relationship with the United Kingdom is our most important political and economic one and we must work at that. I believe that one of the ways that we can do that to ensure that London is aware of our concerns, but equally aware of our privileges, and how we operate is that we set up an office right there in London so that we can ensure that contact is maintained on a day-to-day basis.

**2.10.7 Deputy M.R. Higgins:**

We all know that the question of independence is not being left to one man or to a small group of men in the Council of Ministers. Any decision about whether such a course of action was appropriate should be for this House. I hope the Chief Minister will share any contingency planning they have with Members of this House and I hope he and other members of the Council of Ministers will refrain from speaking on this subject at all until this House has been consulted.

**Senator I.J. Gorst:**

Well, it seems quite appealing because it would probably make my life a lot easier if I took that as a guiding rule not to comment when asked on things. Of course I do also from time to time receive comments from my media colleagues that I am not forthcoming enough with making comments, but that is my problem. It is my responsibility to comment on these issues and therefore it is my Assistant Minister with responsibility for External Relations also to comment. However it is right

that I take proper advice and, as my Assistant Minister said, this area was touched upon briefly at the previous Council of Ministers and I am proposing that the Council of Ministers has a far fuller debate about what a common foreign policy would look like. Once that has taken place then it would be right that this Assembly is made aware of that. As I have said previously, I am also of the opinion that the office of Assistant Minister for External Relations should be made into a ministerial office, however, that has not yet been considered by the Council of Ministers and that is the appropriate next step for that issue to be considered.

**Deputy M.R. Higgins:**

My question was before any statements are made should you not consult with this Assembly because it is this Assembly that should be making these decisions, not individual people speaking off the cuff?

**The Deputy Bailiff:**

Deputy, I think you have had your answer from the Chief Minister on that and we are going to move on.

**2.10.8 Senator L.J. Farnham:**

In areas of foreign policy Members will be aware that most relationships are challenging at the best of times but is the Chief Minister satisfied that our relationship with the U.K. is as it should be, namely robust, productive and generally working well?

**Senator I.J. Gorst:**

I would like to see it improve. I believe that it is robust, that it is productive but one of the targets and aims that I have set myself during this term of office is that it improves so that the United Kingdom is aware of decisions that they make and the affect that they might have upon us but equally in reverse.

**2.10.9 Deputy T.M. Pitman:**

Given that, as we have seen with recent events with the Comptroller and Auditor General, it is now almost impossible to hold the Council of Ministers to account, does the Chief Minister not agree with me that the prospects of Jersey gaining independence are truly terrifying for a breakdown of law and order and good government?

**Senator I.J. Gorst:**

I do not agree with the Deputy on many counts with regard to his question there, certainly with regard to the ability to hold Ministers to account and with regard to what I have said is appropriate contingency planning. But equally I have said, and I support this position, that it is not Government policy to seek independence.

**2.10.10 Deputy M. Tadier:**

The Chief Minister need not worry about being forthcoming with the media either in Jersey or elsewhere because he has 2 quite capable alternatives on the Council of Ministers who do it for him, it seems. **[Laughter]**. The question is does the Chief Minister still have a Communications Unit for the Chief Minister's Department, and does the Assistant Minister with responsibility for External Affairs have access to that Communications Unit?

**Senator I.J. Gorst:**

Yes and yes, on both counts. Some individuals might be critical of the Communications Unit. It is small in number but they offer a very vital support and they do an excellent job and the way they have helped Ministers handle recent publicity has proved that to be the case.

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

Would the Chief Minister confirm that this Assembly currently does not elect any Assistant Ministers to particular positions and that therefore responsibilities as described in the States of Jersey Law fall to the Chief Minister to conduct external relations and not others?

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

I am afraid the question is based on a false premise. The States of Jersey Law does enable an Assistant Minister to perform the functions of the Chief Minister, save for some exceptions.

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

How do you explain Article 18.3(b) then?

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

18.2(b)?

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

18.3(b) of the States of Jersey Law.

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

“The functions of the Council of Ministers shall be discussing and agreeing policy ...” 2(b) or 3(b), did you say?

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

3(b), which states ...

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

“The functions of the Chief Minister shall include conducting external relations in accordance with the common policy agreed by the Council of Ministers”, is that the question?

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

Yes, exactly. That is specific to the Chief Minister and not other individuals.

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

Under Article 28: “A Minister may delegate wholly or partly functions conferred or invested in the Minister by or under this Law or any other enactment.”

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

As a further clarification? It is important. Either we can rely upon this States of Jersey Law or we cannot. This seems to suggest that it is the Chief Minister who is clearly responsible for undertaking these 2 functions; co-ordinating through the Council of Ministers the discharge of the common functions described in 2, and conducting external relations. If you are then suggesting that we cannot rely on that because he can confer any responsibility he wants to a third party, how do we justify and reconcile the 2 matters?

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

Perhaps I was too quick to say it is out of order; I will ask the Solicitor General as a question of law to advise. [Laughter]

#### **Mr. H. Sharp, H.M. Solicitor General:**

One has to read on; you do not stop at Article 18 and one has to read it in conjunction with Article 28, which makes it perfectly plain that a Minister may delegate their functions, save for

particular exceptions set out at 28.2 which do not apply here. One has to read together, not in isolation.

**Deputy M.R. Higgins:**

Can I ask a question of the Solicitor General?

**The Deputy Bailiff:**

Yes, please do.

**Deputy M.R. Higgins:**

In terms of delegation, am I right in saying that no powers can be delegated unless there is legal authority for it to be done. For example, there are certain Assistant Ministers who have been delegated powers legally and others are not. Surely, unless there is a legal delegation of those powers then the Chief Minister is still responsible?

**The Solicitor General:**

I am sorry, I am not quite sure what is meant by “a legal delegation”. A Minister may delegate; once the Minister has delegated the Assistant Minister may act.

**The Deputy Bailiff:**

Very well, but this is not question time of the Solicitor General. It is my fault; I should not have encouraged you. But the question, Deputy, was not in order because it was based on a false premise. Do you have a final supplementary for the Minister?

**The Deputy of St. Ouen:**

Yes, although it might be on a false premise, I am not better informed, thank you. **[Laughter]**

## **2.11 Deputy J.A. Martin of the Minister for Economic Development regarding the repayment of Payment Protection Insurance in Jersey:**

Will the Minister advise on the situation regarding the repayment of Payment Protection Insurance in Jersey and confirm that anyone who was mis-sold a policy is able to reclaim their payments?

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

Anyone who believes that they have been mis-sold Payment Protection Insurance is advised to write to the institution enclosing evidence of mis-selling. I understand that some refunds are being made on a case-by-case basis although to some extent are reliant upon the approach adopted by individual financial institutions. Where issues with P.P.I. (Payment Protection Insurance) have arisen in the Island they are covered by remediation and compensation arrangements that have been put in place by the U.K. banking groups. However there is currently no regulatory regime to ensure Jersey financial institutions refund in clear cases of mis-selling, although a Financial Services Ombudsman Scheme is being progressed for introduction in early 2014.

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

I think the Minister may have unwittingly misled the House because the big banks in the U.K. are just a phone call away from refunding mis-sold P.P.I. Jersey, which say we have a head office in the Isle of Man, the U.K. courts only said P.P.I. that was mis-sold in the U.K. must be repaid and banks have stated they will not repay it. But then again, would the Minister agree that this really does not touch the Financial Commission because it is only hundreds of thousands of pounds owed to little people in Jersey who have had a £100 loan or a £1,000 loan and they will not be seeing any of their money back. What is the Minister going to do about it? [11.12.12]

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

The question started in a very nice and pleasant way and ended not quite in the same frame, but nevertheless I think the final point in my opening answer clearly clarifies what we are doing about it and that is the introduction of a Jersey Financial Services Ombudsman. That is the most appropriate route in order to ensure that local people can get proper compensation and a proper hearing in cases of alleged mis-selling. I should point out that of the cases that have gone to the U.K. Financial Ombudsman, 25 per cent of those or thereabouts have not been upheld, so not all cases are upheld, but I do accept there is a problem and in the case of Jersey institutions there is no recourse as we stand today although some of those institutions are choosing of their own volition to repay where the case is proven.

**2.11.2 Deputy M.R. Higgins:**

Can the Minister tell us why it is that in the *Alternate* case, other than the fact it went through a court and the court said there had been mis-selling and other actions, why it is the Minister has taken no action on the mis-selling issue and why, for example, with P.P.I., Mr. George Burrows and others, is the department proving to be totally ineffective. What was so special about *Alternate* that does not apply to these other cases?

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

Quite simply, that went to the court and a restitution order was successful. That was the differential in that particular case. To say that nothing is being done is not the case. I have already pointed out and Members are aware that a Jersey Financial Services Ombudsman is being put in place and that is an absolutely appropriate step to take in order to ensure the local consumers are protected.

**2.11.3 Senator A. Breckon:**

Is the Minister aware that U.K. banks operating in Jersey are recognising the Financial Ombudsman questionnaire? They are investigating cases within 8 weeks and they are, in fact, paying out to Jersey residents.

[11:15]

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

I thank the Senator. Yes, I am aware of that, I did mention it in the opening answer to the question but thank you very much to the Senator for re-clarifying it.

**2.11.4 Deputy J.A. Martin:**

Yes, it does really annoy me when Ministers have it both ways. On the other case we are waiting to see on the interest scandal what the U.K. courts will do and the U.K. courts have done something but it does not cover Jersey. I do not see the little people getting any money back. These banks are exactly the same with interest, bank charges the same. They operate exactly the same as they do in the U.K. except that P.P.I. is not going to be given back to the people who really need this money. I cannot see the Minister, whatever his promise... unless they can speak to the banks. Why are we not covered by the U.K.? Why can we not take the banks to court like the U.K. Government did?

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

I did think I had made this clear, that where there is a case of mis-selling that involves a U.K. banking group that is operating in the Island, those cases are being dealt with, as I understand it. If the Deputy, who is shaking her head, has knowledge to the contrary then please enlighten me with it.

**Deputy J.A. Martin:**



If you would just give way a moment, yes, I phoned the head office, which is in the Isle of Man, of one of our big banks in Jersey and they are absolutely fundamental that no, it does not cover offshore bank accounts and we are classed as offshore; P.P.I. no repayments.

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

That is not as I understand it but I am more than happy to look into the matter if the Deputy would kindly give me the details. Drop me an email, I will look into it and circulate Members of the outcome just to clarify it but, as I say, I understand the U.K. banking groups are assisting.

**2.12 Deputy G.C.L. Baudains of the Minister for Planning and Environment regarding wind farms on Jersey's offshore reefs and their impact on RAMSAR designation:**

Would the Minister advise whether he is in favour of wind farms on our offshore reefs, why he is considering allowing the expense and intrusion of monitoring masts and how this issue fits within the Ramsar designation?

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

I am not in favour of wind farms on Jersey's offshore reefs, however, the temporary location of wind monitoring masts on these reefs would be of benefit to the Island in 3 particular areas. The quality of meteorological data at and near the reefs could be improved, safety at sea for all marine users would also be improved, and we would also have an improved understanding of offshore wind patterns to help assess potential for renewable wind energy in Jersey's territorial waters, albeit not on the reefs. The location of any masts on our reefs will, however, require planning permission. The reefs are within the Coastal National Park and of the Ramsar designated area, and policy requires that they are given the highest level of protection from development. Any application received will therefore be subject to due process and include full consultation.

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

I am glad to hear that the Minister is not considering wind farms on our offshore reefs. Could he further explain why monitoring masts are then of benefit on the reefs if in fact the wind farms are not going to be there? Would it not be more beneficial to put the monitoring masts where it is intended to put wind farms?

**Deputy R.C. Duhamel:**

Indeed it would be and if the Island were approached by some external party wanting to build a wind farm in our territorial waters then indeed a whole host of extra monitoring would have to be undertaken in order to assess the potential for that wind farm. However, as I said, there are only 2 masts being considered at the moment, one on each of the reefs. There are not many external anemometers that are in coastal waters. There is a bit of a dearth of data in terms of wind speeds on the reefs and, as I have said, the primary reason for these masts is to improve the meteorological data near to the reefs and to improve marine user safety.

**2.13 Deputy J.A. Martin of the Minister for Housing regarding the sale of houses to housing trusts:**

Has the Minister investigated the possibility of selling individual houses when they become empty to a housing trust, thereby keeping the properties within the social rented sector?

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

On the first reading the Deputy's proposal sounds quite attractive, however, I cannot see that it would be a positive step at all. There are a number of reasons why and I will try and explain them very briefly. Firstly, there would be a significant cost to housing in respect of lost income while still making a requirement or facing a requirement to make a return to Treasury. It is this return that funds the housing component of the income support system and it is met through our rental income. If we sell a property to an owner-occupier under the deferred payment scheme or other, the income support payment to that owner-occupier stops. However, if we sell it to a trust it is more than likely that the income support payment will continue. But, and this is a big but, the trusts make no return to the Treasury and keep all their rental income, therefore, it follows if we sell too many on this basis the department will not have sufficient rental income to maintain its return and therefore the income support payments will become difficult to sustain. I am sorry it is quite a long answer. Secondly, if a trust borrows to facilitate a purchase, the current rent levels that the trust can charge will mean they would only have sufficient income to fund a loan of £200,000 a year for a 3-bedroom house which might have a market value of £360,000, and I do not see that that is a possibility for the trust. Thirdly, which is just as important, such a policy will need to come before this Assembly, as proposition P.6/2007 stated, there would be no transfers to housing trusts unless explicitly approved by the States Assembly. Finally, I will say my White Paper has completed its period of public consultation and I will consider very carefully the feedback I have received before lodging my report and proposition later this year. I am committed to providing long-term solutions and see this very much as the role of a Strategic Housing Unit, which I will be proposing. I certainly will work with my colleagues in the House to achieve this.

**2.13.1 Deputy J.A. Martin:**

I am very disappointed in the Minister's very long explanation about income, income, income and why he thinks he cannot do it. He has also stated that the trust probably would not buy because they would only have a rental of £200,000 and not checked that one either. My question is, is the Minister for Housing here to house people because there are more people on the housing list waiting for 3-bedroom houses and they are waiting longer. Will the Minister not confirm that to buy a 3-bedroom house you have to just be an adult; you can be a single adult with one child under 21 living at home and if you can afford that house you can buy it. It is not on need, it is on greed.

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

I think the Deputy is muddling up the social housing part of my role to the open market part. Very clearly I know there are homeless people out there or people inadequately housed and that is the reason why I am bringing a whole raft of ideas forward as part of the Strategic Housing Unit, as I see it. We need not to have knee-jerk reactions to minor things that solve one problem and create 4 others. We need to have a proper strategic review of housing, which is what I am carrying out, and my Strategic Housing Unit, if I can convince the House to support it, will see that we have that across all tenures, not just one area.

**2.13.2 Deputy T.M. Pitman:**

Could I just give the Minister the chance to reiterate that when he came into the job he was committed to increasing social housing? With the potential for negative equity numbers going to go up and up and up, demand is going to go up and up. Will he just reaffirm that commitment to increasing social housing as soon as he possibly can?

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

Yes, I do confirm that commitment and I would just like to say of the deferred payment sales we have made in housing and the realignment in one or 2 areas, that money has generated £34 million and has so far, in my period of office, resulted in 131 new homes.

**2.13.3 Deputy G.P. Southern:**

Is the Minister not once more admitting that his policy options are restricted by the need for his department to produce an income stream for the Treasury and that that will still remain the case following his proposed changes?

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

My department has to meet its obligations with regard to the rent component. We used to pay that ourselves before by just reducing the rent and not getting the income from tenants. That is now more organised and done in a more structured way and we are trying even further to target it to where it is needed. Therefore I have to make a return via the Minister for Treasury to Social Security for the housing commitment.

**2.13.4 Deputy G.P. Southern:**

Is it not the case that in proposing to put up rents he is merely increasing the income support bill and causing others to become increasingly dependent on welfare?

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

Yes, the Deputy is right about the first part. It will unfortunately increase the income support bill but it will ensure that people are not receiving a hidden subsidy. We have some families that could afford to pay the full economic rent and they should be doing so.

**2.13.5 Deputy J.A. Martin:**

It is just that the Minister did not answer the question. To reiterate, can the Minister clearly state, is it the criteria to purchase a 3-bedroom house to just have at least one adult working with one child under 21?

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

I am not quite sure where the Deputy is coming from there. We would not sell a house on that basis but of course people on the open market can buy whatever they can afford to buy.

**2.13.6 Deputy J.A. Martin:**

I am sure the Minister for Housing does not mean to mislead the House; is he saying that they have not sold the houses because I can find him many of the last houses that have been sold which stood empty for about 7 to 8 months were sold to typical families like this, not in need?

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

That is news to me and if the Deputy has information perhaps she would share it with me.

**2.14 The Deputy of St. Ouen of the Minister for Economic Development regarding comments made by the Assistant Chief Minister with responsibility for External Affairs to the Guardian newspaper in relation to the issue of independence for Jersey:**

Was the Minister involved in any discussions with the Assistant Chief Minister with responsibility for External Affairs and/or the Chief Minister prior to the comments made by the Assistant Chief Minister to the *Guardian* regarding the issue of Jersey's "independence"?

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

A straightforward answer to the Deputy's question is no.

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

Could I ask the Minister whether anyone in the industry has raised concerns regarding the matters reported by the world media and what is being done to address this issue?

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

Yes, there have been one or 2 concerns raised to me from senior members in the financial services industry. Members will not be surprised that when such matters appear in the national newspapers it does raise concerns. In particular it raises and creates uncertainty, which is something we can ill afford in this current economic climate. This does appear to be an unfortunate case where, as we have already heard today, the Assistant Minister made comments to the *Guardian* newspaper, which were taken out of context. It perhaps demonstrates to all of us the dangers of talking to certain publications.

**2.14.2 Senator S.C. Ferguson:**

Does the Minister agree that during this time of economic uncertainty any statements which could potentially cast any doubt upon our political stability and/or our reputation should only be made by the Chief Minister directly?

**The Deputy Bailiff:**

That is not a matter, is it, that falls within this Minister's responsibility?

**Senator S.C. Ferguson:**

He is affected by it because I think he has just said that the finance industry has not welcomed the comments that have been made, therefore, does he not agree that such statements which will affect his industry should only be made by the Chief Minister?

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

I did not say the industry did not welcome it. I simply said that they raised concerns wanting clarification as to whether it was true or not. I think the Chief Minister has made it clear today, on several occasions, that the matter of independence is not on the agenda. It is not under consideration by the Council of Ministers and that is the fact of the matter. As far as who should or should not make statements, clearly Ministers speak to the media on a number of different subjects and a range of different questions can be asked, quite often unexpectedly, and in that respect one has to answer and it is a very difficult situation. I can understand the difficulties the Assistant Minister faced when he was talking to the *Guardian*. As far as the Chief Minister and whether he should answer questions solely, I do not think that is necessarily practical but it is a matter for the Chief Minister and the Council of Ministers to consider.

**2.14.3 Deputy R.G. Le Hérisier:**

The Minister said that feedback from the industry was such that they did not necessarily not welcome it. Would he say whether they did welcome statements of the Assistant Chief Minister?

[11:30]

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

I think there is a little bit of twisting of words going on here. **[Laughter]** So goodness knows how that might well be reported in due course as we twist one way and then the other. To make it hopefully absolutely crystal clear, one or 2 senior members of the finance industry did raise the issue with me to see if there was any truth in the matter that this was being considered by the Council of Ministers. I confirmed that it was not on the agenda of the Council of Ministers and they were relieved to hear that.

**2.14.4 Deputy T.M. Pitman:**

Does the Minister agree that from his perspective at Economic Development, as the Assistant Chief Minister has spent half an hour on this already and we have got 6 questions left to answer, there is nothing more to be said really?

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

I would hope so.

**2.14.5 Deputy M. Tadier:**

Could the Minister explain... because he has just told us that he gave a reassurance to senior finance industry individuals that there was no truth that this was on the agenda of the Council of Ministers, yet the Assistant Minister told us that the reason he told the *Guardian* about the preparations for independence was because it was Council of Ministers' policy both now and in the past. So can the Minister for Economic Affairs give some clarification as to which one is correct?

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

I think the Deputy is misquoting what the Assistant Chief Minister said earlier on.

**Deputy M. Tadier:**

That is not an answer. I can reiterate that and I am not misquoting and if I am would he say in which way I am misquoting so he can correct me?

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

I am happy to clarify yet again, following the Chief Minister and the Assistant Chief Minister, that the matter of independence is not on the agenda of the Council of Ministers.

**Deputy M. Tadier:**

It is not on the agenda but it is okay for the fellow Minister, if you like, to say that we are preparing for independence to a U.K. newspaper and of course with the consequence that a headline is produced saying "Jersey seeks independence", but it is not on the Minister's agenda. Is that what the Minister for Economic Affairs is telling us?

**The Deputy Bailiff:**

Deputy, that really is not a matter for the Minister for Economic Development, it is a matter you can put to the Chief Minister in Questions without notice in a moment.

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

Is the Minister confident that initial concerns raised over this issue by industry have been fully addressed?

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

I think that this matter has had such an airing today and I certainly hope if it is reported accurately then I am sure that the industry will feel very relieved and satisfied that the matter has been put to bed, and that is that independence is not on the agenda of the Council of Ministers.

**2.15 Deputy G.P. Southern of the Minister for Education, Sport and Culture regarding reforms to the tertiary sector and the reduction of grants to the fee-paying provided sector:**

Does the Minister's announcement of reforms to the tertiary sector mean that plans to reduce grants to the fee-paying provided sector, proposed by his predecessor, have now been abandoned?

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

The department has not announced reforms of the tertiary sector. What is taking place is a 2-year review of Highlands and Hautlieu with the aim of achieving closer collaboration for the benefit of students. No outcomes have yet been identified. A statement was issued last week regarding a revised set of C.S.R. savings for E.S.C. (Education, Sport and Culture) for the period to 2016. The Deputy will have noted that the reduction in States grants to fee-paying schools is no longer included. Besides that the 2 issues are not connected.

**2.15.1 Deputy G.P. Southern:**

In response to written question 8 earlier, the Minister says that this review of Highlands and Hautlieu is to take advantage of any opportunities to give students a wider choice and better educational outcomes. If he accepts that for Hautlieu and Highlands, does he not equally accept that for the fee-paying sector, and that to make real savings and give a wider choice and better outcomes he would be better off looking at the possibility of provision of a single post-16 centre on this Island?

**The Deputy of St. John:**

I think that was about 3 questions there. Could we take them one at a time? I think the first part was whether the fee-paying sector needs reform, correct? I will address that. The recent consultation exercise that was carried out did not give any clear or definite wish from the public that there would be major changes to our education system in general. The question of grant cuts to fee-paying schools, as the Deputy knows, would have to be brought back to the States Assembly under P.72 in any case. So the question of potential changes to grant cuts is not on the agenda, as far as I am concerned, until 2016. Nevertheless there is no reason why a future Minister or a proposition from a Back-Bench Member of the Assembly could not bring something to the States as a proposal for debate but I am not proposing to do that, certainly at this stage. I think there was a second part to the Deputy's question?

**Deputy G.P. Southern:**

Does the Minister not consider that the provision of a single post-16 centre would be (a) financially efficient, and (b) provide a better outcome for our students, a single centre, post-16?

**The Deputy of St. John:**

No I do not necessarily think that it will and that is not on the agenda at the moment.

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

Would the Minister confirm that if grants to fee-paying schools were reduced by more than a small margin the effect would be that parents of children from the schools would, in fact, be subsidising the non-fee-paying schools?

**The Deputy of St. John:**

I think any grant cuts are synonymous. I have said this in the public domain and I will say it again, in my mind grant cuts are synonymous with fee increases in the fee-paying schools and in my opinion that would hit a sector of the community particularly that has already suffered in terms of personal tax increases through 20 means 20 and other taxation measures.

**2.15.3 Deputy T.M. Pitman:**

I hope I am not stretching this too far but if we are avoiding those reductions in grants to the fee-paying schools, does the Minister recall, as I am sure he does, that thanks to former Deputy De Sousa we also agreed there would be no cuts to States schools and is he still committed to that even-handedness, basically can he give me those assurances?

**The Deputy of St. John:**

Yes, I can.

**2.15.4 Deputy G.P. Southern:**

Can the Minister confirm that he has abandoned his initial targets and fallen short from his comprehensive spending review targets by something like £3.5 million? Where is that £3.5 million saving coming from?

**The Deputy of St. John:**

It is not coming from anywhere, and, yes, I have abandoned that £3.5 million.

**2.15.5 Deputy G.P. Southern:**

Does he mean to say that we have fallen short of our £65 million target for savings?

**The Deputy of St. John:**

That is a question that needs to be answered by the Minister for Treasury.

**2.16 Deputy M.R. Higgins of the Minister for Home Affairs regarding the alleged loss of evidence relating to child abuse in Jersey:**

Can the Minister advise whether evidence relating to child abuse in Jersey has gone missing and thereby prevented the prosecution of alleged offenders and, if so, what investigations have taken place to find those responsible for the loss of this evidence?

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

Neither the States of Jersey Police nor I are aware of any cases relating to child abuse in Jersey where evidence has gone missing which affected the prosecution of alleged offences as Deputy Higgins implies. If Deputy Higgins has knowledge of any such incident I urge him to report the matter immediately to the States of Jersey Police so that the matter can be looked into.

**2.16.1 Deputy M.R. Higgins:**

I do have evidence. I have been approached by a victim of child abuse. I have read his statement to the police which was absolutely horrendous and which basically related to someone who is a friend of people in high places. He has told me quite categorically the police have not gone ahead with the prosecution because they say they have lost some of the evidence that was given many, many years ago to the police, not in the current inquiry but many years ago, and they could not find the evidence for it. I will speak to that person and I will come to the Minister with it.

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

I am not sure there was a question there.

**Deputy M.R. Higgins:**

I am just saying that I will take him up on his offer and send police the statement.

**2.16.2 Deputy T.M. Pitman**

Being familiar with the same victim of child abuse, I would just like to point out to the Minister for Home Affairs that the gentleman has already gone to the police and it has not done him a lot of good so perhaps the Minister can suggest a better way forward?

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

If people feel they are not making necessary progress with the police it is always open to approach me. I will then contact the police and urge them to ensure that a proper process is followed in relation to the investigation.

**2.16.3 Deputy R.G. Le Hérisssier:**

I understand in one instance a person was told that the pursuance of their complaint after having gone through all the various stages was not in the public interest. Does the Minister accept that this is not a terribly clear explanation to give to victims?

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

I am not clear as to who said it was not in the public interest. The public interest test is normally applied by prosecutors in my experience although it is sometimes applied by police officers.

**Deputy R.G. Le Hérisssier:**

Apparently it was stated by the police, presumingly on prosecutorial advice.

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

There are 2 tests normally applied by prosecutors, one is whether a matter is in the public interest and the second one is whether there is sufficient evidence to warrant a prosecution. That is normal practice.

**2.16.4 Deputy M.R. Higgins:**

Can the Minister give us an update on the situation with child abuse? Am I right in saying that all the investigations have now ceased or are the police still carrying on with investigations into this?

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

I have in front of me the press release which was released at the end of Operation Rectangle, which made it clear that all the historical abuse matters had ceased but did not close the door if there was new evidence or additional evidence upon matters being reopened. Obviously, in addition to the historical abuse matters, there are always ongoing allegations and new matters which are arising.

**2.17 Deputy T.M. Pitman of the Chief Minister regarding the terms of reference drawn up by Verita for the proposed Historic Abuse Committee of Inquiry:**

Will the Minister advise why, if there was considered to be a problem with the terms of reference drawn up by Verita for the proposed historic abuse inquiry, this was not resolved with Verita and outline why Mr. Andrew Williamson was engaged?

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

As I explained in an answer to a similar question asked on 12th June, the Verita terms of reference were open-ended as drafted. Mr. Williamson, an experienced social services director from the U.K. who has experience of working in Jersey, was engaged to provide a review of the Verita terms of reference to see whether they could be set in such a way as to ensure that any unanswered questions were investigated and answers provided without the requirement to reopen individual cases.

**2.17.1 Deputy T.M. Pitman:**

Given that feedback from the care leavers suggest that all Mr. Williamson has stressed to them he is interested in is going forward and not looking back as we need to do. Does the Chief Minister think of that as a helpful way forward?

**Senator I.J. Gorst:**



Normally I am in favour of looking forward but of course in this instance one needs to look back so that one hopes that questions can be answered and, as I have said in the past, some closure can be given to some of the victims.

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

Is the Minister able to inform Members, given the press release that went out not so long ago advising third parties if they wanted to contribute to Mr. Williamson's review, is the Chief Minister able to give an indication of how many people have come forward in order to contribute to that process?

**Senator I.J. Gorst:**

I do not believe that there are very many. I do not have a number because obviously Mr. Williamson has already met with a number of parties, however, he is in the Island today and tomorrow conducting further interviews as a result of that media engagement.

**The Deputy Bailiff:**

Can I just announce to Members that I am adding 5 minutes to this part of question time to deal with the Deputy Tadier proposition to go *in camera* and also the Solicitor General has been answering some questions.

**2.17.3 Deputy M.R. Higgins:**

Can the Chief Minister tell us when we are finally going to see the terms of reference for this Committee of Inquiry because it seems to be there is an awful lot of stalling going on? Many of us do question why Williamson was brought in in the first place, following the Verita terms of reference. I am very suspicious about when are we going to get the details so that we can move on with this?

[11:45]

**Senator I.J. Gorst:**

I, like the Deputy, do want to be able to lodge the terms of reference for this Assembly to agree them so that we can then in a way stop our involvement and allow independent appointment of people to sit on the Committee of Inquiry and take it forward without the need for any political involvement at all. As I said, Mr. Williamson is in the Island today and tomorrow and I hope that shortly thereafter I will be in a position to receive his report and therefore lodge terms of reference.

**2.17.4 Deputy M.R. Higgins:**

Can I just follow up on that? It is just a question of we have one more session before the summer break; I take it from what he is saying that it is going to be late autumn before we get this far. Can he be more specific about when he expects to be bringing the papers to the States?

**Senator I.J. Gorst:**

I cannot be more specific than I was but if I am in a position, and I look to the Deputy Greffier to advise me here, to lodge the terms of reference by the end of this month, I am not sure if that means we can then have a debate in September. Yes, so it would not be late autumn, it would be earlier than that by the time we are able to debate.

**2.17.5 Deputy M. Tadier:**

It has been suggested in some quarters that Mr. Williamson is too close to this to be able to deal with the Committee of Inquiry terms of reference, given his previous engagement with the Health and Social Services Department. So will the Minister comment on this suggestion, because it is not

coming from myself or any other politicians but from the care leavers and abuse survivors themselves.

**Senator I.J. Gorst:**

I do not believe that that is the case. As I said in my opening answer, Mr. Williamson is an experienced social services director, well-respected in the United Kingdom, and therefore I do not believe that that is the case.

**2.17.6 Deputy J.M. Maçon:**

Will the Chief Minister give an undertaking that when the proposition is finally lodged within the accompanying report, there will be the Verita terms of reference, the highlighted changes to those terms of reference and a rationale for the change as well?

**Senator I.J. Gorst:**

Yes, I can give that undertaking. I hope also to be able to detail, although it probably will not be published with the terms of reference, all the other reports, which are in the public domain which might interact with those terms of reference.

**Deputy T.M. Pitman:**

No, I think Deputy Maçon asked something which I was going to go along those lines so I will move on.

**The Deputy Bailiff:**

Very well, that brings the questions with notice to an end.

**Deputy G.P. Southern:**

At which point may I just ask the Chief Minister to confirm that he will circulate the answers he prepared for questions 19 and 20 to Members.

**The Deputy Bailiff:**

That is a matter for the Chief Minister.

**Senator I.J. Gorst:**

I was imagining that Members might wish to ask them to me in Questions without notice.

**The Deputy Bailiff:**

I have received notice from the Minister for Treasury and Resources that he wishes to make a statement. I wonder whether it would be convenient to Members if that statement were to be made at this stage before we come on to Questions without notice.

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

I think that Members who are particularly interested in this issue are busy working out what questions they want to ask of me, because I do not see them in the Assembly. I am happy to be given the opportunity at any point to answer questions on it so that this issue can be dealt with but if somebody objects, I do not mind. I would not answer Questions without notice perhaps on this issue because we will have the opportunity of answering the statement.

**Deputy M. Tadier:**

Can I just seek clarification of whether it is a personal statement or whether it is a statement which relates to his office?

**The Deputy Bailiff:**

It is relating to his office so there would be questions for 10 minutes following it, yes.

**Deputy M. Tadier:**

In that case it is probably not as pertinent or as urgent that we have it before. Maybe that is the Minister for Treasury and Resources call.

**Senator L.J. Farnham:**

I would like to propose that we take the statement now, if that is in order.

**Senator A. Breckon:**

May I ask a question of the Chair procedurally? The statement which I have looked through refers to a proposition. At paragraph 17 it refers to part (a), at paragraph 22 it refers to paragraph (b), and at paragraph 31 it refers to paragraph (c). We do not have a proposition so procedurally what is the authority, if you like, where a statement can be made about a proposition that has been withdrawn?

**The Deputy Bailiff:**

The Minister for Treasury and Resources can make a statement about a proposition that was brought and has been withdrawn. I see nothing out of order in that respect.

**Senator A. Breckon:**

Now it has been withdrawn so there is no point of reference. If somebody wants to look at what it says there is no point of reference.

**The Deputy Bailiff:**

I daresay Members will remember what was in the proposition.

**Deputy J.A. Martin:**

Can I just follow on that for a point of clarification because I am very confused. I thought the vote of censure was ... no, not my age, it is probably game plan, I do not know what is going on. I am told that the Chairman of the P.A.C. (Public Accounts Committee) and the Chief Minister will investigate the allegations and that we are asked to leave them to do this in peace and to get on with it. Then we have this statement and I am really confused. So are we going to have an investigation or is this statement the end of it?

**The Deputy Bailiff:**

There was a proposition that we take the statement of the Minister first and is that seconded? **[Seconded]** Do Members agree to take the statement first? All those in favour kindly show? The appel is called for. The vote is on whether to take the statement of the Minister for Treasury and Resources.

**Deputy J.A. Martin:**

I am sorry, I cannot vote for this because I need to know - I suppose he is going to say it but I need to know - if there is going to be another investigation. Can the Chief Minister not clarify that?

**The Deputy Bailiff:**

The Chief Minister was asked questions on that point earlier and he was not clear at that point what investigation was being talked about and this, frankly, Deputy, is a distraction in relation to this question which is now before Members. The question is whether or not the statement is to be taken.

**Deputy M. Tadier:**

Can I just make a material consideration? It seems to me that it would be unfair ... there may be Members here who have come prepared with questions for the Minister for Treasury and Resources which do not at all relate to this statement which we were only given today and that is fair enough. But it would seem that if the statement is given before Questions without notice I can envisage that the whole 25 minutes will be taken up with questions relating to the statement. So I think for fairness, seeing as there is a 10-minute allocation for questions purely relating to the statement it would make sense to have the statement after. That is the only consideration.

**The Deputy Bailiff:**

That is a perfectly legitimate, fair comment to make and those Members who agree with you will vote against the proposition procedurally to take it at this stage. The vote has been called for as to whether or not to take the statement of the Minister for Treasury.

**Senator L.J. Farnham:**

If it helps I will withdraw my proposition.

**The Deputy Bailiff:**

The proposition is made. Do the Members agree it should be withdrawn? Very well, then we come to the first question period, Questions to Ministers without notice. The first is for the Minister for Treasury and Resources.

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

**Deputy G.P. Southern:**

Is the Minister aware of the latest Jersey Business Tendency Survey, which is negative in almost all parts from the headline "23 points down" to the finance sector on almost all factors? Does he consider that this is a vote of no confidence in his mechanisms for stimulating the economy and producing economic growth and will he finally admit that we are in a recession?

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

A point of order here.

**The Deputy Bailiff:**

There is a lot of talking going on.

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

I understand this document to be embargoed until tomorrow.

**The Deputy Bailiff:**

Is that so, Deputy?

**Deputy G.P. Southern:**

I do apologise. It is, yes. I just noticed the embargo.

**The Deputy Bailiff:**

Very well. We will start again. **[Laughter]**

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

Will the Minister for Treasury inform the House whether he has been notified that there is going to be a further investigation into the Lime Grove saga by the Chairman of P.A.C. and the Chief Minister? Has he been informed there is going to be an investigation?

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

No, and I would express the hope that there is not in order that we may be able to draw a line under this issue and concentrate on the important issues that are facing our Island. **[Approbation]**

**3.2 Deputy T.M. Pitman:**

Does the Minister for Treasury now empathise with the former police chief, Graham Power, who had the prosecution case against him published by the current Minister for Home Affairs and has been judged solely on that case against him without any right of reply?

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

It would be inappropriate for me to comment on that.

**3.3 Deputy J.A. Hilton:**

Can the Minister say whether any discussions have taken place with the Parish of St. Helier with regard to the pre-1987 pension debt, because as he will be aware the Parish does employ quite a large number of public employees and it would be helpful if they were kept in the loop?

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

Indeed, all permitted bodies will need to be consulted and I believe that it is prudent - in order to repay the pre-1987 debt - that that would not be made to disadvantage any of the admitted bodies. But all of those admitted bodies that are a valuable part of the scheme need to be consulted on those issues and it will be dependent on whether funding is allowed in the Medium Term Financial Plan for the States to do so.

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

Whatever else may be said about the purchase or not of Lime Grove House, would the Minister agree with me that at least the sale of the property to the private sector means that the Parish of St. Helier will continue to receive rates on the property **[Laughter]** and would the Minister further agree with me that negotiations have now begun between him, his Assistant Minister and myself about the possibility of introducing the States paying rates on their properties?

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

Yes, there is always a silver cloud, I suppose, or a silver lining in a cloud. I hope the clouds are lifted. The issue of the States paying rates has been ... I would not say that they are in negotiations, if I may say, but there have certainly been some productive discussions by him and my Assistant Minister. Also the Connétable is well aware that if he wishes to bring a proposition to include the States paying rates then he may do so by amending the Medium Term Financial Plan, which will be debated by this Assembly in November.

**3.4.1 The Connétable of St. Helier:**

Would he agree with me that at least his Assistant Minister fully endorses the concept of the States paying rates? **[Laughter]**

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

My Assistant Minister, of which I am entirely united with, agrees that the proper occupation costs of property should be reflected. We have also expressed jointly our view that any responsibility for the States paying rates needs to be considered on potentially a cost-mutual basis, and other rates such as commercial rates do perhaps need to be looked at. That will be continuing to be consulted by myself and the Assistant Minister and the Connétable and I look forward to those constructive debates and resolving this long-standing issue.

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

Going back to the economy; we have heard this morning from the Minister for Education that the savings that were put to the Education Department are not going to be achieved by about £3.5 million. We know there has been no progress in any negotiations with States workers on terms and conditions which is about £14 million, so I think that is about £17.5 million for the cuts that have not been achieved and there are probably others. Will the Minister for Treasury give us an update? Have we achieved the C.S.R. savings he is talking about or not?

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

I am pleased to report to the Assembly that good progress has been made on the £65 million progress. The Minister for Education referred earlier to the education cuts and indeed the original £11.1 million worth of savings for education has now been revised down by £3.6 million. But the Council of Ministers will be presenting the Medium Term Financial Plan with other savings proposals, some of which work is still ongoing, and we remain optimistic that the £65 million savings, perhaps a little later than envisaged, will be delivered. That was part of the contract with the public in relation to dealing with the £100 million deficit in part by tax rises and efficiencies within the public sector.

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

Over recent times we have had problems with the power cable from France to Jersey and we were told last week there would be an increase ... we would be notified of electrical hike in due course. Could the Minister tell us how much money has been put aside for replacing cables and why it has required a hike?

[12:00]

Has the money been used in the satellite companies of the J.E.C. (Jersey Electric Company) instead of investing in a new cable earlier?

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

I think that it is appropriate for me to answer questions of the 100 per cent-owned utilities in a more direct way than I can in a company that is effectively also quoted on the stock market. I am not privy to any information over and above other shareholder representatives. So I have discussed with the Chief Executive the matter of the undersea cable. Matters as I understand it for Normandy 3 are now well advanced but have been somewhat delayed, unfortunately, by planning matters which need to be concluded in France. I hope that the company is able to deal with all of those issues and that we are able to put in place Normandy 3 in order to safeguard cheaper energy for the Island which also, of course, has a benefit to Guernsey, too.

#### **The Connétable of St. John:**

A supplementary on that?

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

The answer is “no” to the other question. I am not aware of any cross-subsidy.

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

The Minister for Treasury and Resources has spoken much about being treated fairly about process and the right of reply in the past few weeks. Will he be urging the Chief Minister and his fellow Council of Ministers to lift the confidentiality clause on the former Director of Property Holdings to afford him a similar right of reply to the allegations that have been made and may be even made in the Minister’s statement?

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

I do not understand what allegations are being made and, indeed, if there is a suggestion of allegations being made, then that is wrong. I publicly say that is wrong and that was never the intention of any statement that has been made. Perhaps there has been a misinterpretation of issues. There were political issues - I underline the word "political" issues - that needed to be dealt with in the handling of Property Holdings. Those have been dealt with and there has been a new structure of Property Holdings, which is now performing well. There has been much good work in Property Holdings, and I thank the former Assistant Minister and the Director of Property Holdings for that good work. But there were political issues which needed to be dealt with. I do not believe that the Chief Minister needs to answer any issues about orders or arrangements with a former employee.

### **3.8 Deputy R.G. Le Hérisier:**

Would the Minister for Treasury and Resources say whether or not he welcomes the comments made by the Assistant Chief Minister on independence and is he totally in agreement with the manner in which they were phrased?

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

This question has been answered comprehensively by the Minister for Economic Development and the Chief Minister and the Assistant Chief Minister and I am completely aligned with all of the remarks that have been made.

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

I particularly need the Minister for Treasury and Resources' views because of his crucial role. Is he in agreement with the comments that were made?

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

I could not be clearer about the comments and my support about what has been made in the Assembly this morning. I am completely aligned.

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

The Minister for Treasury and Resources has been talking about the repayment of the pre-1987 debt on the P.E.C.R.S. (Public Employees Contributory Retirement Fund). I wonder if he would like to explain to the Assembly how he intends to fund this.

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

Those discussions are underway. I can say that this will feature in part in the Medium Term Financial Plan that will deal with some increase in the annual repayment. I do not think it appropriate for me to announce all the measures that are in the Medium Term Financial Plan because that will be made in 2 weeks' time and then there will be a further discussion. As the Deputy also alluded to, there were discussions with admitted bodies and others that could be taken and a number of options are being looked into. We are of the view that a 6 per cent interest payment on this debt which is rising is not in the interests of sustainable public finances and I think that we can come to a better agreement which is in the interests of all parties, including the employees.

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

It is my understanding there is an extensive briefing paper, background paper, to the Medium Term Financial Plan, which has been released to the Council of Ministers and to Scrutiny. Will the Minister for Treasury and Resources agree to release that to all Members of this House so that we can fully inform ourselves on the rationale behind the Medium Term Financial Plan.

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

The Chief Minister has ushered in a new period of transparency and sharing among Members. Indeed, I have invited all Members, including Deputy Southern, to briefings on the Treasury on the unfolding issues that we have been working in the Medium Term Financial Plan in order that Members may contribute to the plan before it is lodged. There will be a substantial period of time for Members to, in public, debate the issues in the Medium Term Financial Plan. Those are going to be made in public. Until then, it is a confidential document of work which is underway. If the Deputy would like to take up the offer, as I have made on a number of occasions to him to come to the Treasury for a briefing, I am more than happy to give him a confidential briefing on those issues that his concerns may be raised.

**3.11 Senator L.J. Farnham:**

At the next sitting the States are due to debate the economic growth strategy. Part of that strategy is for an economic diversity fund of £10 million. Can the Minister inform the Assembly, please, if the Treasury have identified the source of that £10 million funding?

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

Five million pounds has been identified and work is underway in order to identify the other £5 million and I agree with the proposal. I think that the growth plan, which we will be debating in a week's time, will bring a step change in terms of inward investment and diversification benefiting the Jersey economy and the people of Jersey.

**3.12 Deputy J.M. Maçon:**

Will the Minister for Treasury and Resources give an undertaking to bring a proposition in order for the States to ratify the proposed site for the new police H.Q. (headquarters), outlining in that report other potential sites that were identified and thus rejected?

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

I do not believe that is necessary. I believe that it is urgent that we get on and find a new home for the police on a single site as soon as possible. Issues such as planning are obviously going to be a matter for any Member to make representations on and I hope that we can proceed, and to ensure that the police get a new home but also that the £22 million worth of money, which has been sitting in a States bank account for many years, can get to work for the benefit of the economy as well.

**3.13 Deputy J.H. Young:**

Will the Minister advise the Assembly whether the site appraisals produced by Jersey Property Holdings for alternatives for relocation of the police, including the conversion and acquisition of Lime Grove House, confirm his belief that Green Street car park is the most cost effective option and, if so, will he release the feasibility reports on the site appraisals of all the sites before a decision is made on that?

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

I am happy to discuss with Members all of the costings. I believe that the single-site police station on Green Street will yield the production of a proper police station meeting all of the police requirements, which has been warmly welcomed by the new Chief of Police. It will also, of course, liberate substantial amounts of land available for housing which I know the Deputy also believes must happen.

**3.14 Deputy S.G. Luce of St. Martin:**

The proposed Medium Term Financial Plan includes many States' income streams, income tax, G.S.T. (Goods and Services Tax), impôt duty, *et cetera*. Does the Minister consider there would be any circumstances between now and the debate of the M.T.F.P. (Medium Term Financial Plan)



where he might want to come back to the House and downgrade those protections given the uncertain economic situation?

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

I agree with the Deputy that we are living in an incredibly uncertain world. The Deputy will be aware, because I think that he has attended at least one briefing at the Treasury on the M.T.F.P., the forward projections are conservative in their nature, as the Treasury projections always are, and nothing will change our forecast in relation to income. A lot of work has been done on that and notwithstanding the difficult economic situations, no doubt confirmed by other reports that will be out in a few days, nothing shakes us from the certainty that we have a reasonable set of assumptions on which to base our spending plans.

**3.15 Deputy J.A.N. Le Fondré:**

The comments have been made by the Minister that he has made no allegations or comments on the performance of the former Director of Property Holdings. On BBC Radio Jersey, I think it was on 22nd May, he made reference to firstly my removal but he also said that changes had to be made at the top of Property Holdings. That is why it has become an issue, because that basically damages the integrity of the former Director of Property Holdings. It cast doubts upon his ability. Would the Minister clarify his statements as to no inference or no damage to repute has been made as opposed to intended to be made?

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

I am grateful for the former Assistant Minister for raising this question because we can deal with it straight away and properly. No imputation of misconduct or bad behaviour has been made against the former director. I have not made it. I made it very clear that changes needed to be made in the structure of Property Holdings. That is an entirely different matter. Property Holdings has been reorganised, has been re-structured. Managements have been reorganised. Associated with that, S.o.J.D.C. (States of Jersey Development Corporation) has also been reorganised to focus on property development. Those are the issues that need to be changed. Those are the reasons why management changes would be made and nothing else should be drawn from them.

**4. Questions to Ministers without notice - The Chief Minister**

**The Deputy Bailiff:**

That brings questions to the Minister for Treasury and Resources to an end. We now come to the second question period, which is of the Chief Minister.

**4.1 The Connétable of St. John:**

Firstly, I must say I am surprised there has been no statement about the fire last week at the gas works but can I ask the question of the Chief Minister of the following? Given the fire at the gas company last week and the 2 previous big falls for the J.E.C. (Jersey Electric Company) power cable, which have both caused problems within the Island in recent weeks, will thought now be given to a combined cable/pipeline with both gas, electricity and oil being brought into the Island from undersea? Therefore, our storage facilities would be kept off Island and brought in via a pipeline? Will thought be given by the Council of Ministers to that, please?

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

Yes, there is a statement that I would hope the Member would already have on his desk. He might just have not seen it. I am not sure that the solution put forward by the Connétable is the answer because it seems to be premised, perhaps, on storage elsewhere rather than us having the ability to

have energy, either generation capacity or at least storage capacity, for things if emergencies were to happen elsewhere, to be in control of our own destiny. I do not think that that, necessarily, is a suitable solution. As the Minister for Treasury and Resources said, plans for the pipeline or the cable from Jersey Electric, as far as I understand it, are reasonably well advanced. There are planning issues to be resolved on the French side. But, of course, I am always prepared for emergency planning, *et cetera*, and the Environment Department, to consider any proposals that might come forward from Members. Of course, the Environment Department is, in due course, going to be launching, I think, or at least producing, its energy policy.

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

Would the Chief Minister like to comment on a perception that is going around this House and also outside in the Island that we have a 2-tier Council of Ministers. There seems to be an inner circle and the rest, and also that he appears to have lost control of his Council of Ministers?

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

Sad pup. I can put his mind at rest. I am not sure I ever had control of the Council of Ministers. [Laughter] We sometimes look to other jurisdictions with an envious eye to believe if only we had the party discipline without the parties then our Government would be far better. I am proud that I have been called by this Assembly to lead a coalition government. Does it make it more difficult? Of course it does. Is it the right thing? It absolutely is the right thing because we are all independents, we all stand on our own manifesto and we come together and we agree ways forward and we agree solutions to problems that our community faces in the best interest of, I hope, all members of our community. But it is not easy. Sometimes messages can be translated in a way that they were never intended and the picture is given of a Council of Ministers which is not unified. That is not the case. We are agreed on the issues which have received publicity recently but, of course, again some of them are quite delicate. With regard to the 2-tier Council of Ministers, I believe that perhaps this has arisen from a conversation that I had with my colleagues in the media when I was asked about who made decisions with regard to international affairs and I was quite clear that that is my responsibility, as the Deputy of St. Ouen has reminded the Assembly this morning.

[12:15]

But, of course, I take appropriate advice from senior Ministers, as Members would expect, because we are a coalition and it would not be right for me to be solely making those decisions on my own. That is something that is called the External Relations Group and, as I said, other Ministers can be co-opted on to that as issues arise like with the L.V.C.R. (low-value consignment relief) issue when the Minister for Social Security was involved in that decision making as well.

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

In the light of that then, following the publication of the Lime Grove report, did the Chief Minister at any point, informally or formally, ask the Minister for Treasury and Resources to resign?

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

No, I did not. I have confidence in the Minister for Treasury and Resources. The Minister for Treasury and Resources has performed I believe strongly over the last 8 months and I do not need to rehearse what were sometimes difficult challenges of getting Ministers into position last November and since then, I believe, the Council of Ministers has worked well and the Minister for Treasury and Resources has been a strong member of that team.

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

A supplementary, if I may?

**The Deputy Bailiff:**

I am sorry, Deputy. It is Questions without notice. I am going to give all Members a chance to ask a question.

**4.4 Deputy J.A.N. Le Fondré:**

Given that there has been a lot of allegations made around the Lime Grove and the C.A.G. (Comptroller and Auditor General) report, would the Chief Minister undertake to meet with the former C.A.G. in order to have a proper understanding of what has happened and also in order to hear both sides of the argument rather than just possibly one side?

**Senator I.J. Gorst:**

I sometimes find myself in uncomfortable positions. I think it is very important that politicians and certainly senior Members of the Government are not seen to be politically involved with what are independent officers, and one of my guiding principles has been to try to ensure that the independence of the office of the Comptroller and Auditor General is preserved. As Members might be aware, the Chairman of the Public Accounts Committee and myself have responsibility now of finding a new person for that office. We are also in the process of writing to the former Comptroller and Auditor General and to the former Interim Treasurer for further clarification of issues.

**4.5 Deputy T.M. Pitman:**

Has the Chief Minister noticed and is he concerned about what appears to be a trend under ministerial government, and I use example of the former Treasurer, the former Chief of Police and now the Comptroller and Auditor General, where if there is something uncomfortable we do not want to look at them, we rubbish them and force them from office?

**Senator I.J. Gorst:**

Absolutely not. The Comptroller and Auditor General wrote a very short letter to me saying that he had resigned. He resigned, in his words, in the best interests, he felt, of the office and if that was his opinion then that was the right thing to do. There is no doubt that sometimes in a small community like Jersey, we think that we need to import. In this instance, of course, because it is an independent office we absolutely have to, but we need to import people from outside because they can do the job better than somebody in Jersey. I hope that perhaps we are starting to learn the lesson and the challenge is for us to grow our own for us to be able to have suitable succession planning to move forward, so that the people in our community have the best possible opportunity for taking up the posts if they are available within the public sector and that is what I am committed to delivering.

**Deputy T.M. Pitman:**

A supplementary, Sir?

**The Deputy Bailiff:**

No, I will add you to the list at the end.

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

I think this question follows on nicely. Be they home grown or imported, what problems, if any, does the Chief Minister anticipate in recruiting a new Comptroller and Auditor General?

**Senator I.J. Gorst:**

As I have also said publicly, these type of independent offices are, in any circumstances, quite difficult to recruit to. However, I do believe we will be able to find a new Comptroller and

Auditor-General. Again, the Chairman of P.A.C. and myself have that responsibility and, as an initial course of action, we are making contact with the National Audit Office in the United Kingdom to see if there cannot be an interim or temporary position until we are able to recruit to the substantive position.

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

Is the Chief Minister content that announcements were made to the Chamber of Commerce on the future of pensions in the Island which was, I believe, singularly unhelpful in this sensitive area and will the Chief Minister enforce his promise of some weeks ago to ensure that wherever possible, statements of policy or opinion are brought to this House rather than read in the press?

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

I am not sure there was anything new that the Minister for Treasury and Resources said in his speech to the Chamber of Commerce. Unfortunately, I was not able to enjoy his speech that day; I had another engagement. But I know certainly that I, during the election period, said that we must ensure that the Public Employees Contributory Retirement Scheme is affordable, is sustainable and is fair and I do not believe that the Minister for Treasury and Resources said anything other than that. He perhaps said a little more about how we might deliver those 3 tenets that are required in a public sector pension scheme.

#### **4.8 The Connétable of Grouville:**

Could the Chief Minister confirm whether he has received a communication from the former Director of Property Holdings in relation to his compromise agreement and, in particular, did he ask to be released from the gagging clause?

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

I have received private correspondence from the former director. I am not sure that I read it quite in the terms that the Connétable is suggesting. However, it was private correspondence so I am not sure I can say much more at this point.

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

I am pleased to hear the Chief Minister has written to the Interim Treasurer and the now ex-Comptroller and Auditor General to, I think he said, find out some facts. Does this mean the Chief Minister is going to hold a full investigation again into the terms and conditions, really, of the vote of censure? Is the Chief Minister not concerned that the independent Auditor General for Jersey had resigned under a cloud that his report - which I think it said that it had taken hundreds of hours to investigate - was basically rubbished by the Council of Ministers, and his integrity has completely been undermined?

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

There were quite a number of questions there. I do not believe for one moment that the integrity of the former Comptroller and Auditor General has been rubbished at all by the Council of Ministers or any Minister. There can be no doubt that we must ensure that offices like the Comptroller and Auditor General remain independent and free from political interference. That does not mean, however, that any office should be above question and I cannot sanction that should be any other way. With regard to the investigation, as I have said, the Chairman of P.S.A. (Public Service Association) and myself are in the process of writing. However, I do not feel that there should be another investigation. This matter has been investigated twice previously because we have to be mindful of the independence and the non-political interference with the office. But should the next incumbent of the office wish to review the file and to review these cases, then that is right that that office would do such a review.

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

Does the Chief Minister share my disappointment, the disappointment of the Hospitality Association and the tourist industry, and the disappointment of tourists themselves that the Condor fast ferry has been withdrawn at this crucial time of the tourist season?

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

I am very aware that I do not know everything; far from it, in fact. I am not sure whether to admit to that or to phone my wife and double check whether my summer holiday is still taking place. I understand from the Minister for Economic Development that it is only one ferry which has been withdrawn. I cannot confirm that it is temporary but I do not know what that time period is. I shall ascertain to find out and revert to the Member accordingly.

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

Thank you, Chief Minister. That brings Questions without notice to an end. There is nothing under J. We now come on to Statements on Matters of Official Responsibility. I am going to take first the statement to be made by the Minister for Treasury and Resources.

### **STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

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

Can I make a proposition or suggest a further proposition to the one I made earlier? The Minister for Treasury and Resources is going to make his statement on the very important issue of a vote of censure and in an effort to be fair to the Minister, and to Members, it may be worth taking this as a first item after lunch. I would also propose or ask if you would...

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

Senator, the reason that I thought it ought to be taken first is that this matter is a stressful matter for the Minister for Treasury and Resources and I do not think it is right to keep him waiting, hanging around over lunchtime while he has to worry about it. That is the reason.

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

Absolutely, but I was going to ask if you would allow a suspension of Standing Order 68 to allow more than 10 minutes for questions. I believe it is fair to the Minister for Treasury and Resources and to Members that this is given a proper airing and Members can ask all their questions and I do not believe 10 minutes will be enough time to achieve that.

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

The reason I am hesitating, Senator, is that it would require under previous decisions from the Chair, the suspension of the entirety of that Standing Order and I just wish to read it again to be sure that it would make sense to do so. The difficulty with suspending the entirety of the Standing Order is that under paragraph 4 of Standing Order 68: "The question period shall not be made a pretext for debate." It means that there would be the possibility of a debate on the matter and I do not think that is appropriate.

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

I was specific, to allow more time for Members to ask questions not for a debate but I think it is an important issue and it is only fair on Members and the Minister.

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

The established practice is that you cannot suspend only part of a Standing Order. You must suspend the entirety of it and the consequences of suspending the entirety of Standing Order 68 would be that there would be nothing inhibiting the question period becoming a debate.

**Deputy G.P. Southern:**

Notwithstanding your comment about stress, I believe this has just appeared on our desks behind 3 other statements. I believe we should properly do those 3 statements first and do this one after lunch.

**The Deputy Bailiff:**

I think that is a matter for the Chair, Deputy.

**Deputy M. Tadier:**

Can I just ask a question? I am mindful of the fact that procedure will be very difficult and it probably something that P.P.C. need to look at but I know other jurisdictions do suspend Standing Orders to try and achieve what their Assemblies wish to achieve. If we did suspend Standing Orders but then also have a subsequent proposition which would recognise the fact that a question period will take place for perhaps 20 minutes and that it would not be a debating period. If that were voted on, that would give us very clear parameters in which to be able to question the Minister for Treasury and Resources and perhaps also ask supplementary questions which, in a 10-minute period is, obviously, a very tricky thing to do if one wants to allow all Members to ask questions.

**The Deputy Bailiff:**

That will be a matter no doubt that the Privileges and Procedures Committee can consider in the future.

**5. Statement by the Minister for Treasury and Resources regarding the vote of censure**

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

A censure motion is one of the most serious sanctions that the Assembly has at its disposal. Allegations concerning conduct form part of a vote of censure, which has been withdrawn at short notice, and I am grateful that the allegations have been withdrawn and that was confirmed by you, Sir, and the Senator.

[12:30]

Notwithstanding this, there has been a great deal of media coverage on this issue and my reputation, effectively, maligned. The withdrawal of the proposition has, unfortunately, denied me the opportunity to answer those points in public. I am making this statement to give Members an opportunity to question and to do just that. It might be helpful if I briefly rehearse the background to this whole issue because it relates to actions taken in Property Holdings which started over 2 years ago. An offer of £8.75 million was made by Property Holdings to buy Lime Grove House. This was made without my knowledge or that of the Acting Chief Executive or, properly, the Deputy Chief Executive, in March 2010. This was likely to be the biggest single property purchase in the history of the States. I maintained that it was wrong and unwise that an offer should be made without the knowledge of the Minister responsible. A formal valuation of Lime Grove House was carried out by external valuers some 2 months after the offer had been made. This problem was compounded by the fact that the vendors accepted the sum of money in writing but on the basis that the States would be meeting the snagging and dilapidation costs. A letter from the vendor was not acknowledged by Property Holdings. This work would have cost £1.5 million or more. A valuation of these works was only ordered more than 2 months after the offer had been made.

There then followed a difference of understanding between the vendor and the States which was still not resolved a year later. The former Director of Property Holdings was not aware that a counteroffer proposal had been submitted by the vendor and expressed himself his displeasure in writing to his staff when he was made aware of this confusion. I believe that he was correct to do so. It is wrong to give the impression that there was a done deal on the table which was lost because I delayed the process. There was a price but not a deal and it was not made clear what works were being included in the price. What then happened is that the States were, effectively, gazumped by a tenant in exceptional circumstances. As frustrating as this may be, it happens in the world of property transactions. In any event, we would not, in my view, compete with a potential tenant on whom jobs and economic activity depend. Concerning part A of the proposition and the meeting held on 14th July 2010, this has been linked to other allegations in another report and the media has naturally made a link to this. As the Chief Minister has said, bullying is wrong and has no place in the States of Jersey workplace or elsewhere. Being clear and direct after a series of broken promises, having received a forward business case and asking questions about it after a series of other concerns, is not bullying. The Comptroller and Auditor General himself concluded that there is no object evidence that there could be adduced to settle the conflict between the recollections of the individuals present at that meeting. I questioned that I would be censured on the basis of inconclusive evidence. Part B of the proposition alleges that I requested the former Interim Treasurer to commission a review to malign the reputation of a senior civil servant with a predetermined outcome. This is untrue, unfair, unsubstantiated and inaccurate. Most importantly, I did not commission the review. The intention of the Deputy Chief Executive who commissioned it was that the review should advise him on the adequacy of the business case. The evidence to support this extremely serious allegation was set out in 4 points on page 148 of the report. The accuracy of these points has been directly challenged by the former Interim Treasurer on whose evidence they were based. The Interim Treasurer has also challenged the process used for this review. I did not ask the former Interim Treasurer to smear the reputation of a senior civil servant. The Interim Treasurer has written refuting this allegation. Part C is the part that suggested that I sought alternative views of value and, specifically, the notion that I did not subject those valuations to the same degree of analysis as produced by Property Holdings. It is important to emphasise that the informal values provided to me were informal. I have been open about the fact that a number of people were confirming my suspicions that the price that was offered for Lime Grove House was too high. The implication is that I gave more weight to these than those views of Property Holdings is overstated. I had other evidence to draw on. A property valuation is not a mathematical or accounting formula. A property valuation is based upon assumptions; yield, market rentals, quality of tenant, together with adjustments to get the property to a certain standard are all taken into account. A buyer then makes an assessment and offers a price he is prepared to pay. I could not understand why the valuations and offer were being based on the building being let. It was an empty building and had been so for 11 years. It had never been occupied and was only a shell and core. I stand by the judgment that it was a too high a price that was offered for this building. I have also established that the yield for unlet buildings is not the yield assumed by Property Holdings, which would have led to a higher value for Lime Grove. The last part of the proposition suggested that I did not pursue vigorously the ministerial decision. I did make my reservations on the price clear from the beginning. It is wrong to suggest that I should have been censured for trying to achieve best value when I had serious, legitimate concerns about the offer price given for this building. I am sure that many Members have questions and I am prepared to answer all of them to draw this matter to a conclusion once and for all. For nearly 11 months, I have been subjected to a number of allegations which has undermined my position and not enabled me to carry out the job which I have been elected to do. I believe this is unfair. A vote of censure is the most serious parliamentary sanction falling short of a vote of no confidence. It should be properly founded and there should be a fair process. There were many positive things carried out by

Property Holdings but there were issues with Lime Grove which I had to deal with. This should not be interpreted as maligning somebody. Similarly, Ministers should be held to account but no Member should be treated in the way that I have over the last 11 months. The Chief Minister has made it clear that he wanted a new type of politics in the Island. I agree. These issues have consumed me and others for nearly 11 months. Hundreds of hours have been spent investigating this issue. I express the hope that in giving this statement and in answering questions, as briefly as I can, I will draw a line under this issue and we can move on, work together constructively and positively to concentrate on the real issues facing this Island. [Approbation]

**The Deputy Bailiff:**

There are 10 minutes allowed for questions.

**5.1.1 Senator S.C. Ferguson:**

The Minister for Treasury and Resources has relied on the curiously opportune email from the Interim Treasurer and in this email, *inter alia*, the gentleman says that his report was not inflammatory. Now, if one reads from that report evidence on file of: “Unhelpfully close relationships between J.P.H. (Jersey Property Holdings) and the agents; inappropriate reference to the Minister for Planning and Environment; the relationship between J.P.H. and the valuer appears questionable.” Can the Minister for Treasury and Resources rely on that report and say it was not inflammatory?

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

I have not said whether or not it is inflammatory or not. I am concentrating on the issues. The Senator has been leading the charge to investigate this matter for 11 months. The issues of my mis-performance or otherwise or bad behaviour are not related to the issues that she questions me on and I do not think they are relevant. We need to move on. Whether or not that report was right or not, the Interim Treasurer has made his position clear on the serious allegation that I asked him to malign a senior civil servant. That is the issue that matters, and I did not.

**5.1.2 Senator S.C. Ferguson:**

Supplementary. But if the Minister for Treasury is relying on the word of the Interim Treasurer, why did he not take authorise his officers to take the appropriate management actions after receiving this report?

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

I am not going to stand in this Assembly and make references that could be quite understandably but inappropriately made to cast doubt on senior civil servants. That is absolutely wrong. We should not deal with performance issues in this Assembly and I have stated that there were not serious performance issues in relation to people in Property Holdings. There were structural issues and I agree with the Comptroller and Auditor General there were structural issues which needed to be sorted out. H.R. (human resources) and Property and Treasury all had issues, structural issues, and they have had to be dealt with and we are well on to the way of solving them.

**5.1.3 Deputy M. Tadier:**

Regarding point 45 and point 2 of the Minister’s statement, does he not accept that it is both presumptuous and unrealistic to think that a few questions and answers now will draw this matter to a conclusion once and for all? Does he also accept that it is simply the vote of censure which is being withdrawn, the allegations, if one reads Senator Ferguson and the co-signatories, remain and that is why they are asking for P.A.C. to have a full and thorough investigation? Does the Minister for Treasury and Resources welcome this full and thorough investigation from P.A.C. and will he co-operate?



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

I have co-operated on investigations over 11 months. I was subjected, quite understandably, to a Corporate Services investigation. There then have been numerous issues raised by the Comptroller and Auditor General. At some point, and in both of those reports, there was not concrete evidence of, effectively, misconduct by myself. I do not understand why the media has seized upon it. Well, I do understand but it is wrong that the media has seized upon these and cast doubt on my own ability as a Minister. I need to move on. This Assembly needs to move on in dealing with this issue. We have consumed hundreds of hours of my time, of other people's hours on this issue. Do Members not know enough about this issue now in order to move on? We have important issues to deal with in this Island. That is what we should be concentrating on, not on this backward looking navel-gazing and continuing personal attacks of which I, unfortunately, have been subjected to quite a few.

**The Deputy Bailiff:**

Deputy, can I make it plain from the Chair that the position in this Assembly is that the proposition has been withdrawn and, therefore, the allegations have been withdrawn with it.

**5.1.4 Deputy J.A.N. Le Fondré:**

This is in relation to paragraphs 39 and 40 in the statement which is about: "I stand by my judgment that too high a price was offered for the building and that is still the case today, apparently." (1) If the Minister's judgment has been demonstrated to be wrong by the Comptroller and Auditor General, does the Minister accept that? (2) Even if his judgment was correct, why did he sign a Ministerial Decision in May 2011 to buy the building for up to £8.75 million, which was the original price recommended by Property Holdings, in which case according to that, his judgment says that the price was too high but he has signed a Ministerial Decision to commit the States to buying that building.

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

I am well aware that the Deputy feels very strongly about this.

**Deputy J.A.N. Le Fondré:**

Please answer the question.

**The Deputy Bailiff:**

He is just trying to.

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

This is a matter of political judgment. One is elected to make political decisions. It was my political view, and I made it clear in the signing of the Ministerial Decision, that it was up to £8.75 million. I would remind the Deputy that the vendors accepted a price of £500,000 lower and it was only due to the issue of an exceptional tenant in exceptional circumstances that they chose to do probably what they really wanted to do, which was rent the building. This is a matter of political judgment and I stand by that judgment and the Deputy and I both need to move on from this issue. We cannot continue to...

**Deputy J.A.N. Le Fondré:**

Supplementary.

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

The Deputy is standing, Sir.

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

May I ask a supplementary which was also about how things have been presented to Assembly in the past? When the Minister made the statement in the Assembly in June 2011, he referred to buying a modern, I think it was a modern, open-plan office building. However, something like 2 months later he started referring to it as a decaying building. Which was it?

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

There were issues about the offer which I have been clear about and...

#### **Deputy J.A.N. Le Fondré:**

Is the Minister denying it?

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

I do not think that I can be interrupted constantly, Sir. I know the Deputy feels strongly on this. He and I will not agree on the political judgments that were made about this. I have been clear about it. The circumstances were exceptional for the States, effectively, being gazumped. That is the situation and we lost it. We need to move on and we have found a better solution and Property Holdings has also been reorganised in order to deliver what is really needed, which I know the Deputy wants to do, which is efficient matters. If the Deputy still has an issue about my conduct, then he needs to bring a proposition to the Assembly and we will deal with it. It cannot go on, month after month, of effectively maligning my reputation, asking questions and undermining me in this way. It cannot continue.

#### **Deputy J.A.N. Le Fondré:**

Just to say, I have not maligned his reputation. I would just like an answer to the question.

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

Does the Minister seriously believe that a collection of 52 assertions followed by 10 minutes of questions will draw a line under this matter?

[12:45]

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

Fifty-two points after 2 investigations which did not conclude any wrongdoing should be an end to the matter, I would have hoped.

### **5.1.7 Connétable J.M. Refault of St. Peter:**

Just a simple question of the Minister for Treasury and Resources; does he agree with the C.A.G.'s findings?

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

I agree with many of the C.A.G. findings about the structure of Property Holdings and the issues that needed to be dealt with and, if I may say, the Constable himself started the reorganisation of Property Holdings and that has been continued by the current Minister. We are now reforming. We are changing and we are doing better and that should be welcomed.

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

The point that the Minister states that it was wrong and unwise that an offer should be made without the knowledge of the Minister responsible. When did he make that decision?

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

The offer was made, as I have made in my statement, and I knew probably some couple of months or 6 weeks... I do not know exactly when but I did not know about it before it had been made. That is something that, while the Assistant Minister was able to do that, that is surely unwise. As the single biggest property transaction, surely the Minister should have made it and I objected to that. I was the Minister and I think that I am entitled to do that.

**5.1.9 Deputy R.G. Le Hérissier:**

A supplementary. Could the Minister outline the reporting relationship and communication processes that were in place to keep him informed of what his Assistants were up to?

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

Happily, Sir. I was one of the first Ministers to appoint Assistant Ministers, organising weekly meetings, a clearing house where ministerial decisions were discussed and debated among the ministerial team. It is a matter of regret that the former Assistant Minister did not always take part in those discussions. I have been proud of teamwork. Teamwork is the way you make good decisions. That is what I did under the previous position of Minister for Treasury and Resources up until the time that situations deteriorated and I did it as Minister for Economic Development but it did not happen. I also remind the Assembly, most respectfully, that I was also faced with the position that the Assistant Minister, after having been part of a whole preparation of the C.S.R. and F.S.R. (Financial Services Review), also voted against the Ministerial Decision. That is not good communication to only know about that a few days before. I do not criticise the Deputy. I just make the point; teamwork goes both ways.

**5.1.10 The Connétable of St. Lawrence**

Yet again my question follows on from what the Minister has just said because I would like to ask him how a Minister can be doing their job properly if their department makes an offer for the single biggest property purchase by the States and they are not told about it?

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

I agree with the Connétable that was an issue and needed to be dealt with and communication is important. I am pleased to say that the Council of Ministers, on a range of issues, and my Assistant Minister are communicating. I know what goes on. He knows what goes on with me. There are no surprises. He can stand in for me at almost any moment because good communication is there. That is how a ministerial team should operate not, as I am afraid, as it was in the past. I am sorry to be making these statements but communication goes both ways.

[12:48]

**LUNCHTIME ADJOURNMENT PROPOSED**

**The Deputy Bailiff:**

That brings the 10 minute question time to an end. The adjournment is proposed. The States will now stand adjourned until 2.15 p.m.

**LUNCHTIME ADJOURNMENT**

[14:15]

**The Deputy Bailiff:**

We return to K, statements on Matters of Official Responsibility. The Chairman of the Education and Home Affairs Scrutiny Panel will make a statement regarding the review of the proposed introduction of Tasers in Jersey.

## **6. The Chairman of the Education and Home Affairs Scrutiny Panel will make a statement regarding its review of the proposed introduction of Tasers in Jersey**

### **6.1 Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel):**

The Introduction of Tasers in Jersey Review has sparked much public interest and I would like to thank all those members of the public who contributed their opinions. They provided the Scrutiny Panel with many of the key issues and themes during the review. Additionally, I would like to thank the members of my panel, the Constable of St. Brelade, the Constable of St. Martin and Deputy Tadier of St. Brelade. He has brought an extremely useful perspective to the table. Furthermore, I would like to thank the Home Affairs Department and the States of Jersey Police for their co-operation in providing the panel with the information sought. Finally, but by no means least, I would like to thank our Scrutiny Officer, Mr. Mike Hayden, for his hard work and invaluable support to the panel. The proposal of introducing Tasers into Jersey has proved to be a controversial matter, which has polarised opinions. These range from a complete distrust of the States of Jersey Police to an unquestioning support of the force. I would suggest that neither are a healthy position to hold. However, as with any position of authority, constant vigilance and questioning has to be done. While the panel notes that certain elements of the States of Jersey Police were upset with the rigour that the panel undertook during this review, as it was viewed by some that this was an operational matter, the public would expect no less thoroughness. The panel also supports the Minister's view that this matter is, indeed, political. During the review, the central question for the panel was for the Minister to establish a clear need for the introduction of Tasers. While the Minister, the Chief Officer of Police and the Police Association all support the introduction of Tasers in limited circumstances only as an additional option to use against violent aggression, none in our view have yet been able to demonstrate a fully convincing case for the need for Tasers in Jersey. The evidence demonstrates that Jersey is a very safe place to live with very low levels of violent crime. The States of Jersey Police have never fired a shot from a conventional firearm in the field and appear to be able to cope with the situations that they find themselves in with C.S. (counter strike) sprays, batons, by talking through and calming the situation down. The panel believes that this is testimony to the professionalism of the Jersey Police Force as well as the high standard in training that they receive. That is something that the panel wishes to praise and which the Island should be proud of. I would like to take this opportunity to thank the States of Jersey Police Force for the hard work that they do on behalf of Islanders in a role which is not easy, at times dangerous and that many could not do. **[Approbation]** The public feedback that the panel received was clear in that great concerns were expressed about the risks of introducing a new armed element into local policing, therefore promoting a possible change in the culture of the police force moving from a British model of policing by consent to a U.S. (United States) style model of enforcement. This was expressed as being extremely undesirable by many of the public who contributed to our review. The evidence of the over-use of Tasers in the U.S. and, in particular, the number of deaths which are attributed to the Tasers, has shocked many people. Many need to be convinced and reassured that the police in Jersey would use Tasers responsibly and only as a last resort against serious violent offenders. The panel do not totally support a rejection of the proposal to introduce Tasers because the evidence of Taser use in Britain and other Crown Dependencies where strict procedures and controls are in place, supports the view that they can be used responsibly. The panel agrees with the rationale that should Tasers be introduced, they should be restricted to authorised firearms officers only. This calmed many of my concerns personally and changed my opinion significantly but the Minister must present a more convincing case to the general public. Further concern was expressed by the public regarding the medical implications of the use of Tasers. There is a wide body of published evidence on this which we have examined in our review. While the evidence would support that an average healthy adult should not suffer any long-term medical problems, there is always a risk that a Tasered person may fall and this can

cause them injury. However, currently this risk is also present should a police officer have to restrain someone, having to tackle them to the ground, for example. Those at higher risk of injury or even fatality are those with mental health issues, those intoxicated on illegal drugs or alcohol. The evidence provided by the States of Jersey Police force states that in the majority of cases where a violent crime occurred, the perpetrator fell into one of these categories. This provided a further dilemma, as those who are in the greater risk groups are more likely to have a Taser used against them. This is a situation that one has to accept if one supports the introduction of Tasers. However, much of this can be managed if there be a high level of training given. The panel are content that the appropriate level of training would be issued. In our review, we carefully examined the guidelines which govern the situations which Tasers, if approved, might be used. We found that, however, the current draft of the Minister's policy skirts over many of these issues and was much too vague for the panel and the public to accept. Thus, many of our recommendations focus on providing a clear understanding of when Tasers might be deployed and used. This is to reassure the public given the concerns expressed above and also to protect police officers who may have to use Tasers by giving them a clear framework to work within. We believe that the publication of clear prescribed guidance can prevent mission creep; the tendency, or the possibility, for the Tasers to extend to more and more areas of policing which was a core concern of the panel during the review. In conclusion, the Taser can be a lethal weapon even when used correctly so the case for need has to be strongly made. This is not the current situation. The draft report and proposition of the Minister needs to be amended to give greater clarity in areas such as deployment, use, governance and accountability in order to gain the support of the public and the panel. We commend our report to the States Assembly and encourage Members to read it.

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

The statement is now open to questions. Do you have any questions for the chairman of the panel?

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

Could the Chairman shed some light on an apparent fact that there were more than 100, might even be 200, submissions made from one I.P. (internet provider) address, as I believe his panel did look into this and managed to avoid what would have been a clear intention, I suppose, to push the review into one particular direction?

##### **Deputy J.M. Maçon:**

Yes, this is explained in the annex to our report. We did have over 100 responses which appeared to emanate from one U.K. I.P. address from the period from about 3.00 a.m. to about 7.00 a.m. during the phase of our survey monkey results. However, because we were able to identify this, we were able to remove those results from the survey and that has given a more accurate response from the public response that we can see. So I would stress the case that, of course, we cannot claim the results from the public survey is any way significant in order to say the public are for or against the use of Tasers but, nevertheless, as I have already stressed, it did help greatly in providing areas that the panel were able to focus on, on both sides of the debate.

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

Supplementary. Does the Chairman know or would be able to ascertain who was behind this site because you would imagine it could be, being a cynic, someone trying to push something where they might get some business out of it? It could be from a Taser company, I do not know.

##### **Deputy J.M. Maçon:**

Unfortunately, the panel was not able to identify the particular user in this case.

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

First of all, I would like to congratulate the Chairman and his panel on deciding to undertake a review of something which found so much interest with the general public. Certainly, I think the responses received was a higher number than for any other review and the report read well. What I am not clear about in this statement is that, clearly, we are told it is a statement to be made by the Chairman of the Education and Home Affairs Scrutiny Panel. The last paragraph on the front page and the final sentence of that last paragraph begins: “This calmed many of my concerns personally and changed my opinion significantly.” That just leads me to question whether the statement is being made by the Chairman, personally, or whether it is a statement of the views of the panel and supported by the panel.

**Deputy J.M. Maçon:**

Thank you. Of course, as with all scrutiny reports, there was no matter of dissent in the report or the content of report. The statement I have issued in the House is the same statement as the Chairman’s Board found within the report. It was something which I personally wished to add. Of course, it is a personal statement made from me and not a reflection of the feelings of the other members of the panel. That does not mean to say that the other members of the panel from the evidence from the other Crown Dependencies changed their views, but I believe that is clear from the location of the statement and the reference to the Chairman’s Board within the report.

**The Deputy Bailiff:**

Any other questions? Then there are no other questions, we go on to the statement to be made by the Vice Chairman of the Corporate Services Scrutiny Panel.

**7. The Vice-Chairman of the Corporate Services Scrutiny Sub-Panel will make a statement on the Panel’s Review of the use of the Tourism Development Fund to provide assistance to the private sector**

**7.1 Deputy R.J. Rondel of St. Helier (Vice-Chairman, Corporation Services Scrutiny Sub-Panel):**

Members have now received their copy of the report, the *Tourism Development Fund: Assistance to the Private Sector* which has been presented following the work of the Corporate Services Sub-Panel on its review of P.26/2012. I would like to draw Members attention to our report and in particular to our primary conclusions. We found that the proposition to extend the T.D.F. (Tourism Development Fund) to the private sector entities should be supported in principle. If grant assistance was given to private organisations there is a high possibility that the T.D.F. would leverage additional investment in tourism and bring more visitors to the Island. Furthermore, the extended scheme would attract high quality projects that would otherwise not be considered if the current remit of the T.D.F. remained. If the proposition were to be agreed, there are a few matters that need to be considered with regards to the allocation of funds. For instance, in order to insure that funds are allocated fairly and appropriately and to guarantee that existing operations are not displaced, a strong compliance model should be established and governance arrangements put in place. However, despite our support in principle for the proposal, we do have some major concerns regarding the lack of secure funding the T.D.F. has received in the past and the uncertainty surrounding future resources. To date, since the T.D.F. fund was established, no secure funding system had been put in place. Furthermore, we found that only a small percentage of the £10 million which was originally agreed to be set aside for the T.D.F. in P.70 way back in 2001 has been awarded to the fund since that time. The evidence considered by the sub-panel shows that there is a high possibility that the T.D.F. Panel will dissolve unless funds are made available. Although the sub-panel supports the Minister for Economic Development for making a bid in the Medium Term Financial Plan for T.D.F. funding, we found that there is a possibility that the

proposed amount of £500,000 a year for a 3-year term may be insufficient if the private sector is given access to the T.D.F. We have therefore suggested that if the Medium Term Financial Plan bid is accepted, the Minister for Economic Development should revisit the amount allocated after a 3-year term to evaluate its appropriateness. Currently there is much uncertainty surrounding future funding and unless the Medium Term Financial Plan is lodged, we are unsure as to whether the T.D.F. bid will be agreed by the Council of Ministers or indeed by the States Assembly. However, we were disappointed to discover that the Council of Ministers had proposed to remove the T.D.F. bid from the finalised list altogether.

[14:30]

We found that if the T.D.F. funding is not included in the Medium Term Financial Plan, it will have a detrimental impact on the future of the fund. As a result we propose that the proposition should not be debated until the Minister for Economic Development can clearly demonstrate how the T.D.F. fund will be funded going forward. If, in the future, the Innovation Fund was to be used to assist with large projects from the Tourism Sector, we found that the Minister for Economic Development would need to provide clarity as to how the 2 funds would operate in conjunction with one another. Furthermore, he would need to ensure that, while seeking resources for the Innovation Fund, attention is not deflected away from the issue at hand. In other words, securing future funding for the T.D.F. While reviewing the possibility of a loan scheme for the T.D.F., we found that a change to its remit could help to recycle money back in to the fund. Although the current legislation, the Public Finances Law, only permits the T.D.F. to provide financial assistance in the form of a grant, serious consideration should be given to developing a loan scheme going forward. Lastly, we found that improved lines of communication between the Planning Department and Economic Development could help leverage additional investment in tourism while allowing T.D.F. funds to be set aside for other projects. I encourage Members to heed the recommendations of our report and would reiterate the proposition should perhaps not be debated until such time as serious consideration has been given to the matters raised. I commend the report to the Assembly. Thank you.

**The Deputy Bailiff:**

The statement is now open for questions. Does anyone have any questions for Vice-Chairman? Deputy Tadier?

**7.1.1 Deputy M. Tadier:**

Looking on page 38 of the report, I notice that there have been 3 written submissions. Will the rapporteur say whether there were any other written submissions? The reason I ask is because I did make a submission to the panel myself - I think, 4 weeks ago, possibly 3 and a half weeks ago - and I did not receive any form of acknowledgement from either the panel or an officer of that submission.

**Deputy R.J. Rondel:**

We have met on several occasions in order to come back to the House, as we promised, in a very short space of time. We did send out, in consultation, which is in the back of the report; Deputy Tadier unfortunately we received that past the deadline of when we were writing the report.

**7.1.2 Deputy M. Tadier:**

Thank you and that is news to me and I acknowledge that. It would have been nice to receive an email saying that: "Sorry, thank you for your submission, unfortunately it was too late." But that was not the case. Will the rapporteur ensure that in future when people do make submissions they are at least acknowledged and responded to?

**Deputy R.J. Rondel:**

Yes, absolutely and I apologise to the Deputy for not clarifying that.

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

I am not clear from this statement whether the panel is formally proposing that the debate be deferred and whether any discussion has been held with the Minister about their proposal in this statement, because clearly we are due to debate P.26 in maybe half an hour's time and they have had time to prepare the statement. So I think I would like to know are they formally proposing in their statement that it be deferred and, if so, under what Standing Order and have they spoken to the Minister to consult with him to find out whether he is prepared to do that or whether he intends to go ahead with these propositions?

**Deputy R.J. Rondel:**

The difficulty with the proposition is that we are due to debate the Medium Term Financial Plan and the decision Members have got to make is, when we do come to debate that, whether they agree that £500,000 per annum is the right funding to be proposed and whether they will vote for that or whether they will vote for something in the Health and Social Services Department. At the moment we have got £26 million worth of capital projects, which is far more than the Medium Term Financial Plan will allow.

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

In thanking the Vice-Chairman and the panel for their work, does the Vice-Chairman accept that £500,000 is inscribed in the Medium Term Financial Plan proposals and does he not think it would be preferable if they want a debate on increasing the amount of money for the T.D.F. to pass this proposition to allow it and then to have a further amendment in relation to increasing the amount? Is that not a more orderly way of proceeding? Otherwise I think we are always unclear as to whether or not the chicken or the egg follows.

**Deputy R.J. Rondel:**

Well this is the exact problem, it is a chicken and egg situation, I agree. Originally when we looked, it was on a low bid in the Medium Term Financial Plan. Now I believe it has been placed in so I would like to see this debated. I do not want to hold up the tourism industry and funding. I agree, in principle, and so do the members of our committee, and I would like it debated. But it is for Members to make up their mind whether they support this sort of funding. If it was debated after the Medium Term Financial Plan then it would be an easier decision because you would know. But that is not the case and I think people have got to make their own minds up.

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

I would like to ask the Vice-Chairman the basis of his sentence that starts: "However, we were disappointed to discover that the Council of Ministers had proposed to remove the T.D.F. bid from the finalised list altogether." I am a member of the Council of Ministers and I have always supported money going to the T.D.F., in fact I brought a proposition as a Back-Bencher that they should have £500,000 in the Business Plan and I have no knowledge that we were ever going to remove the £500,000 for T.D.F.

**The Deputy Bailiff:**

And the question is?

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

What was the basis of that sentence in the statement?



**Deputy R.J. Rondel:**

Well, the concerns we had... it was a low prioritisation within the Medium Term Financial Plan and that is a fact. I think when we looked back into the history of the fund, last year for example... and thanks to the Minister for bringing his proposal at the time because that did secure funding in the past for the T.D.F. and without that funding, without the Minister's proposal at that time, the T.D.F. and the panel would not have been in existence today. Thank you.

**7.1.6 Senator L.J. Farnham:**

The Jersey Hospitality Association, of which I am currently President, made a short but comprehensive submission to the Scrutiny Panel. I will not be participating in the debate of the T.D.F., I will explain at the right time, but the general message from the hospitality industry to the States is there can really be no further delay. There are a lot of amendments and there are a lot of things that can be improved with the fund in the future. But the message is that they are looking for the States is to crack on with these sorts of projects to assist the industry. My question reverts to the Deputy Chairman's statement which really I would like him to clarify. Is he going to be proposing a delay to this proposition formally?

**Deputy R.J. Rondel:**

Thank you, Senator Farnham. No, I will not be proposing a delay to it. We are merely asking Members to make their own decision on this money, whether it is a priority or not. So we are happy and what I am hoping is that when we do debate it that Senator MacLean will clarify and give us more confidence that the money will be in the scheme. Thank you.

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

I, like many other Members I am sure, am quite confused now by this statement. My understanding was this Scrutiny Panel was to look at whether the Tourism Development Fund should be extended to the private sector. Is the Vice-Chair now suggesting that this be delayed to the private sector, yet the public sector funding to the Tourism Development Fund continue?

**Deputy R.J. Rondel:**

No, we are not proposing it be delayed to the private sector at all. I think we need to debate the proposition and it will be for Members to make up their own mind whether they support it or not.

**7.1.8 Senator S.C. Ferguson:**

I would like to first of all congratulate the sub-panel for an excellent report. Thank you. And the next thing is to say is it correct to say that you are recommending that...

**The Deputy Bailiff:**

Through the Chair.

**Senator S.C. Ferguson:**

I am sorry, Sir, yes absolutely. Is it correct to say that the panel is recommending that the grant to commercial organisations should in fact be loans to the organisations so that the money may be repaid and hence be recirculated in the community?

**Deputy R.J. Rondel:**

With looking into loans, we are merely asking for the Minister for Economic Development to look into the possibility. It is not possible to give loans at the moment because of the Public Finances Law but this is one aspect that could be looked at in the future.

**7.1.9 Deputy J.A. Martin:**

Just for clarification from the Vice-Chair, I think his last statement said that this proposition should not be debated at this time but now he just said it would. My confusion is that he seems to think the money might move from the Medium Term Financial Plan. Surely if we do not debate it and get the backing today it certainly will, if there is any other priority, be moved from the Medium Term Financial Plan. So can I have a bit more clarity? I think that is what he is saying but I would go for the debate today, decide and then I think if we vote the money in... I am asking the Vice-Chair if we vote the money in, does it not stand more chance of staying in the Medium Term Financial Plan?

**Deputy R.J. Rondel:**

Thank you, Deputy Martin. I would like to thank Deputy Martin. Absolutely, that is what we would like to do, get it debated today and it is for Members to decide.

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

I wonder if the Vice-Chairman would just confirm his understanding that, notwithstanding his concerns for future funding, the T.D.F. currently has £435,000 available to it for the next round of bidding. Obviously if the Members of the States decide to approve this proposition today, which is to open it to the private sector, the fund would be in a position to leverage that to a greater extent. I wonder if he would just comment on that and confirm the position.

**Deputy R.J. Rondel:**

Yes, we are absolutely fully aware of that and that is what we would hope to do, open it up to the private sector as soon as possible.

**7.1.11 Deputy M. Tadier:**

I know the question sounds finished, but I think this has to be a point of order because it seems that the rapporteur may have inadvertently missed that bit out. He said in his statement in bold in the last paragraph no less, that they do propose that the proposition should not be debated until the Minister has clearly demonstrated something. However he has just told us that the proposition should be debated today and that they are not proposing that it should be delayed. So I am at a total loss as to what that last 10 minutes has been about.

**Deputy R.J. Rondel:**

I apologise if he is misled on the clarity of that. I do see there may well be some confusion but what we would like as a panel is for it to be debated today.

**The Deputy Bailiff:**

I understood your answers, Vice-Chairman, to mean that you hoped that the proposition would result in the Minister demonstrating how the T.D.F. would be funded, going forward, and if not then there might be an application for a delay.

**Deputy R.J. Rondel:**

Exactly, I could not have put it better myself.

**The Deputy Bailiff:**

Right, we now come to a statement to be made by the Chief Minister.

**8. Statement made by the Chief Minister regarding all those involved in the recent gas works incident**

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

I think, Sir, in light of your last intervention it might be better if you made the statement. **[Laughter]** I am sure Members will join me in expressing sincere thanks to all those involved in responding to the fire at the gasworks. **[Approbation]** The response of the emergency services and their efficient co-ordination of all the agencies that formed part of the operation maintained the safety of the community during a worrying incident. I am sure I speak for all of us when I say how much we appreciate the leadership given by the police, fire service and all the emergency services. I would also like to thank the honorary officers who maintained the cordon and supported the police. **[Approbation]**

[14:45]

Our colleague, the Connétable of St. Helier and the Parish officials who welcomed residents to the Town Hall, the voluntary organisations, church and community groups who gave their time to make sure people were as comfortable as possible until they could return home. The hoteliers who offered beds to those in need of shelter and the many individuals who offered spare rooms, food, children's equipment and bedding. **[Approbation]** And I would like to express my appreciation for the States of Jersey staff who stayed at work late into the evening to make sure that displaced residents were secure for the night. The emergency response also confirms something that is often alluded to here in this Assembly; namely just how well the people of Jersey work together as a community. I would also like to thank those people directly affected by the fire for their patience and understanding during what must have been a very worrying time.

#### **8.1.1 The Connétable of St. Helier:**

I thank the Chief Minister for his comments about St. Helier officials, which I will certainly pass on to them. I endorse his comments about the Honorary Police and would remind Members that they perhaps, more than anyone else involved, were working long after the rest of us had gone home because they stayed up all of the night to maintain the cordon. I would also like to specifically, if I may, put names to a couple of groups; St. John Ambulance were on the scene very quickly and maintained a very high profile throughout the event in the Town Hall and were enormously appreciated by everybody who was there. Jersey Samaritans also put faces to what is normally a telephone service and came round and helped. The Freedom Church, in particular, came down and cooked hot meals for everyone in the Town Hall so a big thanks to them. As I say, I would like to endorse what the Chief Minister has said about all the professionals involved because it was a tremendous example of Jersey's community spirit. I would ask the Chief Minister whether he agrees with these views.

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

Indeed I do. By the time I got to the Town Hall late at night, I was overwhelmed by a sense of pride that our community, often criticised, we often find things which are bad to say about each other rather than looking at the positive. The day after, I was, of course relieved that the incident was not much more serious than it was. But my lasting memory of that evening as I got down to the Town Hall was one of pride in how this community pulls together and works together and shows that it can be responsible to each other, that it can be concerned about each member of our community in a way that I want to see more day by day even when times are not quite so difficult.

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

It is obviously to be hoped that we do not have other serious accidents but presumably we sadly will do in one form or another in the future. Could I ask the Chief Minister when such an occurrence does sometime happen, that there is one source of information? I found it rather confusing, we were getting one message on the news, we had an email from the Acting Chief Executive, we had then one email from the Chief Minister which was quickly changed to reverse

the information that it contained and I did find it rather confusing. If there could be, for these major incidents, one source of information, I think it would be beneficial.

**Senator I.J. Gorst:**

Inevitably, with events like this there are lessons to learn. I think the overall lesson is that the emergency services responded incredibly well and that the community responded quickly. We live now in an age of modern social media and we need to understand in future how that can be used as an effective communication method; Facebook and Twitter, and how we can get information out in a more co-ordinated fashion. I think one of the lessons perhaps that we have learnt is that we need to have somebody directly responsible for communication at Gold Command so it can be communicated seamlessly. We can use that modern media rather than some individuals trying to use traditional methods of communication and others trying to use modern media because most people now are accessing modern media so that we have a unified message right across. So I think there is a piece of work to do there and we are going to do that but I would thank all those people who were involved in communication, I think generally it went very well. Of course I was trying to keep States Members informed in more of a real time basis than perhaps has ever been done before. I think that is important but we need to make sure that it is done seamlessly in future.

**8.1.3 The Connétable of St. Peter:**

May I also add the thanks from the Minister for Health and Social Services to the Health team that prepared the emergency plan within the hospital in case there was an escalation of the incident? I think it is worthwhile noting that. Also to share with Deputy Baudain's thoughts about the cascading of information through Gold Command, I would urge the Chief Minister also - as he has already alluded he will do - to bring forward a best procedure for information much earlier on in the piece. Because there are a lot of resources outlying in the country Parishes, which could have been brought to bear, should the incident have escalated as well.

**The Deputy Bailiff:**

And your question is?

**The Connétable of St. Peter:**

Does he agree with me that we should involve the country Parishes as early as possible?

**The Deputy Bailiff:**

I think the short answer this time, Chief Minister.

**Senator I.J. Gorst:**

The answer is of course, yes.

**The Deputy Bailiff:**

Thank you. [Laughter]

**Senator I.J. Gorst:**

With these events, obviously the situation is changing throughout the event happening and therefore information does change in a fairly time quick basis, but it is important that it is communicated.

**8.1.4 Deputy T.A. Vallois:**

Could the Chief Minister please pass on the gratitude and thanks from many parents to the Education officials and the teachers who were affected by the incident, for their proactiveness and keeping the children safe.

**Senator I.J. Gorst:**

Yes, indeed I will and there are many others who acted in a very similar fashion to keep people safe and to ensure that people were not involved in the incident.

**The Deputy Bailiff:**

Any other questions or statements? No. Very well. That brings Statements on the Matter of Official Responsibility to an end and we now come to Public Business.

**PUBLIC BUSINESS**

**9. Disciplinary Panel of the Law Society of Jersey: reappointment of lay members (P.50/2012)**

**The Deputy Bailiff:**

The first item of Public Business is the Disciplinary Panel of the Law Society of Jersey: reappointment of lay members P.50 lodged by the Chief Minister. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States were asked to decide whether they are of opinion in pursuance of Article 18(2) of the Law Society of Jersey Law 2005 to appoint the following persons as lay members of the Disciplinary Panel of the Law Society of Jersey for a period of 5 years: Mr. Maurice Adrian des Forges, Mr. Robin Charles Hacquoil, Mr. Graham Edward Jennings, Mrs. Pamela Margaret Nisbet, Mr. Alfred David John Rosser.

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

Yes, I am pleased to propose the reappointment of the 5 lay members as just detailed by the Deputy Greffier to the Disciplinary Panel of the Jersey Law Society for a period of 5 years.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? All Members in favour of adopting the proposition kindly show? The appel is called for. I invite Members to return to their seats. The vote is on whether to adopt the proposition of the Chief Minister, P.50 on the reappointment of lay members. I ask the Greffier to open the vote.

| <b>POUR: 38</b>             | <b>CONTRE: 0</b> | <b>ABSTAIN: 0</b> |
|-----------------------------|------------------|-------------------|
| Senator P.F. Routier        |                  |                   |
| Senator P.F.C. Ozouf        |                  |                   |
| Senator A.J.H. Maclean      |                  |                   |
| Senator B.I. Le Marquand    |                  |                   |
| Senator F. du H. Le Gresley |                  |                   |
| Senator I.J. Gorst          |                  |                   |
| Senator L.J. Farnham        |                  |                   |
| Connétable of St. Helier    |                  |                   |
| Connétable of Trinity       |                  |                   |
| Connétable of Grouville     |                  |                   |
| Connétable of St. Peter     |                  |                   |
| Connétable of St. Lawrence  |                  |                   |
| Connétable of St. Mary      |                  |                   |

|                              |  |  |  |
|------------------------------|--|--|--|
| Connétable of St. Ouen       |  |  |  |
| Connétable of St. Brelade    |  |  |  |
| Connétable of St. Martin     |  |  |  |
| Deputy R.C. Duhamel (S)      |  |  |  |
| Deputy R.G. Le Hérissier (S) |  |  |  |
| Deputy J.A. Martin (H)       |  |  |  |
| Deputy of St. Ouen           |  |  |  |
| Deputy of Grouville          |  |  |  |
| Deputy J.A. Hilton (H)       |  |  |  |
| Deputy K.C. Lewis (S)        |  |  |  |
| Deputy M. Tadier (B)         |  |  |  |
| Deputy T.M. Pitman (H)       |  |  |  |
| Deputy T.A. Vallois (S)      |  |  |  |
| Deputy A.K.F. Green (H)      |  |  |  |
| Deputy J.M. Maçon (S)        |  |  |  |
| Deputy G.C.L. Baudains (C)   |  |  |  |
| Deputy of St. John           |  |  |  |
| Deputy J.P.G. Baker (H)      |  |  |  |
| Deputy J.H. Young (B)        |  |  |  |
| Deputy S.J. Pinel (C)        |  |  |  |
| Deputy of St. Mary           |  |  |  |
| Deputy of St. Martin         |  |  |  |
| Deputy R.G. Bryans (H)       |  |  |  |
| Deputy of St. Peter          |  |  |  |
| Deputy R.J. Rondel (H)       |  |  |  |

## **10. Tourism Development Fund: assistance to the private sector (P.26/2012)**

### **The Deputy Bailiff:**

We now come to P.26, the Tourism Development Fund: assistance to the private sector lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to refer to their Act dated 18th December 2001 in which they established the Tourism Development Fund and in accordance with Article 3(3)(b) of the Public Finances (Jersey) Law 2005, to vary the purposes of the Tourism Development Fund to allow the Minister for Economic Development to grant financial assistance to private sector entities to support the development of the tourism sector in Jersey.

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

May I just declare an interest. I have spoken to you about this before and although I do not have a direct and pecuniary interest, Members will allow I am a director of a tourism rated business and although our business has no plans or is ever likely to be a recipient or an application of the T.D.F. I would feel more comfortable by withdrawing.

### **Deputy J.A.N. Le Fondré:**

Can I make the same declaration I made previously and also withdraw, Sir.

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

When a debate is referred back to Scrutiny, one reverts back to the start of the debate but I will not repeat the speech that I made as I am sure that Members will remember it in terms of the reasons why the proposition has been made. Since the proposition was referred back, as we have heard in the question and answers to the statement, we are pleased that the Scrutiny Panel did a very fast piece of work and concluded that they supported the proposition and they have also made some helpful observations about funding. Therefore, this is almost a joint proposition in my and the Minister for Economic Development's name. He did not have an opportunity of addressing the Assembly last time and I am sure that he will and perhaps hold back his remarks until some other Members have made some interventions so that he can deal with some of the issues raised. If there are other issues, I can raise them in the summing up. We heard in that debate a real tour de force by the Constable of St. Martin who raised absolutely fair questions and perhaps lessons have been learned in terms of communication about this issue. I was grateful, and I know the Minister was grateful, for he and other members who attended the helpful briefing also by the members of the Tourism Development Fund Panel. I believe that panel has performed diligently and has made a real difference in terms of the decision making on matters to T.D.F. We want them to do more. There is going to be a condition of funding for the private sector extension if it is agreed that grants should be matched pound for pound. This will ensure that there is maximum benefit given to the tourism sector. As I have said, I believe that the governance arrangements for the fund are extremely sound and this is documented in the report and proposition. It is just a few weeks since we originally proposed this proposition. If anything, there is an even more urgent need in order to support all elements of the economy. We are going to be debating the economic growth strategy and diversification strategy next week. Clearly, there are some worrying issues globally on the economy, which do have an impact in Jersey. The opening up of this fund to private enterprise will ensure that there is a real step change of difference in terms of investment in the private sector, which will benefit the economy, which will benefit jobs and will also benefit Islanders by the facilities that Islanders will also enjoy, as they do with many of the projects that have been supported by the Tourism Development Fund. I am delighted the Scrutiny Panel supports the proposal; I thank them again for their fast work and I move the proposition and I make the opening remarks.

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

I think it is only right that I speak today as I feel I was the cause of the delayed debate. I would like to thank those Members who spoke at the time and those who shared my concerns and decided that the correct way forward was to refer back to Scrutiny. I would also like to thank Deputy Power and members of the Corporate Services Scrutiny Sub-Panel, my Parish colleague, the Deputy of St. Martin and Deputy Rondel for reviewing the proposition and delivering their report in such a short period of time. I apologise for the extra work that this has caused and also to Members of this Assembly, but I believe that the comments and anxieties that I had at that time were correct and that I was right to express them. However, I have since been made aware that those concerns were shared by many others. I am sure that this Assembly have their individual ways of reviewing reports, States business and projects before each States sitting. I have tried to set aside a Saturday and a Sunday to sit quietly in the office ensuring that I have all the relevant reports and background and even newspaper cuttings relating to the subjects due for debate and to read through them without the usual interruptions that occur during the week. It would be better to do them sooner but as we all know the amount of reading that we have to get through makes it very difficult.

[15:00]

In all the wide-ranging issues discussed in this Assembly, little did I ever think that my maiden speech would have been one relating to the Tourism Development Fund, something that I had not even heard of before reading the proposal that we were about to discuss and little did I think that it

would result in a referral back. However, it was and as I read the proposition I became increasingly concerned and confused at what was being proposed. I was confused as to whether we were talking about repayable loans or were they grants, how much in cash terms were we talking about, how applicants were approved, how money was dispersed and most importantly, how some organisations appear to receive repeated grants for what, in my opinion, had little if anything to do with increasing tourist arrivals on the Island. I became more confused and concerned after reading the history going back to the 2001 and the report of the Tourism Investment Fund. Were we talking about sharing the remains of a pot of £10 million of public money at a time of a recession or was it in fact £10 million? Were we talking about giving away taxpayers' money to private individuals, private companies who had an initiative, an idea and probably a very good P.R. (public relations) consultant that might make them a tidy profit? Call me suspicious but this is after 30 years as a police officer in my previous career. Members will recall I stated that I would support the fund if it was going to be used for strategic investment in tourism but not for the small minor items that did little, if anything, in my view to encourage tourism. I supported the Minister and the fund administrators looking at the wider concept of the fund, that of encouraging tourism to the Island by policy and strategy. I still maintain that strong view today. However nice a small grant is to a small self-funding public or voluntary organisation, I believed, and still do, that the fund was initially set up for something much bigger; that of being strategic investment. Of which is necessary if the Island is to maintain a balanced economy and not to rely on one industry sector alone, the finance sector, albeit the farming industry should also be seen as a very important income support to our community. I believed we needed to be looking at bringing in tourists for events that were not one-offs, single day events but where a specific group of people wanted to travel to the event and incorporate other events at the same time. The Verona, Milan, Wexford, Oxford opera weeks, week-long major sporting events, week-long cultural or music events, the Victorian Week at Llandrindod Wells, jazz festival; events that encourage people to travel to the Island for much longer periods and whilst there enjoy the other facilities provided for tourists. However, the project was not brought to see how public money had been spent in the past or indeed how that money was to be spent in the future by the public and voluntary organisations. The proposal was not brought to see whether those initiatives had been successful or not or even to seek the views of the Assembly as to how the public and voluntary organisations were performing with the public's money. The proposition was to seek to allow private enterprise access to the same fund and that is what we are discussing again today. However, I was equally uncomfortable with that too as I am sure that many Members of this Assembly were equally uneasy as they read the proposition at that time. Many members of the public have since spoken to me and supported the views and comments that were made by Members of this Assembly at the time. Do the public see using public money for private enterprise as the right way forward? Some do; some are unsure and many think it very unwise. We had only questions last week and again this morning relating to the Minister deciding to fund the rugby club albeit from a different source. We see it regularly with the overseas aid budget where we use taxpayers' money that we send to other countries. However, I agree that we have to have lateral thinking if we are to broaden our options with the Tourism Development Fund. The delayed debate has certainly stimulated interest among very many people. Whatever the outcome of today's debate, I am sure there will still be those who oppose the use of public money for private ventures. I believe objections and concerns were made in the past when public money was considered and used for grants to the farming community many years ago. The Scrutiny Panel has worked hard to seek answers to the concerns that have been raised and have come up with their own set of questions and queries. Among those, of course, we have heard today of those relating to where the funding will be obtained from. I would like to thank the Minister for Economic Development, Senator Maclean, and the Chairman of the Tourism Development Fund, for arranging the briefing yesterday where a number of Members were able to listen to the presentation from the actual panel chairman and members of his panel. We were able to see how the funds are currently distributed



and to question the chairman and members of the panel on aspects of how applicants were selected and rejected in the first place. I have no doubts now that extensive work and research is undertaken by the panel before they reach a decision in allowing any grant. The group are experienced business people with the skills of running their own successful companies and I have confidence with the work they undertake. Having read the report and listened to the Tourism Development Fund Panel yesterday, I support the proposition today. Obviously, there are 2 issues, main issues that have arisen where the Scrutiny Panel have identified where will the money be coming from and I still worry as how best it will be used. I would urge the Minister and the panel to continue to seek ways of encouraging policy and strategy in relation to tourism and not rely on small... however important they may be to the individual applying for funding. I think it important that we should be looking at and encouraging more hotels and guest houses to be built in this Island but not from that fund. Broadening our range of clients, bringing people to Jersey from new locations, from new airports with cheaper flights if possible and improved ferry services - again, we have heard of ferry problems this morning - and new prolonged events, not just one and 2-day events. There are many ways of improving the number of visitors to Jersey. I know I said earlier that I spend the weekend going through the paperwork, but last weekend I had a Parish function, having to go to France as part of the Jumelage twinning with St. Martin, hence finishing this report early this morning. In Montmartin-sur-Mer, which is a very short distance from Granville, there is loads of information in the tourist office about Guernsey but one leaflet relating to Jersey and this is close to a port that serves Jersey every day. Together with the Scrutiny Report and the replies and presentations from the panel yesterday, I feel far more confident that this group of dedicated volunteers are experts in their own fields, work on a voluntary basis and are working to strict guidelines with the interest of tourism at heart. They are trying to encourage new tourists to the Island and with the bringing of that, an unquantifiable figure of extra revenue through spending. I am now aware that the panel have quite a limited budget and do not have a pot with the remains of £10 million, when full, waiting to be spent. If only we had £10 million to play with. If the proposal is successful, then I would ask the Minister to convey to the Tourism Development Fund panel that grants should be limited to all organisations, public, voluntary and private and, in particular, the repeated applications from the same organisations should be declined or made subject to a repayable loan. I know this is difficult when one organisation may receive £200,000 and another receive only £10,000. Why should they not be able to obtain further grants? There are many private organisations out there that would probably benefit from funding, especially if we have to continue supporting in relatively small ways and not in the major strategic ways which I believe to be more appropriate. However, public money should not be reserved for those with the best P.R. executive on their staff able to put together the best proposal in management speak, as they say. I am sure that it would take something to get one over the experts of the Tourism Development Fund Panel but we must remember that many of those applying have the same experience and credentials as those deciding whether they fit the criteria as a suitable candidate. Therefore, I say beware of the expert P.R. executive that could put the good package together. If the proposition is approved today, I ask that the panel give as much support as possible to unsuccessful candidates so that they can make future applications to the fund with the knowledge as to why they failed in the first place and why their initiative was doomed to failure and that the full reasons are given to them explaining why and suggesting alternative routes to some funding. As was said to Members yesterday, the fund makes things happen that would not happen if the funding was not there. Let us just hope that things happen, is that the fund brings tourists, very many tourists to the Island and is not merely a fund that allows for a local event attended by locals to be funded by the taxpayer.

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

Thank you to the Constable again for his cautious speech. I do think it is a shame, and I probably said so last time, but it should not have gone back to Scrutiny. I was quite annoyed, not for the fact that I do not... and I have served on Scrutiny for 5 years - 2 in Shadow and 3 in Scrutiny - but I was here in 2001. We have lost, over those years, some really young entrepreneurs with really good ideas to do things in the private sector with tourism who just needed that little extra money. The guest houses the Constable would now like to see built have all shut down because they could not upgrade because they could not get this money. That was why I was angry. I am sorry he looks at everything like an ex-policeman, I suppose you have to get used to not doing that because you have to look at it that sometimes there are good things. I think this has now been scrutinised by a very good panel. It is a lot of money. Unfortunately, we were promised £10 million in 2001. We have never been able to spend that because we have never got it and the case, as you say, is that we have not got it. I really do not want to make the comparison with the 3-legged stool, as they say. Agriculture still gets some form of grant. You can call it whatever you like but it is still a grant. It is now paid in different ways but they do still get something and with Jersey Finance Limited, there is a lot of money. So the one in the middle is not getting enough. We cannot compete with sunny holidays abroad for £500 all-in for 2 weeks but I do agree with the Constable and others. Those little things, little things that you hear when you are children. Where is there to go in St. Helier for children other than the Fort? We do not even really have a good al fresco pub in St. Helier for children. They have them outside in the country Parishes, although not in the Royal Square. They run around outside in the Royal Square but I would not take my children there. I like a ball park; I like a secure play area and I like something for them to be interested in. **[Aside]** I am fully supportive of this and I am just sorry that it did not happen 10 years ago because we would not have seen half of our tourist things disappear.

**Deputy J.M. Maçon:**

Can I poise a point of clarification to the Deputy? My understanding was that the initial proposal was to put £10 million into the fund and that the interest from that money was to be used to pay, not that the States were giving a total of £10 million to be used. Perhaps, the Deputy could clarify as perhaps my understanding is incorrect.

**Deputy J.A. Martin:**

It is not my recollection but if the Deputy has looked into it he might know more.

**The Deputy Bailiff:**

No doubt the Minister will pick that up in his reply. Does any other Member wish to speak? Deputy of Grouville.

**10.1.3 The Deputy of Grouville:**

I want to speak briefly and especially to follow on from the Constable of St. Martin who really should not apologise for raising concerns. I think it was a very brave thing he did in his maiden speech, which turned out to be quite controversial, but it really should not have been because a lot of his concerns, I think, were perfectly understandable. Scrutiny has done a very good and quick job at this and I was very encouraged by the presentation yesterday by the panel. When I read the Scrutiny Report, I too was encouraged, especially with what I thought they were supporting. Although I am slightly confused today after the Vice-Chair's speech, I take heart in point 2(4) whereby they do confirm that the proposition to extend the Tourism Development Fund to allow private sector organisations to receive financial assistance has been positively received and I think that really is the bottom line here. They were asked to look at whether it should be extended to the private sector and they have come out in favour of that, although they do as well raise valid concerns and make some recommendations.

[15:15]

I do not necessarily agree with delaying the debate because, as was pointed out, it is a chicken and the egg situation. We have the funding. Extending it to the private sector is a good and positive move. It is not, as we should really reiterate, to help buy new carpets and curtains for guest houses that have not invested in themselves. It is for initiatives to bring visitors to the Island that would not otherwise be here. Therefore, it is a very positive move. I share the concerns of other Members about the £10 million that never materialised. I have voiced those concerns on various occasions and I have been encouraged by the Minister for Treasury and Resources' response in that if there are good schemes on the table, they will be considered. With that encouragement I think this is positive move to extend funding to the private sector and I encourage Members to support the proposition.

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

I shall be brief because much of what I would have said has been said already. Again, I would compliment the Constable of St. Martin for bringing it to our attention because it did need another good look at. I have always been supportive of tourism and the need for a diversified economy, and I know that tourism is not what it used to be but for many people it is the only form of employment they are going to get because they are not going to be in finance or anything else. Anything we can do to boost tourism, I am supporting. I do believe that the fund should be allowed to give funds to people in the private sector. My biggest fear is that because the private sector normally has, as has been said already, consultants or people who are well used to business plans, putting the case together, *et cetera*, that the money will be hoovered up by the private sector. In the report of the Scrutiny Panel, they mentioned that of the £5.5 million that had been allocated since 2001, half of it had gone to States bodies, in other words, States departments. It was very, very easy for the States departments to get money from the fund. It was like a flush fund in one sense that they could just dip into when they needed it. I am very much afraid and we can see examples of some private sector organisations in the Tourism Development Fund report and others who are very, very good at bringing their case forward. They do a good job; I do not deny that, and they get money from the fund. It is the other organisations, the small ones who can make a good contribution who could be squeezed out. Therefore, what I will say in summary, I fully support it. I shall be monitoring it and if I feel that the private sector does start hoovering up the funds at everybody else's expense, then I shall bring a proposition in the future to change it.

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

The first point I have to make is just a clarification and I do not want to be accused of intent of misinforming the House, is that the email I sent to Scrutiny was on 25th June, which is just over 2 weeks ago. It is not the 3 or 3 and half weeks that I suggested, and I appreciate the fact it was probably received too late to be considered. That point has already been addressed about the response. I think we are all in agreement that we need to diversify our economy. Some of us agree that it needs to be diversified more urgently than others depending on what future we see for our main industry in the Island. There are those of us who may be ostriches in that respect and there are others who maybe have a higher level of vision for perhaps what is going on in the Island but I think we recognise the importance that tourism plays to our economy and culturally in our Island. In that respect, I think it is quite right, and the Constable of St. Martin has both previously and today hit the nail on the head. I think the message is that the devil will be in the detail. I do not think we necessarily have any problem giving money to the private sector so long as that money is well used but also, as long as we know that the safeguards are there to make sure that it is distributed equally and fairly. Also important for me, is that there is a return and a guaranteed return for the States of Jersey for the taxpayer because after all it is taxpayers' money that is being used. I am not necessarily convinced at this point. I would like to hear more about the actual

business cases that will be used. I appreciate I did not come to the presentation and that is because I had other engagements for that. It seems to me that if we are using taxpayers' money one might want to take an approach of a dragon's den type of system, for example, because of course you can always make the argument that this money will come back into the economy one way or the other, that the company which is more successful will be paying more money in taxation. However, I would want to know if I am investing some of my money, for example, that I would get a higher rate of return. By all means let us have partnerships. Let us say: "I really think that is a good idea. I recognise the fact that left here on your own you would not be able to fund it yourself", but I want to know that when you become profitable perhaps in one, 2 or 3 years' time, the States of Jersey would like to have a 50 per cent share of your income and something like that because otherwise it is liable for people to take the proverbial. The other point, and I was listening with pricked ears when the Constable of St. Martin said: "If only we had a pot with £10 million in it that we could do what we wanted with", but in fact we do have a pot. We have many pots. We have a pot called the Strategic Reserve which has perhaps 50 times that amount in it. I am not sure of the latest figures but we certainly have a reserve of about £600 million which is there to cover a year of expenditure, and we were told in the past that this is to be used only in extreme circumstances if and when there is a financial collapse of the type of financial industry completely leaving the Island or some other cataclysmic event which would see us through for a year. We need to be a lot more forward thinking, have a lot more vision in how we use these bits of money at our disposal. I would like to see some big amounts of money being used which are going to be used in an investor/save purpose. If I can very briefly explain the email I sent both to the Minister for Economic Development and to Scrutiny is that this is just one idea. The point I am trying to make is that it could be an alternative to this private sector funding or it could be used in addition to it. Just because there is a private sector in Jersey with many different ideas and they do work very well hand in hand with the Tourism Department putting on events, *et cetera*, it does not mean that we, as the States of Jersey, cannot be looking to be inventive in getting people over and I have spoken to other members about this in the past. For example, Japan, when they had a whole series of crises quite recently to do with a nuclear explosion and they also had the tsunami which affected them very seriously and also consequentially their tourist sector. They basically thought quite radically and said: "We want to get more tourists into Japan. We know that we have lots going for us and we need to boost our economy." What they did is they put a whole series of flights there. They had a competition saying: "We are going to give away, let us say, 100,000 free flights to Japan" and people sought Japan out. They went to the websites; they went to the Japanese Tourist Board website and they said: "We are going to come to Japan and we are going to apply for these tickets" and those who perhaps were not lucky enough to win a free ticket for a free flight to Japan thought: "We will go there anyway because we have done that." I would like to see something like that operating in Jersey where we could give, let us say, £500,000 which would pay for 50,000 flights to the Island, to just buy these flights. We could probably pay for more than that anyway because we get some of the taxes back and the landing fees and get people into the Island. The spend that they will be making in Jersey will pay for that anyway over and above and that is a good way. I agree that, and I think I heard from the Constable of St. Martin, our job is really to get bums on seats and to get people in beds in Jersey and let the private sector do what they do best anyway and cater for people who are in the Island already. I think I would be much more comfortable doing it that way round rather than us having to try and pick winners saying: "I think we can give a bit of money to that event" and then find out that event has not necessarily been as successful perhaps because this event is being put on at the same time as another event. Let us take the Folklore Festival as a good example. It was a good idea, a great festival and the organiser took a risk and probably took a loss, if we are honest about it, the first time round because it was timed on a weekend when the Euro football was going on and the free concert going on at Grantez. You had a festival going on the same day, Madeira Day. Of course it is a very risky business to try and be picking winners in the

private sector but if we as States Members can do what we can to bring people to the Island. Why not get rid of taxes on flights during the shoulder months? Things like that which we can do in getting people to the Island. That is what I would be more comfortable with, using our money in that sense, making a good business case. I would like to speak to the Minister for Economic Development in person and the Minister for Tourism about seeing whether this fund can be made to work because I believe if the figures are done right, we can invest and see that money coming in many times over into our coffers and also stimulating the private sector without necessarily having to give them money cap in hand, so to speak. On another slightly different issue - but it is related - I would like to know what research has been done into the indirect subsidies that we give to the private sector in tourism, because we have a phenomenon in Jersey, we know we do not have a sufficient amount of social housing. I know from personal experience that we have vulnerable people, either with mental health issues, with dependency issues to do with substance abuse, or sometimes simply people who are on low incomes, and because there is not a sufficient amount of housing in Jersey we are putting these people in guest houses for the winter. So they will be given money from rent rebate, or whatever the equivalent is from Income Support, and from September time they will be expected to live in a guest house and then come March or April time they will be told: "You have to leave this guest house now". There is no security of tenure because we are going to open the guest house for tourists. This is a massive problem because of course these guest houses are benefiting from that, they have got a subsidy in kind. That is already happening and it is not part of this Tourism Development Fund but it is taxpayers' money which is going to the private sector and to all intents and purposes it could be stopping these guest houses going under, which is not necessarily a bad thing, but it is not being done in a transparent way. So I think these kind of figures also need to be taken into account when we look at money which is being given to the private sector. I would simply say that I am not entirely satisfied with this proposition. I think that we, as the States, could be more imaginative in the way we do tourism over here, we need to have a massive shift about getting lots of tourists to the Island in big figures and that is in no way trying to distract from the great that I know goes on at Tourism, at Economic Development, and in the private sector related to tourism.

**The Deputy Bailiff:**

Deputy, I did not want to interrupt you in full flow but the expression "bums on seats" is not a parliamentary expression and I would ask you to withdraw it.

**Deputy M. Tadier:**

I will withdraw that. I was not referring to those in the Chamber, bodies in beds, that is what I mean, we need to get people into the Island, tourists into the Island who are spending.

**The Deputy Bailiff:**

The question of what is parliamentary is not a light matter.

**Deputy M. Tadier:**

Presumably seats is acceptable.

**10.1.6 Deputy J.H. Young:**

I attended the T.D.F. presentation yesterday and I would like to agree with other Members and thank Mr. Peter Funk and his panel for their excellent presentation and clearly the tremendous efforts they are making to diversifying our tourism offering. I was impressed with the skills and rigour of their scrutiny of the proposals of not for profit organisations. I came away understanding why not many applications succeed because of their particularly demanding criteria which I was not aware of and it seems right that if we give public money that we must make sure that the return to the taxpayer is there. Of course I especially understand, for example, why the world heritage

project was rejected, a very valuable project by people with skills and knowledge about this important opportunity, but clearly the proposal they put on the table did not directly increase the number of visitors to the Island, the link was indirect. So I was left thinking what a shame that the fund we have does not fill that type of opportunity and I would like very much for those sorts of bodies who have made a tremendous effort to be given some help in trying to find ways of shaping their ideas to be able to bring forward acceptable proposals. I also want to thank the Corporate Scrutiny Panel report because I know they give support for the principle of extending this scheme to private funding and obviously there is a very ground swell of support for that today. But they do give hints of some problems, for example, I was really quite concerned that one of the private entrepreneurial consultees had flagged up the risk of competition, i.e. the risk of lots and lots of different private enterprises all putting in a proposal in competition with each other.

[15:30]

That is obviously a characteristic that does not exist in the fund at the moment because we are dealing with not for profit, but when we extend it profit - as I assume it will be done as of the ground swell of opinion today - I think that is an issue that really has to have attention. Secondly, I was surprised at this; they flag up the need for a compliance model. This comes from one of the other private sector consultees, a very well-known one, the names are in the Scrutiny Panel Report, and I thought that at the moment clearly the excess of applications is done very well by members of the panel. But my concern is if we are making a change here, a change in the law and a change of arrangement for the future, that is pretty well for the long term and nobody can be sure that the high quality of the individuals we have got of doing these things at the moment will be sustained. So personally I would have liked to see some kind of formal system which will rely less on key people. Also I do not agree with the Scrutiny Panel's conclusion that we should discourage States departments from applying as if you do not have the right credentials. I think what we heard yesterday was that lots of public sector departments have tried to act as conduits for resources and offered assistance to private sector organisation to provide indirect support, and I would hate to think we close the door on that because I think that can be very efficient. Overall I am left with my preference which I started when I heard the Constable speak on when this was last discussed. My preference is for loan finance because the public hold a stake in the enterprise and that is something which I think is important and we are not just giving out free goods, the public has an interest in the success of the enterprise. I am really pleased to see the comments of the Minister for Economic Development which are contained in the Scrutiny Review Report where he talks about wishing to move towards loan and co-investment. I think that really is very, very powerful because we are talking about quite small sums of money here in grant. I think the sort of ideas that I am hearing Members talk about require a much bolder sort of vision and clearly I cannot imagine grants would be appropriate for that. So I really think that this is something that needs to be advanced. I was also a little bit surprised that the T.D.F. Panel yesterday when asked about loans - because a lot of Members that attended had that in mind - and they rather discouraged it but their reasons for doing so, I am afraid, I was not satisfied with. They seem to be saying that there was a lot of follow-up work required in order to follow up loans and I think that was kind of what I would call administrative in nature and I thought that was disappointing because I certainly would not expect that loans would be repaid in year 2 of an event happening in year 1, it would be much longer term. I certainly was not thinking interest because the failures of the bank system, I think, do create a case for some kind of loan fund. I was also slightly worried about the suggestion that if we give loans the events will never happen. Really? I was very puzzled about that; it did not give me a great deal of confidence. So I am sorry to say - and I find myself in the minority in the debate so far - I have major doubts about the wisdom of just immediately subsidising individual private profit making enterprises. I much prefer to have the use of loans and tax incentives. Of course it is very difficult because companies do not pay tax so how do we do this? It was spoken about G.S.T. and I

know this is not perfect reasoning but a remark was made about “Jersey Live” and that really tested my thoughts because I thought: “Well, I would love to see Jersey Live subsidised” but the principle is still there. I thought: “Why could we not exempt Jersey Live and events like that from G.S.T.?” Really, have we not got that sort of flexibility? If you want to encourage enterprise, because the overall result here is surely to make sure that if there are monies going out of the taxpayer, at the end of the system money comes back, that we get a greater tax yield than what we are giving up. Obviously we did not hear sufficient clarity on the numbers there, I would like to see it tested, so I am very sorry, I have very, very substantial doubts about the principle.

**10.1.7 Deputy G.P. Southern:**

I will be fairly brief but I will start with the content that we just heard from Deputy Young where he referred to loans; why are we not using a loan system? I am reminded that if you want a special payment, if you have an urgent emergency payment you need to make when you are on income support, what you get is not a grant, even though you are on your bean ends, what you get is a loan which you then have to repay out of your income support. I am thinking how ironic, one rule for those at the bottom and another rule for those who are perfectly capable of looking after themselves in the private sector. That seems to be a sad indictment of our society at current. But my main point is that I was very impressed by the statement made earlier by the Corporate Services Scrutiny Sub-Panel by the Vice-Chair and I expected to be having a very different debate this afternoon because he says that since the T.D.F. Fund was first established no secure funding system has been put in place and only a small percentage of the £10 million has been paid out since 2001. I was reminded of I think it is Einstein who says that it is an indicator of madness when you repeat an experiment and expect a different result, because here we are, perhaps repeating the experiments, and nobody in this room will probably vote against giving some money into a fund for tourism, even me. However, 2001 was just before I came into this House so I cannot be blamed for that, but here we are again, put some money in a Tourism Development Fund, oh, but we have not got a guarantee of money yet. At the end of that statement they say: “We found that if the T.D.F. funding is not included it will have a detrimental effect on the future of the Fund.” They say elsewhere: “The Fund may possibly collapse. As a result, we propose that this proposition should not be debated until the Minister for Economic Development can clearly demonstrate how the T.D.F. will be funded going forward.” So I thought I was coming in this afternoon to hear a strong, robust statement for the Corporate Services Scrutiny Sub-Panel saying: “Let us not debate this. When you have got the money in place then come back to us and at least we will know that what we are voting for in principle may do some good because we know the funding is there.” Yet, here we are this afternoon repeating an experiment we tried 12 years ago and it did not work then and I suspect it may very well not work this time either. I do not expect a different result, I am afraid. I possibly have been here too long.

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

Could I ask if the last speaker could clarify what he just said about special payments under income support because I believe he got it wrong?

**Deputy G.P. Southern:**

Special payments are issued most often as loans and are expected to be repaid at a rate up to £21 a week by those in receipt of it, in many cases.

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

Yes, he did get it wrong. The majority of special payments are grants, not loans.

**The Deputy Bailiff:**

This is not a debate on that particular matter.

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

I spent some time reading the Scrutiny Panel's review and in particular focusing on the recommendations. In fact, that got me thinking perhaps, although there has been some discussion about the words used in recommendation 3, might I suggest that perhaps rather than saying it should not be debated it would be suggesting that it should not be supported unless the Minister for Economic Development can clearly demonstrate how the T.D.F. Fund will be funded. That is the core issue and has been consistently with the Tourism Development Fund now, without any changes, because there has not been that security available and yet we have a proposition that was brought in front of us back in May suggesting that they should extend the remit with no guarantee of funding. Do we have that guarantee of funding now? No. Why not? Because we have not yet debated the Medium Term Financial Plan. The reality is that currently back in March/April time, and in fact when the Scrutiny Panel started looking at this particular subject, yes, the bid of £500,000 had been submitted but at that stage in the development of the Medium Term Financial Plan the Council of Ministers decided they could not fund it. Subsequently a later draft shows the funding might be available but - and it is a big but - until the financial value is lodged there is no certainty still that funding will be available, and indeed it is down to this Assembly to determine whether or not that funding is provided, along with everything else when we originally and finally debate the Medium Term Financial Plan. That is the issue. I ask the Minister for Treasury and Resources, is it best practice to consider the allocation of funds, or even supporting in principle the allocation of funds, outside of the Medium Term Financial Plan? Because if that is the case then maybe we need to think about all sorts of other priorities that we believe are essential and need additional funding outside of the plan too. That is the issue. It is the issue of whether or not we will ultimately determine whether the £500,000 is allocated to this and that if this is a bigger priority than, for argument's sake, supporting sports organisations, the Youth Service, or indeed providing additional funding to mental health services. Those are the things that we will have to consider wrapped up in the Medium Term Financial Plan. It is wrong, I believe, to think about coming forward and supporting something on a promise that maybe there is a bit of money there now but might not be once we determine the Medium Term Financial Plan. That is all that is being suggested today. Furthermore, I also attended the briefing that the Minister for Economic Development kindly put on and it was very enlightening and a number of things came to my notice during that briefing. The first thing is that there has been a significant increase in applications since 2009 related to the current T.D.F. Fund, current remit. Also it states in the report that the T.D.F. panel themselves are saying: "We need to have certainty of funds. We need to have sufficient funds to do our job properly." They have not had that in the past, as yet there is no guarantee that will be the case in the future, and yet even though there have been significant increases in the applications, we have a proposal in front of us today that says: "That is all right, we still want to extend it and open it up to others." These are issues that still need to be resolved. These are issues that have been highlighted in the report and it is quite proper that we say to the Minister for Economic Development, yes, we support tourism, yes, we support the principles, but to commit ourselves now to agreeing and supporting this proposition will mean that we commit ourselves to supporting the funding that goes with it, prior to considering all of the other matters that quite properly are contained and will be known within the Medium Term Financial Plan. That is a significant matter that we need to deal with. Also, and finally, we just need to be assured that the T.D.F. Fund is not the only fund used and available to the Economic Development Department and the Minister to support tourism. There are many other funds and in fact we were told at the briefing and we are told in the report that the Economic Development and Jersey Tourism are able to support businesses outside of the present remit of the T.D.F. Fund. Jersey Live, in fact, I think is used as an example within the Scrutiny Report.

[15:45]



So just to sum up, I do not think that this is - as the Scrutiny Panel suggest - the appropriate time to be making decisions around supporting this proposition without the secure knowledge and comfort that the £500,000 that is going to be required to fund this is the priority that we believe is acceptable when we consider all the other matters that will be included within the Medium Term Financial Plan. Thank you.

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

I will just start by making a few remarks on some of the comments that have been made so far, by starting with the Constable of St. Martin, who there are no bad feelings at all about the fact he referred this back to Scrutiny. I have said this to him yesterday I think when he came to the panel meeting and I just wanted to reemphasise it. It is important that Members follow their instincts, he had concerns and it was absolutely right that he raised those concerns. I will say that when he started his speech today I had rather hoped we had convinced him yesterday that we were heading broadly in the right direction. He started the speech and I must admit I was not sure which way he was going to start with, it was a bit of a tease, but eventually he came down thankfully in support and I do thank him for that and, in particular, for coming along yesterday to the briefing that we arranged, which clearly has been helpful. The Constable raised a number of points, I am not going to cover them all but he talked, for example, about policy and strategy and how important that was and I do agree with him, policy and strategy clearly are important when you are considering an industry or sector. It is for that reason that we are at the moment just launching the Green Paper for a new tourism strategy. The previous strategy in 2004 has run its course, it has still got some very valid elements to it but, nevertheless, times have changed dramatically in the last few years and we believe that now is very much the time where we need a new, modern, up-to-date strategy. Certainly with many of the ideas that the Connétable has raised today I hope he feeds into that process and gives us the benefit of some of his views. He did comment about one or 2 things in relation to T.D.F.; I will just mention a couple. He talked about the size of grants, I suspect he was driving at the fact that he thought maybe the panel would go down the route of less grants but larger amounts and he was suggesting limiting the size. I take the point, I think it is a valid point, but I would also say first of all that the panel is independent. Secondly that I hope the panel continue as they have done in the past to consider the quality of each and every application that comes in. In many respects that is the most important thing, to have quality applications, quality determines the best possible return on investment and clearly that is what we want from the T.D.F. The T.D.F., after all, is there, the panel is there to ensure that we increase visitor numbers and we increase spend, those are the 2, if you like, guiding principles behind what the panel is all about. Deputy Tadier made some comments and certainly I will be inviting him in for a discussion about some of his views. I know he is enthusiastic about tourism and I welcome that, as I know many other Members of this Assembly are and I am always happy to listen to views. He has raised a particular point, we will not discuss it, clearly, now but I will have him in to have a talk about it. We have followed a policy not too dissimilar from what he is suggesting when we support airlines and new routes, that is exactly the drive behind the principle of bringing more visitors into the Island. He also touched on - and I know a number of Members have raised the point - about loans. Currently, as you are well aware, and indeed the co-chairman of the panel raised this point, we are not able to accept loans as part of the T.D.F. What we were keen to do was to open the T.D.F. up to allow it to have a broader spectrum by introducing the private sector. The concept of loans is something that is interesting, it does have its place, and certainly Members will be aware of the Innovation Fund which we are proposing as part of the Medium Term Financial Plan. Now, the Innovation Fund, that is intended to be a co-investment model, it is intended to have the capability for loans, it is intended to be able to get a return on investment and to be able to grow the fund organically. We have seen good examples in other places like Israel of where that has successfully happened, an initial funding element goes into a particular fund, a venture capital fund we saw in Jerusalem, and

that fund some 10 or 15 years later is worth substantially more than the initial seed funding that went into it. The model is good, it is interesting, it requires an element of risk but, nevertheless, it is a model that I favour. There is more work to be done in order to deliver that. I would like to also just pick up on the Deputy of St. Ouen's comments. I know he has reservations, I had a conversation with him the other day and in particular it is around the security of funding. That is an issue that I know the Scrutiny Panel have raised and it is about the security of funding into the future that I know the Deputy and others have concerns, but quite rightly pointed out is the fact that since the Tourism Development Fund was first introduced 10 years ago there was no security of funding. There never has been, and yet despite that it has been able to deliver something like £500,000 a year on average during that entire period of time. More than £5 million has been distributed from the T.D.F. so there has been money made available, it may not have had the security but it has delivered in many respects on the objectives that it was set up to do. Of course the fund would have liked more money and of course we would have liked more money in the past, but of course now we have to consider very carefully the more constrained climate that we live in. There are an increased number of applications, as the Deputy quite rightly pointed out, I do not think that is really surprising in the climate we are in, 2009, one of the deepest economic recessions that the world has seen and Jersey is suffering an impact from that. So there is bound to be, and there is, more stress and strains in trying to raise funds and investment, so more applications are to be expected. What of course Members will note is that there is not an increase in the number of applications that succeed because, from the panel's point of view, the quality of the application - as I mentioned a moment ago - is absolutely key. They want to support good quality applications that show a good return on investment as far as they are concerned. In fact, it was an interesting point that a couple of the panel members made at the briefing yesterday and that was this - and these are successful local Jersey businessmen who run multimillion pound businesses - they said that they give more scrutiny to a T.D.F. application than they do investments in their own business. I thought that was a really interesting point; 2 of them made that yesterday. The Deputy of St. Ouen said: "Yes, we support tourism, yes, we support the principle" and then he went on to say: "But, no, you cannot have the money" which is effectively the principle behind what he was saying on the basis that the funding was not secure. Well in a moment I am hopefully going to demonstrate that funding is as secure as it could be. There is funding, of course, still in the T.D.F. as we stand today and I will talk in a moment about the funding position and the Medium Term Financial Plan. I would like to and it would be remiss not to say thank you to the Corporate Services Sub-Panel who did the work on producing the report, they have done an excellent job and they have highlighted some important points within their report. More importantly they delivered it in incredibly quick time, so for that I would like to thank them. I would also like to make a point of thanking States Members who came to the briefing that I have already mentioned yesterday; hopefully it was valuable, I think a number thought it was. It is probably worth pointing out, and it is an opportunity for me to do so because tourism is one of our most important sectors, some history in relation to the industry. It has been and remains a flagship industry as far as I am concerned and I am sure many Members here would agree with that. It has suffered over recent years from growing competition that we have seen from European markets, there have been of course low cost airlines, package holidays and the like which have all had an impact on the industry and its ability to develop. But despite that it is still important within the terms of the Island economy, 330,000 staying leisure visitors in Jersey is still a significant number. The industry supports a large number of jobs, Members will be aware 6,000 or so; £20 million in tax which is collected and visitor spends of £230 million gives an indication of the size of the tourism industry and the value of the tourism industry to Jersey. Perhaps most impressive of all is the resilience that we have seen over the last 2 or 3 years to the financial crisis where largely spend and visitor numbers have remained stable. That said, we cannot hide from the fact that the hospitality sector is still struggling, margins have been squeezed and it is a very competitive market. It is encouraging to note - and I think this is a

fascinating point - that the international tourism market is deemed to be one of the few sectors that is showing potential for growth. That was a point that was identified in the World Travel Organisation Report, which was recently published. That report indicates, going forward, 4 per cent growth potential in world tourism over the medium term. Now, Jersey needs to position itself to be able to take advantage of that growth opportunity. To prepare for the future, to be able to continue to develop our hospitality sector, we have launched - as I have mentioned - the Green Paper, the strategy will ultimately be published in October. But central to any strategy will remain the need to stimulate investment. That was the genesis, after all, of the Tourism Investment Fund, which was the forerunner to the Tourism Development Fund. The T.D.F. has proved valuable in enabling and maximising the contribution for the public and the voluntary sectors. As I have already mentioned it has distributed over the last 10 years something like £5 million to public and voluntary organisations for a range of supporting events, infrastructure development, and marketing strategies. Those are all listed in the proposition which Members hopefully can see before them. The most recent round of applications yet again illustrated the desire and innovation of the organisations in Jersey wishing to undertake some new and some really quite exciting projects. Since 2009 the T.D.F. has had a new chairman and a largely new panel. They have redefined the way in which the fund operates, the types of projects that it supports, and they have tightened up the governance procedures. During 2011 they invested £260,000 in 9 projects in the second round of bidding in that year. The true value was the multiplier effect because of that £260,000 investment it stimulated close to £1.5 million of total investment into the tourism sector. Opening the T.D.F. to the private sector will significantly increase this multiplier effect and create the opportunity to stimulate millions of pounds of additional investment into tourism. This is the prize on offer with, in my view, little downside, bar a slight risk surrounding future funding arrangements that we have discussed and which I hopefully will cover to the satisfaction of Members in a moment. What does this risk look like? Well, if the Medium Term Financial Plan bid were to be rejected and there is not alternative funding for T.D.F. then the fund will simply cease to operate. If this proposition does not go through and no further funding is made available then at the very least, as the worst case scenario, the £435,000 currently in the fund would at least stimulate greater investment than if this proposition is rejected. Upfront investment by the T.D.F. makes something happen that would not otherwise have been possible in a climate where securing initial funding for a project is so much more difficult. I want to see every pound of taxpayers' money that the T.D.F. invests make even greater returns on investment. I strongly believe that opening the T.D.F. to the private sector will help to achieve this and the proposition brought today is aimed at removing the barrier to critical investment and growth opportunities. It will allow the private sector to maximise its potential contribution to the development of tourism in Jersey on an equal footing with public and voluntary organisations. I have also been asked why do we do this, why is this timing to opening it up to the private sector? The answer is quite simply it is the economic climate that makes it the absolutely right time to open the fund up, to open up the opportunity for additional funding. In particular I believe we must do what is best for the tourism industry, what is best for creating jobs, and what is best for our economy as a whole. If the private sector are allowed to access the fund the only criteria that the T.D.F. Panel would consider in its evaluation would be to assess which product will have the most effective and sustainable impact on the sector within the Island. I am delighted that the Corporate Services Scrutiny Panel has looked at the proposition in detail and broadly supports it, subject to this issue of funding.

[16:00]

Members will be aware, I am sure, from the report from the panel, I just briefly quote what the panel said: "T.D.F. would leverage additional investment in tourism and increase visitor numbers if grant assistance was extended to private organisations." They also went on to say that they fully support the proposition to grant assistance to the private sector entities, and we have heard that

from the Vice-Chairman and I thank him for that. It is also the view, not surprisingly, of the panel themselves who are keen to see the scheme opened up. I would also like to just briefly comment on the quality and experience and commercial expertise of the T.D.F. Panel and the improved procedures, the procedures which were a concern to some Members and I hope that both the briefing yesterday and comments made today have alleviated any particular concerns in that regard. The proposition, if supported, will require investment in private sector organisations that must be matched on a pound for pound basis, and it is an important to just reiterate. Again, this is already the case for the majority of applicants who have applied to the fund so that funding over and above that supplied by the T.D.F. is invested in tourism that would not otherwise be the case. The new system would formalise this as a strict criteria for private sector organisations to maximise the impact of the fund. Members should be reassured that the public and voluntary sectors will not be disadvantaged by the private sectors entering the scheme. The applicants that are rewarded funding in the current system already go through, as I have said, a scrutiny process and only the top proposals secure a grant. This can be demonstrated by the fact that only 9 out of 26 applicants in autumn 2011 round were successful in gaining an award. Indeed only 5 out of 17 in the spring of this year were successful. I would like to just briefly turn to the 3 recommendations of the scrutiny report. I hope Members have had the opportunity to read the comment from both myself and the Minister for Treasury and Resources. In summary we agree that if, as part of the Medium Term Financial Plan, the States support our bid that £500,000 per annum be allocated to the T.D.F. then after 3 years we will return to the T.D.F. funding model to assess whether it is still at the appropriate level. We agree to adapt the current strong compliance governance measures to ensure that they are fit for purpose for the private sector applications. However, as stated, we do not want to delay this proposition due to the concerns surrounding future funding. I hope to allay those concerns by confirming now that the Council of Ministers is supportive of the £500,000 award to the T.D.F. each year for the next 3 years, which is contained within the Economic Development Medium Term Financial Plan bid. So just to repeat that, the Council of Ministers are supportive of the £500,000 bid for the T.D.F. which is contained within the Economic Development Medium Term Financial Plan bid. Of course we should not prejudge the decision of the States to confirm this but the money to support the T.D.F. is available should Members agree when that comes to this House in November. So it is very much in the hands of Members as far as that is concerned. I have already mentioned that there is £435,000 still in the fund which is sufficient for the next round of bids for both private and voluntary applications. Given the benefits to the industry also recognised - as I have said - by the Scrutiny Panel Report, we do not want to miss out on the opportunity to leverage that £435,000 and to stimulate further investment into tourism investment that is needed right now. In this economic climate where investment is hard to find I do not believe that we can afford to delay this decision for that reason, a decision that in my view has virtually no downside, yet everything to gain on the upside. I also think that we need to show our tourism industry that we fully support them by removing barriers to new investment. This proposition recognises the vital contribution that the private sector makes to the development of tourism, alongside public and voluntary organisations. It enables the private sector to contribute on an equal footing and it allows the full potential of the sector to be more readily achieved. I certainly hope that Members will be supportive of this proposition. I do urge them to support the tourism sector and vote in favour of the proposition. Thank you.

**Deputy M. Tadier:**

May I seek clarification from the Minister on one part of his speech? The Minister said that there was a strict pound for pound funding policy for T.D.F., does this mean that an applicant who had a good idea for tourism but who did not have a funding stream would be rejected on the basis that they did not have any other capital to invest?

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

There is a policy by the panel to seek additional leverage and funding, as I have demonstrated in the previous round, £260,000 of grants leveraged close to £1.5 million of total investment so, yes, the panel are looking for other forms of investment by the applicant into the project. That can come from, of course, a number of different sources. Clearly for the private sector, when and if Members support the proposition, then of course the panel would be looking in an even stricter way to the level of contribution from the private sector application to try and leverage the best deal for the taxpayer and get the maximum return for the fund.

**Deputy M. Tadier:**

Does that mean essentially we will be only giving stimulus money to those who have money in the first place and those who do not have money to fund an idea which may be viable would not get funding because it is only matched on a pound for pound basis?

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

No, it does not mean that necessarily at all. You do not necessarily have to have the money; you have to have the ability to borrow some money to put some risk into the opportunity that you come forward with. That is what has been happening in the past, certainly since 2009 where it has been applied, and it has worked quite successfully. I think if you look at the projects that have been supported they demonstrate that particular model is a successful way forward. But it is certainly not limiting, good quality propositions can be supported and are being supported.

**Senator I.J. Gorst:**

Yes, I did not wish to speak I just wish to make sure that Members are aware of a potential conflict of interest which I should declare but I will not withdraw because it is neither direct nor financial and that is that my wife's family do have interests in tourism businesses.

**The Deputy Bailiff:**

Then I call on the Minister to reply.

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

May I start by saying that the Constable of St. Martin did not need to apologise, he was entirely within his rights to refer it back. I would just say that he can call Ministers on a Sunday afternoon when he is reviewing his documentation, we are normally at it too. I have to say, probably. So we are of course able to answer any questions. But I think this whole issue has shown that Members of this Assembly can be critical friends. The 3 Scrutiny Panel members have been fair, if I may say so, they were pretty penetrating in their questions to the Minister and I, we had to work hard to convince them and they have had good questions. I think they have done an excellent job, if I may say, in clarifying matters and they have also given some helpful recommendations on funding which was beyond their brief but they exceeded it and that is very helpful. The Constable of St. Martin did speak of the original T.D.F. and some concerns of the funding issues and whether or not the fund was originally going to be for, as the Connétable of St. Mary calls, *grand projet* for the tourism sector. Well, of course *grand projet* in terms of swimming pools, and indeed to some Members' view, Mont Orgueil Castle, does perhaps have their supporters and detractors. I think that smaller grants, if I may say, do have a role to play. If Members look at the list of grants that have been given to some small organisations, things like Music In Action and the Liberation Festival that received Radio 3 promotion of a concert in the Liberation Festival. That would not have been possible unless we put some funding in there. That early funding for things like Jersey Live, for Branchage these things would not have happened even with this modest amount of funding. So I think he is right to make the point, I think it is an important contribution which no doubt the members of the T.D.F. will take into account when they are considering matters. It is worth also noting that of course the T.D.F. is not the silver bullet, it is not the inoculation that

serves every issue of tourism and solves the problem. Tourism of course receive grants and as the Minister has made clear, he does use his discretion sometimes to grant funding for other areas such as, as we have heard today, the Jersey Rugby Club. That is a useful addition to supporting tourism, getting the Jersey message out in all those towns and cities in the U.K. that will be visited by our rugby club in the next 12 months. Tourism does receive substantial funds; this is almost a useful but important top-up for that area. I was grateful for Deputy Martin and the Deputy of Grouville for their observations. I think that Deputy Higgins, when he spoke about issues for public services, and this was almost a sort of slush fund for public sector projects, I think that was a little unfair. One public sector project which I am definitely proud of and I hope this Assembly is too is the forts and towers project. That was a public project that was delivered with the partnership of the Jersey Heritage Trust. That has attracted numerous new people to Jersey. It has attracted the attention of BBC TV national broadcasts in terms of the interesting follies and towers that have been restored. I think that that is a good example of a public sector scheme and I think that there are others too. Turning to the issue of loans, I do understand the concern that many Members have in respect of the fact that perhaps the banking system is not providing the loans that it was a number of years ago for private sector organisation. Unfortunately, the States does not have a great track record in being a banker. Governments do not tend to be very good bankers and, unfortunately, it does require, if you are going to get into the loaning business, you need to set up a proper infrastructure to follow up, to take charges and all the rest of it. I am not sure that that is going to be something that is going to be possible, certainly from the Treasury point of view or for Economic Development, but it is something that we will continue to keep under review. The States is moving to 3-year budgeting. This is going to give the certainty that many Members have wanted in terms of certainty for funding, for all sorts of organisations but including the T.D.F. If the Medium Term Financial Plan allocation for funding is approved, and maybe there will be some amendments on that to increase the amount, once that debate has been confirmed there will be certainty and the T.D.F. Panel will be able to go out and seek expressions of interest and funding for projects that will really make a difference to our tourism economy, to visitor experience but, of course, also benefit Islanders too. I do not think there is much more that I can add. I think that there has been a good debate. It has been a critical friendly debate. It has been, hopefully, a debate where we show that we can work together as this Assembly and the debate has been well ventilated. If there are no other questions I move to the vote.

**The Deputy Bailiff:**

Very well, the vote is on whether to adopt the proposition. The appel is called for. I invite Members to return to their seats. The vote is on the proposition of the Minister for Treasury and Resources under P.26 and I invite the Greffier to open the voting.

| <b>POUR: 37</b>             | <b>CONTRE: 4</b>         | <b>ABSTAIN: 0</b> |
|-----------------------------|--------------------------|-------------------|
| Senator P.F. Routier        | Deputy R.C. Duhamel (S)  |                   |
| Senator P.F.C. Ozouf        | Deputy G.P. Southern (H) |                   |
| Senator A. Breckon          | Deputy of St. Ouen       |                   |
| Senator A.J.H. Maclean      | Deputy J.H. Young (B)    |                   |
| Senator B.I. Le Marquand    |                          |                   |
| Senator F. du H. Le Gresley |                          |                   |
| Senator I.J. Gorst          |                          |                   |
| Connétable of St. Helier    |                          |                   |
| Connétable of Trinity       |                          |                   |
| Connétable of St. Clement   |                          |                   |
| Connétable of St. Peter     |                          |                   |
| Connétable of St. Lawrence  |                          |                   |

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|------------------------------|--|--|--|--|
| Connétable of St. Mary       |  |  |  |  |
| Connétable of St. Ouen       |  |  |  |  |
| Connétable of St. Martin     |  |  |  |  |
| Deputy R.G. Le Hérissier (S) |  |  |  |  |
| Deputy J.A. Martin (H)       |  |  |  |  |
| Deputy of Grouville          |  |  |  |  |
| Deputy J.A. Hilton (H)       |  |  |  |  |
| Deputy of Trinity            |  |  |  |  |
| Deputy K.C. Lewis (S)        |  |  |  |  |
| Deputy M. Tadier (B)         |  |  |  |  |
| Deputy T.M. Pitman (H)       |  |  |  |  |
| Deputy E.J. Noel (L)         |  |  |  |  |
| Deputy T.A. Vallois (S)      |  |  |  |  |
| Deputy M.R. Higgins (H)      |  |  |  |  |
| Deputy A.K.F. Green (H)      |  |  |  |  |
| Deputy J.M. Maçon (S)        |  |  |  |  |
| Deputy G.C.L. Baudains (C)   |  |  |  |  |
| Deputy of St. John           |  |  |  |  |
| Deputy J.P.G. Baker (H)      |  |  |  |  |
| Deputy S.J. Pinel (C)        |  |  |  |  |
| Deputy of St. Mary           |  |  |  |  |
| Deputy of St. Martin         |  |  |  |  |
| Deputy R.G. Bryans (H)       |  |  |  |  |
| Deputy of St. Peter          |  |  |  |  |
| Deputy R.J. Rondel (H)       |  |  |  |  |

## **11. Draft Employment Tribunal (Amendment No. 3) (Jersey) Regulations 201- (P.51/2012)**

### **The Deputy Bailiff:**

We now come to the Draft Employment Tribunal (Amendment No. 3) (Jersey) Regulations P.51 lodged by the Minister for Social Security and I ask the Greffier to read the citation of the draft.

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

Draft Employment Tribunal (Amendment No. 3) (Jersey) Regulations, the States, in pursuance of Articles 82 and 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

[16:15]

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

Since the Jersey Employment Tribunal was set up in 2005 the workload has increased significantly. While I have responsibility for the Tribunal regulations and the recruitment of Tribunal members, the Judicial Greffe took over the responsibility for the administration of the Employment Tribunal last year. I have considered the current Tribunal regulations in conjunction with the Judicial Greffe and the proposed amendments I intended, firstly, to enable the Tribunal to operate more efficiently and economically and make full use of the facilities and, secondly, to hear claims more quickly. The Judicial Greffe has pledged that all complaints will be processed within 6 months of receipt and, thirdly, to prepare for discrimination legislation which is likely to increase the number of applications as well as the diversity in those applications. The amendment principally makes 2 changes to the Regulations: firstly, only one Deputy may be appointed. The amendment would

enable the appointment of a pool of up to 5 legally qualified Deputy Chairmen. It is anticipated that one or 2 new Deputies would be appointed during 2012 and 2013, following a full Jersey Appointments Commission recruitment process. As a consequence, the existing provision to appoint acting Chairmen becomes unnecessary. Up to 5 Deputy Chairmen would be available to perform the functions of the Chairman where the Chairman is unable to do so. Secondly, the amendment provides that an annual report on the activities of the Employment Tribunal must be prepared by the Tribunal Chairman, rather than the Minister for Social Security, within 4 months of the end of each financial year. This would bring the Tribunal's annual reporting in line with standard practice for other similar bodies. I propose the principles.

**The Deputy Bailiff:**

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

**11.1.1 Deputy G.P. Southern:**

Can the Minister answer 2 questions? First of all, is there a pool of legally qualified people who are willing to take on this role and, secondly, could he inform Members whether the Chairman or Deputy Chairman of this particular body are in fact remunerated?

**11.1.2 Deputy R.G. Le Hérisier:**

Could the Minister tell us what he means by complication in law? Second, will the Acting Chairman be so qualified.

**The Deputy Bailiff:**

Does any other Member wish to speak? Minister.

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

In response to Deputy Southern I can tell him that the Deputy Chairman would be paid £552 per session. I do not have the figure for the Chairman but if you will give me a second I think I would probably be able to find it. For the Chairman it is £736 and for a lay member it is £97 per session or part of day. The pool: I do understand from the Judicial Greffe that there has been interest when we recruited a Chairman and Deputy Chairman and we do hope that as the responsibilities will be spread between the various Deputy Chairmen in the absence of the Chairman more members of the legal profession will put their names forward for these important roles. In answer to Deputy Le Hérisier; qualification in law means qualification both in Jersey, as an Advocate or a solicitor, and also in the U.K. So I bow to your knowledge upon the qualification required to be a member of the legal profession in the U.K. but I understand that those qualifications apply equally to these posts. I hope I have explained myself adequately and I...

**Deputy M.R. Higgins:**

Sir, can I ask a point of clarification just on the answer? When you refer to a session do you mean, for example, if a case went over a few days it would be for the entire period or just, say, today, for example, if it was a 3-day hearing would it be 3 sessions or would it be one session or what?

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

The best thing I can do to answer the Deputy is to read from the Employment Tribunal (Jersey) Regulations 2005 which, of course, this amendment is amending and Article 6 says: "Remuneration of members, a member of the Tribunal shall be paid remuneration at the following rate for each day or part of a day on which he or she sits."

**The Deputy Bailiff:**



Very well, the principles are proposed. All Members in favour of adopting the principles kindly show. Against. The principles are adopted. The Deputy of St. Peter, does your panel wish to scrutinise these Regulations?

**Deputy K.L. Moore of St. Peter (Chairman, Health, Social Security and Housing Scrutiny Panel):**

No, thank you, Sir.

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

Sir, with your consent and the consent of Members I would like to propose the Regulations *en bloc*.

**The Deputy Bailiff:**

Yes. Is it seconded? **[Seconded]** Does any Member wish to speak? All those Members in favour of adopting the Regulations kindly show. Those against. The Regulations are adopted. Do you wish to propose it in the Third Reading?

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

Yes, Sir, and I would ask for the appel.

**The Deputy Bailiff:**

Very well, seconded? **[Seconded]** Does any Member wish to speak in Third Reading? The appel is called for and I invite Members to return to their seats. The vote is on whether to adopt the Employment Tribunal (Amendment No. 3) (Jersey) Regulations in the Third Reading and I ask the Greffier to open the voting

| <b>POUR: 43</b>              | <b>CONTRE: 0</b> | <b>ABSTAIN: 0</b> |
|------------------------------|------------------|-------------------|
| Senator P.F. Routier         |                  |                   |
| Senator P.F.C. Ozouf         |                  |                   |
| Senator A. Breckon           |                  |                   |
| Senator S.C. Ferguson        |                  |                   |
| Senator B.I. Le Marquand     |                  |                   |
| Senator F. du H. Le Gresley  |                  |                   |
| Senator I.J. Gorst           |                  |                   |
| Senator L.J. Farnham         |                  |                   |
| Connétable of St. Helier     |                  |                   |
| Connétable of Grouville      |                  |                   |
| Connétable of St. Clement    |                  |                   |
| Connétable of St. Peter      |                  |                   |
| Connétable of St. Lawrence   |                  |                   |
| Connétable of St. Mary       |                  |                   |
| Connétable of St. John       |                  |                   |
| Connétable of St. Ouen       |                  |                   |
| Connétable of St. Brelade    |                  |                   |
| Connétable of St. Martin     |                  |                   |
| Deputy R.C. Duhamel (S)      |                  |                   |
| Deputy R.G. Le Hérissier (S) |                  |                   |
| Deputy J.A. Martin (H)       |                  |                   |
| Deputy G.P. Southern (H)     |                  |                   |
| Deputy of St. Ouen           |                  |                   |
| Deputy of Grouville          |                  |                   |

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

## **12. Draft Petroleum (Amendment No. 3) (Jersey) Law 201- (P.52/2012)**

### **The Deputy Bailiff:**

We now come to the Draft Petroleum (Amendment No. 3) (Jersey) Law lodged by the Minister for Home Affairs and I ask the Greffier to read the citation of the draft.

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

Draft Petroleum (Amendment No. 3) (Jersey) Law, a law to amend the Petroleum (Jersey) Law 1984. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

This amendment P.52 and P.53 are very similar. They both seek to deal with the fact that the definition of petroleum spirit in a law has not been kept up-to-date. The legislation in the U.K., to which the current definition applies, has changed. This projet, therefore, seeks to amend the definition to bring it up to date. The existing definition can be found on page 4 in the second paragraph: “The new definition is in Article 1(1) of the amendments, which refers to section 23 of the relevant U.K. law.” What that currently means is set out in the explanatory note. The key issue is a very small one and it appears to be that the test moves from petroleum spirit, which gives off a flammable vapour at a temperature of less than 23 degrees Celsius to a flash point of less than 21 degrees centigrade. Paragraph 1(b) of the amendment gives the States a power by Regulations to in future amend the definition in the law of petroleum spirit so that we would not have to pass a law but could do it faster by Regulations. I move the amendment in principle, Sir.

### **The Deputy Bailiff:**

Is it seconded? [**Seconded**] Does any Member wish to speak on the principles? Yes, Deputy Baudains.

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

Could the Minister confirm that I am correct in my assumption that this does not bring in any more substances under the definition of petroleum than hitherto existed?

**The Deputy Bailiff:**

Does any other Member wish to speak? Have you finished your speech, Deputy?

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

Yes.

**12.1.2 Deputy G.P. Southern:**

A completely minor point but the Minister referred to both Celsius and centigrade and I wonder if he deliberately did that and if he knows the difference?

**12.1.3 Senator S.C. Ferguson:**

Yes, I am just a little confused. I think it probably follows on from Deputy Baudains, I mean is this sort of unleaded? Is it super-unleaded? I do not quite understand what sort of petroleum it is, perhaps the Minister can explain.

**The Deputy Bailiff:**

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

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

I do not think it is going to have any effect at all in reality. It is just we have not brought the definition up-to-date. We brought into the U.K. legislation for our definition in the past. That definition the U.K. has changed and we have not changed with it and we need to, but I do not think in terms of what is going to be brought in or covered by this is going to have any real effect at all. It is more cosmetic but it is a tidying-up operation. In relation to the excellent point of Deputy Southern, I read out Celsius the first time because that is what the law in the U.K. said. The second one said 21 degrees capital C and I assumed that meant centigrade but perhaps I am wrong but there we are. I continue to move the proposition principle.

**The Deputy Bailiff:**

The draft for law is for those in principle if the principles are adopted. All those in favour kindly show. Those against. The principles are adopted. Deputy Maçon, do you wish to scrutinise this ...

**Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel):**

Certainly, thank you, Sir.

**The Deputy Bailiff:**

Not even C for Celsius or anything like that? **[Laughter]** Minister.

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

I have already explained in detail what they say, so there is no point in my doing that again. I will just move them *en bloc*.

**The Deputy Bailiff:**

Move them *en bloc*, is it seconded? **[Seconded]** Does any Member wish to speak? The Connétable of St. John.

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

Yes, Sir, since you did not allow me to speak on the last amount. **[Aside]** Yes, I was well and truly cut off at the knees. Maybe, in his summing up, the Minister will tell us; does this include av gas? That is what I wanted to know.

**12.2.2 Senator L.J. Farnham:**

Only to say that Celsius is also another word for centigrade, named after the Swedish gentleman, Anders Celsius.

**The Deputy Bailiff:**

Well, I think we have moved on from the principles. Minister, do you wish to reply?

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

I do not know the answer to that question because I do not know if aviation gas falls within the previous definition or the new definition but if it was in the previous one it will be in the new one, if it is not it will not, so have no effect. **[Laughter]** But I honestly do not know. The definition is so technical that I have not inquired in depth into the precise range of scientific products. I maintain the Articles *en bloc*, Sir.

**The Deputy Bailiff:**

All Members in favour of adopting Articles 1 and 2 of this legislation kindly show. The appel is called for on the basis on whether to adopt Articles 1 and 2 of the Draft Petroleum (Amendment No. 3) (Jersey) Law. I ask the Greffier to open the voting and for Members to return to their seats.

| <b>POUR: 42</b>              | <b>CONTRE: 1</b>       | <b>ABSTAIN: 0</b> |
|------------------------------|------------------------|-------------------|
| Senator P.F. Routier         | Connétable of St. John |                   |
| Senator P.F.C. Ozouf         |                        |                   |
| Senator A. Breckon           |                        |                   |
| Senator S.C. Ferguson        |                        |                   |
| Senator B.I. Le Marquand     |                        |                   |
| Senator F. du H. Le Gresley  |                        |                   |
| Senator I.J. Gorst           |                        |                   |
| Senator L.J. Farnham         |                        |                   |
| Connétable of St. Helier     |                        |                   |
| Connétable of Grouville      |                        |                   |
| Connétable of St. Clement    |                        |                   |
| Connétable of St. Peter      |                        |                   |
| Connétable of St. Lawrence   |                        |                   |
| Connétable of St. Mary       |                        |                   |
| Connétable of St. Ouen       |                        |                   |
| Connétable of St. Brelade    |                        |                   |
| Connétable of St. Martin     |                        |                   |
| Deputy R.C. Duhamel (S)      |                        |                   |
| Deputy R.G. Le Hérissier (S) |                        |                   |
| Deputy J.A. Martin (H)       |                        |                   |
| Deputy G.P. Southern (H)     |                        |                   |
| Deputy of St. Ouen           |                        |                   |
| Deputy of Grouville          |                        |                   |
| Deputy J.A. Hilton (H)       |                        |                   |
| Deputy J.A.N. Le Fondré (L)  |                        |                   |
| Deputy of Trinity            |                        |                   |

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| Deputy K.C. Lewis (S)      |  |  |  |  |
| Deputy M. Tadier (B)       |  |  |  |  |
| Deputy T.M. Pitman (H)     |  |  |  |  |
| Deputy E.J. Noel (L)       |  |  |  |  |
| Deputy T.A. Vallois (S)    |  |  |  |  |
| Deputy M.R. Higgins (H)    |  |  |  |  |
| Deputy A.K.F. Green (H)    |  |  |  |  |
| Deputy J.M. Maçon (S)      |  |  |  |  |
| Deputy G.C.L. Baudains (C) |  |  |  |  |
| Deputy J.H. Young (B)      |  |  |  |  |
| Deputy S.J. Pinel (C)      |  |  |  |  |
| Deputy of St. Mary         |  |  |  |  |
| Deputy of St. Martin       |  |  |  |  |
| Deputy R.G. Bryans (H)     |  |  |  |  |
| Deputy of St. Peter        |  |  |  |  |
| Deputy R.J. Rondel (H)     |  |  |  |  |

**The Deputy Bailiff:**

Do you propose the amendment in Third Reading?

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

The Third Reading for me, Sir, yes.

**The Deputy Bailiff:**

Does any Member wish to speak on Third Reading? All Members in favour of adopting the law in Third Reading kindly show, those against. The law is adopted.

**13. Draft Petroleum Substances (Jersey) Regulations 201- (P.53/2012)**

**The Deputy Bailiff:**

We now come to the Draft Petroleum Substances (Jersey) Regulations P.53 lodged by the Minister for Home Affairs and I ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Petroleum Substances (Jersey) Regulations, the States, in pursuance of Article 10 of the Petroleum (Jersey) Law 1984, have made the following Regulations.

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

Sir, I regret I cannot now switch my microphone off. I am not quite sure what has happened. [Laughter]

**The Deputy Bailiff:**

I sometimes think the Chair ought to have that ability. [Laughter]

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

Some people have to happen after I have completed talking but I apologise for that. These Regulations seek to deal with exactly the same point as I dealt with just before but by tomorrow, so that not having to wait for the law to come back from the Privy Council the Law Draftsman came up with a very cunning plan to utilise a power that exists in the law to widen the existing definition

so as to cover the extra items that we want and this is done by Regulation 1, but once the amendment to the law has taken effect that Regulation will cease to have effect.

[16:30]

This is a very clever way to get round the delay in terms of matters coming back from the Privy Council so that, effectively, the definition will have changed by tomorrow. I move the principles.

**The Deputy Bailiff:**

Is it seconded? **[Seconded]** Senator Ferguson.

**13.1.1 Senator S.C. Ferguson:**

Yes, the Minister has not yet explained what the chemical composition is that reduces the flash point to less than 21 degrees centigrade. It seems to me that if you change the flash point then you have changed the chemical composition. Therefore, I would ask the Minister, what is the chemical composition of this? What additives are there with it that have changed it? There are obviously additives in this to change the flash point and I would, therefore, ask what those are because, frankly, I do not like agreeing to something when I do not understand all the implications.

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

Similar to my previous question, can the Minister assure me that no new substances are brought in under the cover of this by this change in Regulations? I mean, for example, it might have covered petrol previously, it might now cover petrol and kerosene, just as an example.

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

I have to put the same question again, does this cover av gas, aviation gas and fuel?

**13.1.4 Deputy R.G. Le Hérissier:**

There is a reference to: "17th time Council Directive from the E.E.C. (European Economic Community)." Could the Minister please elaborate upon the first 16?

**The Deputy Bailiff:**

I am not sure that is in point. Does any other Member wish to speak? Very well, Minister, they are some easy questions for you to deal with.

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

I certainly do not know the answer to the first one and I did not know the answer to the second one last time. **[Laughter]** All I can say is that the effect, as I understand it, is that we have moved from gives off a flammable vapour and temperature of less than 23 degrees Celsius to a flash point of less than 21 degrees C. The point is we have tied in with U.K. legislation because frankly our petroleum is coming from that direction. It is petroleum spirit in the U.K. and it will then be petroleum spirit in Jersey and I do not think it will have any effect on Deputy Baudain's question. I do not think it is going to have any effect at all, it is just we want to get the definition up to the modern standard. But what the chemical composition is in any of these things I doubt if the fire officers have any idea either. **[Members: Oh!]**

**The Deputy Bailiff:**

All Members in favour of adopting the principles kindly show. The appel is called for on the principles of the Draft Petroleum Substances (Jersey) Regulations and I invite Members to return to their seats and ask the Greffier to open the voting.

|                      |  |                       |  |                            |
|----------------------|--|-----------------------|--|----------------------------|
| <b>POUR: 40</b>      |  | <b>CONTRE: 2</b>      |  | <b>ABSTAIN: 1</b>          |
| Senator P.F. Routier |  | Senator S.C. Ferguson |  | Deputy G.C.L. Baudains (C) |

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

**The Deputy Bailiff:**

Very well, Minister, do you propose the Regulations *en bloc*?

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

Sorry, now I seem to have back control over my light, which is good news. I propose the Regulations *en bloc*.

**The Deputy Bailiff:**

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

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

Does the Minister consider that he came to the House well prepared for this particular proposition and, if not, will he give us the information we require after the Assembly closes this evening?

**13.2.2 Senator S.C. Ferguson:**

Yes, I agree with the Connétable of St. John. I do not like voting for things where the Minister cannot explain to me exactly what are the implications and I think we are very foolish to just sign up for E.E.C. rules and definitions without knowing what we are doing it for. I would ask that the Minister withdraw this and bring it back with a proper explanation.

**The Deputy Bailiff:**

I should, in the interval a moment ago, have asked the Chairman of the Education and Home Affairs Scrutiny Panel whether he wished to scrutinise these Regulations.

**Deputy J.M. Maçon (Chairman, Education and Home Affairs Scrutiny Panel):**

Despite the wonderful reservations of Senator Ferguson **[Laughter]** I would say no and I do hope no one will refer this to Scrutiny.

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

Would the Minister agree with me that with my 2 previous questions it could be quite a serious matter if, in fact, other substances are brought in that we are not hitherto covered by this law, simply from, for example, a matter of storage? The Regulations and laws that apply to the storage of petroleum, if they then apply to other substances, could have quite severe ramifications for various people.

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

Could the Minister, when he replies, just clarify for me because I thought I understood this, that it is not the petroleum spirit that is changed at all it is simply the technical definition of the test and so, therefore, all these questions about chemical composition are, in my opinion, spurious and I just think maybe I am very confused by this.

**13.2.5 Deputy M. Tadier:**

I think that is probably the case as well and some people are perhaps trying to be a bit more clever than they should be and expecting the Minister for Home Affairs to have a chemistry degree when actually he has probably taken some quite good advice. It is a very procedural point, but it is nice to know that certain Members have their scrutiny heads still on. Just to reassure the 2 that spoke, the Constable of St. John and Senator Ferguson, we do not have to worry about voting for something without knowing what we are voting for because we just did, essentially, the same thing with the Tourism Development Fund, no one knows on earth what is going to go on with that. We have taken a leap in the dark and we should all know by now, certainly these 2 Members, that we just trust our Ministers to get on with it and they do not have to be accountable. I think this is probably the least of our worries at this point. If we are going to take a gamble certainly take a gamble now and support this one. I would not like to see it blowing up in our faces.

**13.2.6 Senator L.J. Farnham:**

It was just very briefly to say if the Minister agrees that his Members did read the report. It is very clearly stated, as the Constable of St. Mary pointed out, this is simply to deal to resolve an issue in relation to the change in a technical definition.

**13.2.7 Deputy T.A. Vallois:**



In reading this over the weekend I read the Council Directive and looked into it and it stated that it was going to be repealed before 1st June 2015 and I was wondering what procedures Home Affairs have in place to ensure that we amend our legislation in time for that so it does not go out of date again.

**The Deputy Bailiff:**

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

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

Well, in relation to the last question, that is exactly why in fact in the amendment, where we just passed the law, we have put in a Regulation-making power so that if there are subsequent changes in the definition in the U.K., which we have bought into for these purposes, that we can move it quite quickly, that is the whole purpose of that. In relation to the Connétable of St. John, I thought I was very well prepared today and it is purely a technical matter in relation to the definition that has been adopted in the U.K. that has changed. We have not kept up with that but, essentially, we are still dealing with the same item, so I am quite confident of that. I thank the Connétable of St. Mary for her confident intervention and my Assistant Minister for his support. I think I have answered all the other points that arise. I think I am at the stage of moving *en bloc* the Regulations, which I do so.

**The Deputy Bailiff:**

All those in favour of adopting the Regulations kindly show and those against. The Regulations are adopted. Do you move the Regulations in Third Reading, Minister?

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

Yes, I do indeed, Sir.

**The Deputy Bailiff:**

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

**14. Draft Fire Precautions (Amendment No. 2) (Jersey) Law 201- (P.54/2012)**

**The Deputy Bailiff:**

We now come to the Draft Fire Precautions (Amendment No. 2) (Jersey) Law lodged by the Minister for Home Affairs and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Draft Fire Precautions (Amendment No. 2) (Jersey) Law, a law to amend the Fire Precautions (Jersey) Law 1977. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

Of course in the light of the previous detail on the first matter I may now find it necessary to go into every Article in the most precise detail. I am armed to the hilt and prepared to talk on each paragraph and subparagraph at great length if Members wish me so to do. But I will deal with the principles first, if I may. The Fire Precautions Law 1977 created a requirement for a fire certificate in relation to those categories of premises that are designated by the States by Regulations but which must fall within certain categories set out in the law in Article 2(2). Anticipating the difficulties that Members have in understanding amendments I have of course provided Members

with copies not only of the law as it is prior to amendment but also with copies of the particular Regulations, which will show the categories that are currently subject to the requirement for obtaining a fire precaution certificate. I was going to read those out in detail but I will not now because I have provided Members with that level of detail. The current number of certificated premises is 519. The amendment seeks to achieve a number of different objectives. It is firstly the concern of the fire and rescue service and myself that certain types of premises, which represent the highest risk in terms of fire safety to life, be brought ultimately within the requirement for certification. In order to do that 2 stages are required. Firstly there are amendments to the law, which are required, which are contained in the amended law. The second stage is there will thereafter be a requirement for States to pass Regulations in order to add those categories within the category of designated premises. So we are not making a decision today of those premises that will ultimately be designated premises in this category. We are just simply passing enabling legislation so we can move on to the second stage. The category that causes the most concern to the fire and rescue service and to myself are called houses of multiple occupation and these are things like staff accommodation. The situation was in fact highlighted very effectively and sadly by the Broadlands fire because at Broadlands there was a lodging house which was a former guest house, which was certificated and therefore had detailed fire safety arrangements, and near it was another building, which was staff accommodation, which I understand is what caught on fire, which had absolutely no certification, no fire safety requirements required. Each represented an equal risk and yet one was covered by the detail of the law and the other was not covered at all. It is that sort of category of premises of houses of multiple occupation that needs to be brought within the certification process. So that is the first area. As I say, we are not making a final decision today. We are just passing legislation so that subsequently if the Assembly so wishes they can bring these, as they will be defined in Regulations, within the ambit of matters. Secondly, at the moment certification is for an indefinite period and if there are no significant alterations made to the premises then the existing certificate could continue indefinitely. But of course fire safety standards improve from time to time and if they have improved in the meanwhile there is no method for requiring the person in control of the premises to upgrade the fire precautions, and so what we are doing here is moving towards a situation where there will be a need for a certificate to last for a 3-year period at any given time. It will no longer be indefinite period, it will be tranches of 3 years or a fraction over 3 years. Thirdly, the current law, Article 5, puts the onus upon the occupier of premises to obtain a fire certificate for the premises. However it is not always easy or clear as to who the occupier is and so one of the things that is happening here is moving the requirement from the occupier to the responsible person.

[16:45]

The responsible person is defined within the Regulations in this way. Firstly, where there is a workplace the responsible person will be the employer if the workplace is, to any extent, under his or her control. If there is not an employer it will be the person who has control of the premises as occupier or otherwise but if there is no person in control of the premises then it defaults to the owner. That is the third major area of changes and, as a result, there are a whole host of consequential amendments throughout the law in order to bring this up-to-date. Those are the major issues in relation to this. I will not go into more detail at this stage. I can go into detail at any level that this Assembly may wish to challenge me with on this one but I will not go into further detail, I will move the principles.

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

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

#### **14.1.1 Deputy J.M. Maçon:**

First of all I would just like to give my thanks to the Home Affairs Department, and in particular the Fire Service, for making my Scrutiny Panel aware of these particular Regulations. There are not any issues which we would like to raise. Perhaps the Minister may wish to comment on a summary of the consultation and the representations that were made about this particular law changes. But, as I say, there are no issues that the panel wish to raise when we saw these Regulations, and I think we will be supporting it.

**The Deputy Bailiff:**

Your panel has looked at the Regulations already?

**Deputy J.M. Maçon:**

Indeed, we have, Sir.

**14.1.2 Deputy J.H. Young:**

The new requirement for 3-year certification obviously only applies to certain premises. Can the Minister explain or assure us that the requirement to submit plans, and all those technical evaluations of those premises that require these certificates, will not in any way contradict the existence of building bylaws consents which have already issued under fire prevention Regulations under the Planning and Building Law, which are updated annually? Can the Minister please assure us that we are not in any way imposing a double bureaucracy here, accepting the purpose of these, but is he sure that any overlap with those regulations has been avoided?

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

I would just like some clarification as to who will be responsible for ensuring that premises are certificated by the Fire Service. Is it on the owner or the employer to contact the Fire Service to ask them to undertake a check to see whether the premises are compliant or is there any requirement upon the Fire Service to contact certificate holders now to tell them about this change?

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

I am just curious as to how the cost of carrying out necessary checks and producing a certificate says that the fee is in line with States of Jersey user pays policy. Just over £20 per annum, which appears to be good value, I would like to know how the figure was arrived at because, as the Minister will be aware, I was querying the rise in the cost of a petroleum storage licence, which used to be £118 a year, this year it shot up to over £200 plus £50 for every pump you have. The checking for that insulation will take less time than it will to carry out a check for these premises. While I am fully supportive of the proposition I am not quite sure how the fee is arrived at.

**The Deputy Bailiff:**

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

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

Firstly I am trying to find the section of the report, which deals with the issue of consultation. It is on page 5 at the top: "The States of Jersey Fire and Rescue Service went out to public consultation in respect of post-changes introduced by this between 23rd January 2012 and 20th March 2012. The final consultation was subsequently sent to the Education and Home Affairs Scrutiny Panel because members were satisfied with the answers provided by the Fire and Rescue Service in relation to any queries raised." Secondly, this is not bringing in a requirement for certification, which has not already existed. It is preparing for an extension of the categories of premises and so the situation already exists where there are parallel considerations between planning issues and certification issues. Of course there are premises that do not require certification where people will apply to make alterations and there may well be consultation by the Planning and Environment

Department, with the Fire Service and that commonly happens, but the issues of what goes down on a certificate does not just deal with structural issues. It deals with issues of use of premises, what is kept there, and a variety of matters, which are much wider than the issues which would purely be covered by planning. So yes, there is a degree of overlap in cases where there is certification required but it is looking at it from a slightly different angle. In any eventuality, as I have indicated very often, parties will be required to effectively do as part of the planning process what has been recommended by the Fire Service. The person who has responsibility is moving from the occupier under this to the responsible person, which I very rapidly read out the definition of “responsible person”, which is in fact in Article 1 in the Interpretation at the top of page 12 of the document. The position is that if a responsible person makes alterations to a building or starts to use a building in a way which brings it within the requirement, in other words it becomes designated premises, then it is their responsibility to approach the Fire Service in order to obtain the necessary certificate. In addition to that, if they have obtained an existing certificate but then start to use the premises in a materially different way there are situations in which they have to notify the Fire and Rescue Service that these changes have taken place so there can then be a re-evaluation of the situation, directions can be given as to what they then have to do, there may even need to be a variation to the certificate to take account of the change, but again the onus will be upon the responsible person in the future to do that. In addition to that the Fire and Rescue Service have in the past had a process of inspecting premises from time to time to make sure that individuals are complying but the primary duty is with the responsible person in relation to that, if that answers the question. In relation to the fee question, I acknowledge Deputy Baudains’ legitimate concerns in relation to a particular order that I have passed recently in relation to petroleum fees. It is interesting he has asked this question under this law, he could have asked it previously. I am in the process of reviewing that, as I have already indicated to him, and will happily discuss that further with him. The current fee level is £70 for a certificate. I cannot of course guarantee that that will stay the same indefinitely. It most certainly will not. It will change from time to time but that is the current level of fee, which is related to this. One thing I should have said, which I omitted to say previously, was that if the States moves in a direction I believe it should do for adding house of multiple occupancy we estimate there will be an additional to 100 to 150 premises that would require certification, which do not at the moment. I move the principles.

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

All those Members in favour of adopting the principles kindly show. Those against. The principles are adopted. Minister, do you wish to move these Articles *en bloc*?

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

Yes, Sir, I will seek to move them *en bloc*. After my experience in the previous matters I think I may need to go into slightly more detail than I hoped I would need to. If I may run rapidly through the Articles? As I said there are a lot of repetitious things where there are changes which are consequential upon the matters I have already mentioned. There are also law drafting things where the law draftsman does not like the use of the term “his” or “her” and tends to move to the person or the person’s as a drafting style partly to accommodate companies and I am not going to go through all those. But I will go through the more substantial points, which arise, in terms of change. Firstly Article 1 is purely a drafting point. Article 2, the new matters there are the definition of “inspector”. That was already in the law but it has now been made a defined term, but its meaning has not changed. Responsible person definition of course I have already dealt with in detail. If I move on to Article 3, the amendment to Article 2(5) is in preparation for houses of multiple occupancy. The amendment to Article 2(6) is so that the States have a Regulation making power in order to define, for the purposes of the house and multiple occupancy the persons who are to be regarded or not regarded as members of the same household. We move on to Article 4: (a) is

a very minor change, (b) is a drafting point, (c) is the key issue, which creates now the period of the certificate. It is a maximum period of just over 36 months. It finishes at the end of the 36 months, so it will be a maximum period of just over 36 months. The new paragraph 6 of Article 3, there are 2 Regulation-making powers. The first one allows the amendment of paragraph 3 by Regulation rather than being required by law, and the second one, under (b), would allow the changing of the 36-month period by Regulation rather than it being required by law. In Article 5(a) there are a number of new items. This has to do with the criteria, the points of interest, the points of concern, which are legitimate points to give rise to requirements - that is another word for conditions - being imposed in relation to a certificate. A number have been added: (d) has been added but that is to do with house of multiple occupancy; (f) has been added, that is a requirement if there is a change of responsible person effectively that there then has to be notification to the Minister; (g) is to do with houses of multiple occupancy. Paragraph 5(b) is a drafting point. Paragraph 5(c), in relation to (8) it is related to a responsible person. In relation to (9), this is an amendment to create new duties for the responsible person in relation to keeping the fire certificate displayed where it can be seen and having documents available for inspection if the Fire Service comes round to inspect it. In relation to (10), again a Regulation-making power has been added to amend the terms of paragraph (2) by Regulation. Move on to 6 at paragraph (a) the point relating to responsible person...

**Deputy R.G. Le Hérisier:**

I have interrupted before and I know you have slapped me down, the Minister obviously has a technical grasp. **[Laughter]** I thought he was only going to go over the major issues. We seem to be going through every...

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

After my experience in relation to the previous matters can I take the risk of not going through the detail? I am in the hands of the Assembly. If you prefer me to sit down now and just invite questions I will happily do so. **[Approbation]** But after my last experience I do feel that the House deserve a more adequate explanation perhaps. I will sit down now and invite questions.

**The Deputy Bailiff:**

Deputy Le Hérisier, you obviously wish to speak, do you? Does any Member wish to speak?

**14.2.1 Deputy J.H. Young:**

Sorry to bog this Assembly down in detail but I would like to ask, I see that obviously there is a requirement under Article 7 of this amendment that if homes or houses, if I can call them that, become used as private dwellings by more than one household all sorts of regulatory requirements kick in and also there are penalties and potential convictions.

[17:00]

Could the Minister just tell us in his summing up what he regards as a household? In particular if you have a 2-generation home, what is common for an elderly relative, whether that counts as being one household or 2 for the purposes of these Regulations? What I am concerned about there is obviously avoiding over-bureaucratic arrangements for extended family living.

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

I was going to raise exactly the same point and I would add to Deputy Young while I might not be concerned with this where money was a concern that it is a £70 fee every 3 years. If families with elderly residents were to qualify I would consider that more burdensome than it needs to be.

**The Deputy Bailiff:**

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

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

I did not have the chance to air any more detailed points. Can I say that was one of the points I had already dealt with but if Members would like to look at Article 3, which amends Article 2 and look at (5) and (6) there they will see: “A fire certificate shall not be required in respect of any premises that are used as a single dwelling by a single household.” Then (6): “The States may specify in Regulations the circumstances when persons are to be regarded or not to be regarded as being members of the same household.” So the intention is that as part of the package that would bring in the extension of certification to particular types of premises that we would also define in there exactly what we meant by household. We are not looking at grandma living in with the family or something of that nature. We are looking at a situation in which you have multiple units effectively and probably multiple cooking arrangements and things of that sort of nature. But there is a whole number of safeguards built into this. Firstly, in order to be capable of going to Regulations it would have to fall within the Article 2 matters and, secondly, it is this Assembly which will make the decision as to precisely what the definitions are subsequently. So I can assure those who might be concerned that there are ample safeguards in relation to this. It is going to be quite a difficult piece of work to get the definition exactly right, so I am very much aware of this. We have started work on this but had to stop it pending this law being passed. So I hope that Members are now satisfied with that and I can now move all the Article *en bloc* I believe.

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

Just to say sorry for not paying proper attention. **[Laughter]**

### **The Deputy Bailiff:**

Very well, the Articles are proposed. Those Members in favour of adopting them kindly show. Those against. The Articles are adopted. Do you propose the law in Third Reading?

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

I do indeed, Sir.

### **The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak? Deputy Higgins:

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

Just looking at the end of the report section, it refers: “Under the Criminal Justice Standard Scale of Fines (Jersey) Law 1993” and it goes through the different levels of fine, and I find it strange that the maximum level is £5,000. If we are talking about properties with multiple occupation I just wonder about the level of fines. My question to the Minister is when were the fining provisions last reviewed and does he consider them adequate?

### **The Deputy Bailiff:**

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

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

If I had been able to continue my excellent and detailed speech I would have explained a number of matters which were dealt in here, I think level 2 are the relevant ones, which is £500 maximum. The point that is made by Deputy Higgins is well made because in fact it was anticipated that the levels would be raised from time to time and they have been stuck at the same level. I think that is a very good point and I am not sure whether it is a point for me or for the Legislation Advisory Committee but we ought to be reviewing the level 1, level 2, level 3, level 4 because time has moved on. That is a point very well made, if I may say so. I am still maintaining in detail I think.

**The Deputy Bailiff:**

The appel is called for on whether to adopt the Draft Fire Precautions (Amendment No. 2) (Jersey) Law in Third Reading. I invite Members to return to their seats and I ask the Greffier to open the voting.

| <b>POUR: 39</b>              | <b>CONTRE: 0</b> | <b>ABSTAIN: 0</b> |
|------------------------------|------------------|-------------------|
| Senator P.F. Routier         |                  |                   |
| Senator P.F.C. Ozouf         |                  |                   |
| Senator A. Breckon           |                  |                   |
| Senator S.C. Ferguson        |                  |                   |
| Senator A.J.H. Maclean       |                  |                   |
| Senator B.I. Le Marquand     |                  |                   |
| Senator F. du H. Le Gresley  |                  |                   |
| Senator I.J. Gorst           |                  |                   |
| Senator L.J. Farnham         |                  |                   |
| Connétable of St. Helier     |                  |                   |
| Connétable of Trinity        |                  |                   |
| Connétable of St. Clement    |                  |                   |
| Connétable of St. Peter      |                  |                   |
| Connétable of St. Lawrence   |                  |                   |
| Connétable of St. Mary       |                  |                   |
| Connétable of St. Ouen       |                  |                   |
| Connétable of St. Brelade    |                  |                   |
| Connétable of St. Martin     |                  |                   |
| Deputy R.C. Duhamel (S)      |                  |                   |
| Deputy R.G. Le Hérissier (S) |                  |                   |
| Deputy J.A. Martin (H)       |                  |                   |
| Deputy of St. Ouen           |                  |                   |
| Deputy J.A. Hilton (H)       |                  |                   |
| Deputy J.A.N. Le Fondré (L)  |                  |                   |
| Deputy of Trinity            |                  |                   |
| Deputy K.C. Lewis (S)        |                  |                   |
| Deputy M. Tadier (B)         |                  |                   |
| Deputy M.R. Higgins (H)      |                  |                   |
| Deputy A.K.F. Green (H)      |                  |                   |
| Deputy J.M. Maçon (S)        |                  |                   |
| Deputy G.C.L. Baudains (C)   |                  |                   |
| Deputy of St. John           |                  |                   |
| Deputy J.H. Young (B)        |                  |                   |
| Deputy S.J. Pinel (C)        |                  |                   |
| Deputy of St. Mary           |                  |                   |
| Deputy of St. Martin         |                  |                   |
| Deputy R.G. Bryans (H)       |                  |                   |
| Deputy of St. Peter          |                  |                   |
| Deputy R.J. Rondel (H)       |                  |                   |

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

That was in Third Reading was it, Sir?

**The Deputy Bailiff:**

That was in Third. [Laughter]

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

I am sorry I got completely confused.

**The Deputy Bailiff:**

And you were doing so well, Minister.

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

I was doing well there. May I thank those who have taken part in the debate and particularly the draftsman for their work and the Fire and Rescue Service. My only regret is that I have not been able to explain this in all the detail that it really deserved but there we are.

**15. Public Employees Contributory Retirement Scheme: Committee of Management - appointment of member (P.58/2012)**

**The Deputy Bailiff:**

We now come to the Public Employees Contributory Retirement Scheme: Committee of Management - appointment of member - P.58 - lodged by the Chief Minister and I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion, in accordance with Regulation 3(5) of the Public Employees (Contributory Retirement Scheme) (General) (Jersey) Regulations 1989, as amended, to appoint Mr. Terence Augustine Le Sueur as an employer representative on the Committee of Management for the period ending 31st August 2012.

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

This is an appointment to fill a short period of office, which arises from a retirement, and it will run until 31st December this year. As Members will see from the proposition there are 7 employer and 7 employee representatives and I have pleasure in proposing Mr. Le Sueur.

**The Deputy Bailiff:**

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

**Senator I.J. Gorst:**

Perhaps I could just sum up and say I am grateful to Mr. Le Sueur for applying to the advert and I hope that he enjoys himself as much as I did in my term as a member of the Committee of Management.

**The Deputy Bailiff:**

The appel is called for on the proposition P.58 to appoint Mr. T.A. Le Sueur as employer representative to the Committee of Management. I ask Members to return to their seats and the Greffier to open the voting.

| <b>POUR: 38</b>      |  | <b>CONTRE: 3</b>         |  | <b>ABSTAIN: 0</b> |
|----------------------|--|--------------------------|--|-------------------|
| Senator P.F. Routier |  | Deputy G.P. Southern (H) |  |                   |
| Senator P.F.C. Ozouf |  | Deputy M. Tadier (B)     |  |                   |
| Senator A. Breckon   |  | Deputy J.M. Maçon (S)    |  |                   |



|                             |  |  |  |  |
|-----------------------------|--|--|--|--|
| Senator S.C. Ferguson       |  |  |  |  |
| Senator A.J.H. Maclean      |  |  |  |  |
| Senator B.I. Le Marquand    |  |  |  |  |
| Senator F. du H. Le Gresley |  |  |  |  |
| Senator I.J. Gorst          |  |  |  |  |
| Senator L.J. Farnham        |  |  |  |  |
| Connétable of St. Helier    |  |  |  |  |
| Connétable of Trinity       |  |  |  |  |
| Connétable of St. Clement   |  |  |  |  |
| Connétable of St. Peter     |  |  |  |  |
| Connétable of St. Lawrence  |  |  |  |  |
| Connétable of St. Mary      |  |  |  |  |
| Connétable of St. John      |  |  |  |  |
| Connétable of St. Ouen      |  |  |  |  |
| Connétable of St. Brelade   |  |  |  |  |
| Connétable of St. Martin    |  |  |  |  |
| Deputy R.C. Duhamel (S)     |  |  |  |  |
| Deputy J.A. Martin (H)      |  |  |  |  |
| Deputy of St. Ouen          |  |  |  |  |
| Deputy of Grouville         |  |  |  |  |
| Deputy J.A. Hilton (H)      |  |  |  |  |
| Deputy J.A.N. Le Fondré (L) |  |  |  |  |
| Deputy of Trinity           |  |  |  |  |
| Deputy K.C. Lewis (S)       |  |  |  |  |
| Deputy E.J. Noel (L)        |  |  |  |  |
| Deputy A.K.F. Green (H)     |  |  |  |  |
| Deputy G.C.L. Baudains (C)  |  |  |  |  |
| Deputy of St. John          |  |  |  |  |
| Deputy J.P.G. Baker (H)     |  |  |  |  |
| Deputy J.H. Young (B)       |  |  |  |  |
| Deputy S.J. Pinel (C)       |  |  |  |  |
| Deputy of St. Mary          |  |  |  |  |
| Deputy of St. Martin        |  |  |  |  |
| Deputy R.G. Bryans (H)      |  |  |  |  |
| Deputy of St. Peter         |  |  |  |  |

**16. States of Jersey Development Company Limited: appointment of Non-Executive Director (P.59/2012)**

**The Deputy Bailiff:**

We now come to P.59, States of Jersey Development Company Limited: appointment of non-executive director, lodged by the Minister for Treasury and Resources. I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to appoint Mr. Paul Masterton as a Non-Executive Director of the States of Jersey Development Company Limited for a period of 3 years in accordance with the Memorandum and Articles of Association to take effect from the delivery to the company of the notice referred to in paragraph (b) below; (b) to authorise the

Greffier of the States for and on behalf of the States to deliver a notice to the States of Jersey Development Company Limited in accordance with Article 21(b) of the Memorandum and Articles of Association to give effect to such appointments.

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

The States on 13th October 2010 agreed to vary the former Waterfront Enterprise Board's Articles of Association to establish the new States of Jersey Development Company. After much concern, scrutiny, controversy and an awful lot of stress at that meeting the Memorandum and Articles were approved by the States. The new arrangements made the company into a new organisation with a new mandate and required revised arrangements for the appointment of the directors. It required this Assembly to make a proposition to appoint a Chairman and 3 independent Non-Executive Directors. Those new arrangements required individuals with the skills, technical knowledge and standing to make the company a success. A detailed explanation of the recruitment process is attached to the report. Before making the proposition I should perhaps explain to new Members of the Assembly why there is only a proposal for a Non-Executive Director and not a Chairman. New Members will perhaps recall that the Appointments Commission originally chose last year another candidate to chair the new S.o.J.D.C. (States of Jersey Development Company) after the Articles had been agreed. Unfortunately, after some similar political controversy and turbulence, regrettably the original candidate withdrew her candidacy and we were left in a difficult position with a vacant seat to fill. While the recruitment process for a new Chairman and 2 Non-Executive Directors was undertaken it was necessary to put in place an interim Chair in order to fulfil the requirements of the Articles of Association of the Company. At the time Mr. Mark Boleat was identified through an abridged recruitment process and his name was brought forward for appointment by the Assembly. I made it clear in that debate that the intention was that the position was offered on an interim basis and while the recruitment process for a permanent Chairman was undertaken this would be for a 9 to 12-month period. Notwithstanding that statement, the appointment had to be under Article 29 of the States of Jersey Development Company Memorandum and Articles and could only be appointed for a 3-year period. The States therefore required to approve any position of Chairman could only be for a 3-year period from 7th June 2011. I am sure that Members will agree that Mr. Boleat's chairmanship during this interim period has been a tremendous success. The need to appoint a new Managing Director to reorganise the company following the resignation of the previous Managing Director, all of the actions of the new board and indeed the Interim Chairman have been impressive. We have been extremely pleased with the way the new management structure is performing and all the S.o.J.D.C.'s directors are working well together. This is exactly what we wanted to achieve when we brought the objectives of the new reorganised W.E.B. (Waterfront Enterprise Board) to the States. As promised there was a recruitment process. Mr. Boleat applied and indeed other candidates applied too, and following an oversight process by the Recruitment Appointments Commission I am pleased to report to the Assembly that Mr. Boleat was confirmed as the preferred candidate. The purpose of this proposition is therefore only to replace the Non-Executive Director, due to the retirement of Jurat John Tibbo. There is no requirement for the Assembly, now the recruitment process has been completed, to now effectively reconfirm the appointment of Mr. Boleat because he will continue to serve his 3-year term. I should also, and I am taking the opportunity of announcing to the Assembly the appointment of the other Non-Executive Director, which is the Treasury appointment. I would like to take this opportunity to convey my sincere thanks to Jurat Tibbo who has served on the board of W.E.B. since 17th January 1995. **[Approbation]** Jurat Tibbo is the longest serving board member in the company history and stepped up as Acting Chairman on 2 occasions for, I think, rather longer than he expected to do so. He stood by the company, has assisted in the smooth transition of the company to its new role and remit. I wish to personally thank Jurat Tibbo and wish him well in his retirement from the role of S.o.J.D.C. The candidates

for Non-Executive Director were of an extremely high calibre. There was a rigorous and transparent selection process, which was overseen by the Appointments Commission. The panel preferred candidate was Mr. Paul Masterton and therefore he is being proposed as a Non-Executive Director for S.o.J.D.C. for a period of 3 years in accordance with the Memorandum and Articles of Association. In addition, I am informing and notifying the States that Mrs. Ann Santry will be the ministerial appointee and, as I have already explained, Mr. Boleat will continue in his role as Chairman until June 2014.

[17:15]

C.V.s (curriculum vitae) of all of these candidates, in my view outstanding candidates, are attached in the appendix to the report and proposition accompanying the proposition itself. I am delighted with the progress of S.o.J.D.C. I congratulate the board on their achievements over the last period of time and I hope the Assembly will join me in hopefully appointing Mr. Paul Masterton who will no doubt contribute in the same way as the other Non-Executive to this new exciting, dynamic and performing organisation.

**The Deputy Bailiff:**

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

**16.1.1 Deputy J.H. Young:**

My apologies to the Assembly for speaking at this late hour on this but this is my first opportunity since my election to speak on the subject of the structure that we have for the States of Jersey Development Company and related agencies, and the comments I am going to make are not at all in any way critical of individuals. I endorse all of the remarks made by the Minister about the hard work done by others.

**The Deputy Bailiff:**

If I may interrupt you. You are certainly entitled to talk about the structure but only in the context of these particular nominees. This is only a question of an appointment.

**Deputy J.H. Young:**

Yes, Sir, I understand that but I think what I would like to do is to explain to the Assembly my reason for not supporting those appointments and I think I would like to explain the structure, if I may, in my comments.

**The Deputy Bailiff:**

For that purpose, certainly.

**Deputy J.H. Young:**

Obviously in a previous life I followed very closely the development of waterfronts and like pretty well everybody in the Island, I think one is very disappointed with the end result. So many opportunities we missed during economic successful days and we have ended up in an unsatisfactory situation. I will not dwell on that, in view of your comments. But the structure that we did set up, I looked back in preparing for this debate at the States Hansard of 13th October and also looked through the proposition very closely P.73/2010, which the Minister has introduced. Of course, in the back there is the structure of how this arrangement will work and we see the States of Jersey Development Company Limited there, we see Jersey Property Holdings and we see the Minister for Planning and Environment, and we see accountability up for the whole structure to one Minister to the States Assembly. I tried to check this to say... I was looking for an annual report of States of Jersey Development Company to see how things were going since October 2010. What I had noticed is that we do appear to be in a position where a major strategy has to be done by the

Minister for Planning and Environment and yet the Minister for Planning and Environment is telling the House that resources are not available for master planning for strategic use of our properties. Indeed, that is an issue that was flagged up by the previous Minister on the debate that approved these arrangements. We also do not have a Property Services Director heading up the Property Holdings team. So in my worry I would like to be assured in some way that the model that was approved is working and can do what is expected of it. That is why I ask, is it now the time to make these appointments without that information because accountability I think through to one Minister of that whole structure when there are signs that there are maybe gaps in it, I think is potentially premature and I would like to receive some information that will satisfy me that now is the time. I also notice that we are ... obviously we have 2 very highly qualified individuals here, absolutely nothing against those but of course we are only going to get 15 days for each. That means we are getting 30 days. That is going to cost £30,000. Of course most Members of this House, I am sure, are doing at least 200 man days a year trying to look after their areas of Government. The question that I have is that the level of resource we should be putting into this company? Is that sufficient? I have a question mark there about that, whatever that is. Again I am seeking information about that and I am not wanting to vote against the individuals but I have major concerns about whether now is the time to appoint them. Do we have enough information? Are we sure that the structure is really right and is capable of delivering what was set out for it in the proposition P.73/2010? I think it is so important that when we create quangoes that we ensure that we get full and proper accountability and best use of land in the interests of the community. That is what I would like to be satisfied of. I accept those comments go beyond the proposition but my doubt is, is this the time to fill those positions?

#### **16.1.2 Senator A. Breckon:**

I declare an interest first that I did sit on the Scrutiny Panel that looked at the recruitment process when it failed and people in the end did not take up the appointments. Also this House did have a number of false starts to get from W.E.B. to the States of Jersey Development Company and the issue there was, which for these individuals were addressed, is the significance of the task that they have to deliver things on planning and do more with the property, with projects and regeneration of the like that we have done before. When I read the report I found it confusing because it talks about an appointment process and an agency had been appointed, a recruitment consultancy, and they have gone out and interviewed people for the role of Chairman. Then on the second page it says, but perhaps by default what the Minister said it is termed very effectively: "Notwithstanding the Minister's statement that the appointment was to be for a maximum of 12 months we agreed to a 3-year appointment of the Chairman." That was because at the time we thought it was an interim appointment and we made it and the idea was to go out and recruit. I do have some concerns about this because we have been asked to make one appointment when I understood it that when this debate took place it was an interim arrangement, somebody had stepped in and we were to go to the thing. It says in the report: "Interviews for the role of Chair and Non-Executive Directors were undertaken over 4 days in May. The candidates were assessed against a robust competency framework and question of their understanding." If I had been a candidate for that I would have said: "Well, what a waste of time that was" when somebody was already in post and that was agreed by the States, maybe unwittingly, that it was for a 3-year appointment. By that, I would like the Minister to explain how we made an interim appointment that has now turned into a 3-year appointment, because at the time I believe this House understood and believed that it was making an interim appointment. It is now not the case. Did nobody read the various Articles of the States of Jersey Development Company? Did nobody give advice on that time to say that this House could not do what we were doing, which was making an interim appointment because it had to be a 3-year appointment? If that had been the case then perhaps there might have been a more robust recruitment process at that stage. I am afraid with W.E.B. and the States of Jersey Development

Company we are in treacle again, I think, because this, without... I do not know the individuals involved and I am sure they will add to whatever we are doing. That is not the issue but again the process for me is not really capable of much scrutiny before you find: "Well, hang on we made a mistake here again." I think the Minister is going to have to put his hands up and say that he has made a mistake or he was not reliably informed by others that we were making a 3-year appointment and not an interim appointment. I would like him to explain that.

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

Just a point: looking through the C.V. and the appendix of Mr. Paul Masterton, just the last sentence really, it says his most recent appointment was Chairman of Allied Irish Bank International. Now Allied Irish Bank is effectively a failed bank because it was basically nationalised by the Irish Government. I was just wondering if he can give us a little bit more background about this role within that bank.

### **The Deputy Bailiff:**

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

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

I need to say to Deputy Young that the issue of the setup of S.o.J.D.C. was one of those issues that commanded probably more attention, more scrutiny, more time of this Assembly than anything else. There were literally man and women years of work spent on getting to the point of a new structure. That structure is working. We said it would work and it is working well. We have the Regeneration Steering Group. We have a focused S.o.J.D.C. working on Esplanade Square, working with Housing, working effectively under a clear mandate, policy is within the Regeneration Steering Group, implementation is within S.o.J.D.C. S.o.J.D.C. is working constructively with Property Holdings. They are working together on projects in a way that is joined up and is efficient. The Deputy is right. I was President of Environment and Public Services when he was the Chief Officer, and he was right. Not everything worked in the way it should have done in the past. Master planning was not clear. We have clarified where master planning is and that is within the remit of planning. We have clarified the issue of who deals with development briefs. We have clarified the issue of who is responsible for what areas. And we have a structure that works. I ask again, this Assembly, to give, as we asked previously, S.o.J.D.C. and the new structures an opportunity to work. It is working, and it is going to work even better in the future, so I would ask respectfully that Deputy Young supports this proposition, supports the appointment of Mr. Masterton as the additional Jersey-based Non-Executive Director to complement the board, to ensure that we have an excellent team on the board of S.o.J.D.C. to deliver in partnership with the associated Property Holdings and the Regeneration Steering Group, all of the aspirations that he and other people have had in terms of property and the waterfront, land use, better planning, better regeneration, *et cetera*. Senator Breckon, I am afraid that I cannot change Standing Orders or the Articles of Association on the hoof. I think I made it very clear that we could only appoint a Chairman for a 3-year period; that was the only option. We did not expect at the time for Mr. Boleat, who valiantly came forward for perhaps one of the most controversial jobs in Jersey, as Members will recall there has been a difficult history of chairmen of this organisation. Mr. Boleat was identified. He agreed to put his name forward and he discharged those duties. I think he has done brilliantly. I think the board has done brilliantly. I was pleased that he, but not exclusively, came forward for a rigorous process of appointment of Chairman. There were other candidates. There was an interview process with 2 candidates, another very strong candidate. I was part of the board, overseen by the Appointments Commission, and it was a really difficult issue. Both candidates that were taken to final interview were taken through their paces. But it was the unanimous decision of the board that Mr. Boleat was the candidate. To set

aside that process would effectively undermine the role, the important role of the oversight of the Appointments Commission. I am sorry if there is any confusion with Senator Breckon. The fact is that I also was going to bring a proposition to reaffirm Mr. Boleat as Chairman. That was not possible under the arrangements so I am informing Members of the process. I hope that they will respect the process and I hope that they will agree that Mr. Boleat has indeed performed extremely well and extremely strongly in overseeing this organisation. I hope that answers Senator Breckon's questions. There was unfortunately no way around the procedural arrangements. To Deputy Higgins: Allied Irish Bank is not a failed bank in Jersey. It has been a successful bank in Jersey. I think that any other remarks would be wrong to conclude. Allied Irish Bank has made the decision in their new Government-owned form to withdraw from other non-Irish jurisdictions for a variety of reasons. The business of Allied Irish Bank is successful in Jersey. Indeed it is hosting the National Bank of Abu Dhabi that has been a key contributor to Jersey's additional deposit taking. I am hopeful that there is going to be with the Minister for Economic Development a new future for that organisation and certainly for the managed bank. No negative view, if I may say, should be taken to Mr. Masterton's role on the board and I do not think the Deputy was saying that, and I hope that my remarks in terms of being positive to the staff and the organisation of Allied Irish Bank should in no way give the Deputy any reason to have concerns over Mr. Masterton. Indeed should any conflict have arisen; we asked whether or not there was a lending book in Jersey which would have conflicted him and indeed there were none. So there were also no conflicts of interest. I am delighted with the new structure of the board. Mr. Masterton brings Jersey's skills, brings an environmental experience and his significance experience at Durrell to the board. I commend his nomination to the board and ask for Members support, and the appel.

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

The appel is called for. I invite Members to return to their seats. The vote is on P.59, the Appointment of Non-Executive Director, and I ask the Greffier to open the voting.

[17:30]

| <b>POUR: 41</b>              | <b>CONTRE: 2</b>        | <b>ABSTAIN: 1</b>     |
|------------------------------|-------------------------|-----------------------|
| Senator P.F. Routier         | Connétable of Grouville | Senator S.C. Ferguson |
| Senator P.F.C. Ozouf         | Connétable of St. John  |                       |
| Senator A. Breckon           |                         |                       |
| Senator A.J.H. Maclean       |                         |                       |
| Senator B.I. Le Marquand     |                         |                       |
| Senator F. du H. Le Gresley  |                         |                       |
| Senator I.J. Gorst           |                         |                       |
| Senator L.J. Farnham         |                         |                       |
| Connétable of St. Helier     |                         |                       |
| Connétable of Trinity        |                         |                       |
| Connétable of St. Clement    |                         |                       |
| Connétable of St. Peter      |                         |                       |
| Connétable of St. Lawrence   |                         |                       |
| Connétable of St. Mary       |                         |                       |
| Connétable of St. Ouen       |                         |                       |
| Connétable of St. Brelade    |                         |                       |
| Connétable of St. Martin     |                         |                       |
| Deputy R.C. Duhamel (S)      |                         |                       |
| Deputy R.G. Le Hérissier (S) |                         |                       |
| Deputy G.P. Southern (H)     |                         |                       |

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|-----------------------------|--|--|--|
| Deputy of St. Ouen          |  |  |  |
| Deputy of Grouville         |  |  |  |
| Deputy J.A. Hilton (H)      |  |  |  |
| Deputy J.A.N. Le Fondré (L) |  |  |  |
| Deputy of Trinity           |  |  |  |
| Deputy K.C. Lewis (S)       |  |  |  |
| Deputy M. Tadier (B)        |  |  |  |
| Deputy E.J. Noel (L)        |  |  |  |
| Deputy M.R. Higgins (H)     |  |  |  |
| Deputy A.K.F. Green (H)     |  |  |  |
| Deputy J.M. Maçon (S)       |  |  |  |
| Deputy G.C.L. Baudains (C)  |  |  |  |
| Deputy of St. John          |  |  |  |
| Deputy J.P.G. Baker (H)     |  |  |  |
| Deputy J.H. Young (B)       |  |  |  |
| Deputy S.J. Pinel (C)       |  |  |  |

**The Deputy Bailiff:**

As it is now 5.30 p.m. unless, Deputy Southern, for any reason you are not proceeding with your proposition we will now presumably adjourn until tomorrow.

**Deputy G.P. Southern:**

Yes, Sir, I think it is a quite significant proposition. I do not want to start it now and finish it tomorrow.

**The Deputy Bailiff:**

Just had you not been proposing to go ahead with it for any reason I would have called on the Chairman of P.P.C. (Privileges and Procedures Committee). Very well, somebody proposed the adjournment. The States stand adjourned until 9.30 a.m. tomorrow.

**ADJOURNMENT**

[17:31]