

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 11th DECEMBER 2012

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[9:30]

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

QUESTION TIME

1. Written Questions

1.1 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING HANGAR8 AND THE PROJECTED RECEIPTS TO THE TREASURY AND THE PARISH OF ST. PETER:

Question

“In relation to the proposed new hangar development at Jersey Airport, will the Minister confirm the detail of the ‘relevant tax and associated payments to the Treasury and Parish authorities’ as set out in his answer to my written question 20th November 2012, and advise whether the projected receipts to be delivered to both the States Treasury and the Parish were included as part of the tendering process and, if so, provide details?”

Answer

As a Jersey registered company, Hangar8 will be liable to all relevant taxes payable to the Treasury as well as payment of Parish rates in line with any other Jersey based business.

These projected receipts did not form part of the evaluation process, which instead focused on developing opportunities to grow Jersey’s corporate aviation market as well as generate income for the airport.

1.2 THE CONNÉTABLE OF ST. JOHN OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE ESTIMATED COSTS OF THE DEMOLITION OF JERSEY AIRPORT FREIGHT SHEDS:

Question

Will the Minister please advise the Assembly of the estimated cost of -

- (a) the demolition of the existing Freight sheds, which contain Asbestos within their construction materials;
- (b) the cost of the replacement Freight building;
- (c) the cost of the associated aircraft hard standing and any taxiways associated with the relocated freight facility?

Furthermore, has planning permission been made for the relocation of the Freight facility prior to any signing of memorandums of understanding and or contracts with Hanger8?

Answer

- a) The design team is currently preparing a tender document and is fully aware of the asbestos content. The team will provide a pre-tender estimate in due course but in order not to compromise the tender process by any potential bidder this estimated amount will remain commercially confidential at this time.
- b) Similarly, so as not to compromise the tender process by potential bidders this amount will not yet be published. However, in line with all major capital project works at the Ports this construction cost will be publicised as part of our public communication
- c) There is no new concrete hard standing or taxiway planned as part of the relocated freight facility.
- d) Jersey Airport officials have been in discussion with planning officers as well as briefing the Minister for Planning and Environment on the initial concept designs. As a result, a planning application is likely to be submitted in the early part of 2013.

1.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHAIRMAN OF THE ENVIRONMENT SCRUTINY PANEL REGARDING THE PROGRESS OF SCRUTINY REVIEWS UNDERTAKEN IN 2012:

Question

Will the Chairman provide details of the Reviews which the Environment Scrutiny Panel have completed this year and of those still in progress, together with their projected completion date?

Would the Chairman also explain whether, given the problems ventilated around the Planning process, the Panel plans to undertake an update of a Review of this issue completed by a previous panel and if not, will he explain why?

Answer

As part of its work programme earlier this year the Environment Scrutiny Panel reviewed the Medium Term Financial Plan in respect of the departments within its remit, i.e. Transport and Technical Services and the Department of the Environment, publishing reports on each department as part of the review carried out by the Corporate Services (MTFP) Sub-Panel.

The Panel has just completed a major review of Ash Disposal; our final report will be presented to the States next week.

The Panel met with the Minister for Health and Social Services, Medical Officer of Health and Head of Health Protection on 28th November 2012 to discuss its forthcoming review of radon, which is planned to be completed by Easter 2013. Scoping has also been prepared for a further review into heritage buildings which is currently expected to begin early in 2013.

In addition to these planned commitments, the Panel has recently been requested by the Department of the Environment to carry out a review of the draft Energy Policy, currently out to public consultation, early in the New Year.

In respect of reported problems with the planning process, the Panel has continued to question the Minister for Planning and Environment on these matters at public hearings throughout the year, most recently only last week (3rd December 2012), when we raised serious questions over the proposed new Police HQ in Green Street and the apparent withdrawal of proposals for the Parkside Village project in Bath Street by Le Masurier Ltd., both matters being discussed at length. The Panel will follow up both of these issues; whether this will be by way of formal review or other methods remains to be decided. The Panel will be meeting Le Masurier Ltd. early in January.

The key area of concern for me in respect of the planning process is the lack of an independent planning appeals system based only on the planning merits. The Panel had previously considered this for review, but the Minister has promised to deliver a report with recommendations for changes to the planning appeals system which is due early in the New Year. The Panel would therefore expect to consider the results of the internal department review before deciding whether Scrutiny may be required.

We have questioned the Minister on several occasions on the important planning policy for Affordable Housing. The Minister has also promised to address this, recently announcing this decision to drop the unworkable Island Plan H3 policy and come up with a more practical solution. We plan to watch this subject closely.

With regard to the suggestion that the Panel should undertake an update of a previous review of planning process, I assume the Deputy is referring to the review of Planning Process (S.R.2/2007) carried out by a previous Environment Scrutiny Panel led by the present Minister, on which I believe the Deputy was lead member.

Since that time the planning world has seen changes:

- a new Minister for Planning and Environment
- a new Chief Executive Officer for the department
- a new Island Plan with major new policies
- third party appeals under the Planning and Building Law
- a prolonged global economic downturn, with significant consequences for the local construction industry

There have also been a number of important procedural and technical changes to the way the department functions, for example long-overdue improvements to the department's I.T. capabilities, heralding the introduction of computerised modelling and public online access to details of planning applications.

There will be much information in the previous Panel's report that could still be of benefit to a future review, but there are other pieces of important research that would also need to be taken into account if the Panel decides to conduct a review into the planning process, or aspects of it. In particular I would draw attention to the independent report 'Development Control Process Improvement Programme' produced for the previous Minister by the Planning Officers Society in 2010.

In conclusion the Panel will continue to closely monitor developments as well as potential concerns about the planning process. Planning is an extremely emotive as well as a complicated subject and at this time it is not clear whether internal measures (referred to above) adopted by the Minister and his department will successfully address some aspects that have clearly been the cause of public and media concern in recent months. The Panel will be reviewing its work programme and membership early in 2013 with this in mind. We will examine the available evidence before deciding whether aspects of the planning process are in need of review, or if a 'root and branch' study may be advisable.

1.4 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHIEF MINISTER REGARDING CHANGES TO THE TAX STRUCTURE:

Question

Does the Chief Minister agree that the external circumstances which forced us to change our tax structure (with consequential shifting of approximately £100 million taxation annually from corporate to personal taxation) appear to be becoming an increasing threat to our finance industry?

What long term future does he consider the finance industry has and does he consider it prudent to continue to pump more effort and funding into finance in the hope that it will survive rather than attempting to manage its decline?

Answer

No, I do not agree. The certainty that we have achieved for our corporate tax structure, in particular the provision of tax neutrality, has helped and will continue to help in ensuring the success of Jersey as an international finance centre.

The future of the finance industry also depends on our continued ability to increasingly take advantage of the market opportunities that are being presented through economic growth and wealth generation in the Middle East, the Far East and other economically growing areas in the world. Given the determined competition from other international finance centres, Jersey can only benefit from these opportunities through a level of commitment which more than equates with that of our major competitors. I am confident about the future for our finance industry, and for the many benefits that Island residents enjoy arising from our continued success as an international finance centre, which more than justify the level of investment being made to ensure that we can compete successfully in growing markets around the world.

1.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING WAITING LISTS FOR CONSULTANTS:

Question

Would the Minister advise of the current length of waiting lists to see hospital consultants, including preliminary lists to get onto waiting lists?

Answer

The target from receipt of GP referral to outpatient appointment for a new referral with a hospital consultant is 3 months.

The hospital consultant will review GP referral letter within one- two weeks of receipt and will categorise the referral according to clinical urgency:

- ‘Urgent’ - see within two weeks
- ‘Soon’ - see within six-eight weeks
- ‘Routine’ - as per speciality waiting list

At this point:

- (i) the patient will be given an appointment date (this appointment date will be no more than six weeks hence) OR
- (ii) the patient will be placed on a list until an appointment date is available (this list is known as a pending list) OR
- (iii) advice will be provided to the GP regarding continuing care in the community if a hospital appointment is not deemed necessary.

As of 1st December 2012 the current waiting times including the pending lists are:

Speciality ¹	No. of Patients	Average number of weeks wait until appointment ^{2, 3, 4}
Dental	703	28
Dermatology	556	16
Diabetes	227	6
ENT	268	6
General Medicine (exc Bariatric)	278	9
Specialty Medicine	1094	32
General Surgery	286	6
Gynaecology (exc IVF)	331	8
Nephrology	20	8
Ophthalmology	456	20
Paediatrics	33	12
Pain	477	20
Rheumatology	39	12
Sports Medicine	45	8
Trauma and Orthopaedics	1306	26
Urology	326	13
Endocrinology	43	6

Notes to table:

1. Within some specialties there are sub-specialities for example: ‘Dental’ includes Oral Surgery, Community Dental and Orthodontics; ‘Specialty Medicine’ includes Cardiology, Respiratory, Gastroenterology and Neurology.
2. ‘urgent’ and ‘soon’ referrals who are waiting will be seen as priority over the routine referrals

3. average number of weeks wait includes all patients in (i) and (ii) above (ie. those immediately given an appointment date and those placed on a list prior to being provided an appointment date)
4. If a patient needs to undergo tests in preparation for their hospital appointment this can extend the time between referral and appointment

1.6 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING POLICE COMPLAINTS:

Question

Will the Minister complete the following table? :

Year	No. of complaints made against Police Officers	No. of complaints against officers upheld	No. of officers disciplined as a result of the complaint	How many letters of apology were sent out to successful complainants	How many explanations of officers conduct were sent out to successful complainants
2008					
2009					
2010					
2011					
2012 (to date)					

Answer

Year	No. of complaints made against SOJP Police Officers	No. of complaints made against Honorary Police Officers	No. of complaints against SOJP officers upheld	No. of complaints against Honorary officers upheld	No. of officers SOJP disciplined (hearing) as a result of the complaint	No. of officers Honorary disciplined (hearing) as a result of the complaint	No. of officers SOJP disciplined (words of advice) as a result of the complaint	No. of officers Honorary disciplined (words of advice) as a result of the complaint	No. of complaints against SOJP officers upheld/ withdrawn/ Informal Resolution/ Incapable of investigation	No. of complaints against Honorary officers NOT upheld/ Withdrawn/ Informal Resolution/ Incapable of investigation	No. of complaints yet to be decided SOJP/ Honorary	How many letters of apology were sent out to successful complainants	How many explanations of officers conduct were sent out to successful complainants
2008	39	2	3	0	0	0	3	0	36	2	0	n/a	n/a
2009	32	5	3	3	1	2	4	1	30	1	0	n/a	n/a
2010	21	2	1	1	1	1	0	0	17	1	0	n/a	n/a
2011	46	2	6	0	5	0	11	0	37	2	1/0	3	n/a
2012 (to date)	26	4	1	1	0	1	1	0	18	0	7/3	1 Note 1	n/a

Note 1:

As well as the total of 4 'closure letters' sent to successful complainants (shown in the penultimate column above), 6 letters were sent in relation to unsubstantiated complaints. Closure letters explain the outcome and brief details of the investigation undertaken. Therefore, the last column of the table is not completed as "explanations of officers conduct" is not part of the procedure.

The total of 10 'closure letters' does not include a closure letter being sent out in respect of one miscellaneous complaint and one for an organisational complaint. The legal obligation is to inform a complainant whether the complaint is substantiated or not the introduction of the 'closure letter' was designed to expand this for the benefit of the complainant.

1.7 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING STAFFING LEVELS:

Question

- (a) Will the Minister set out in tabular form the number of full and part time employees in her department in each of the following categories for the following years (2008, 2009, 2010, 2011, 2012 (to date) together with the annual salary bills for each category in each of those years:
- Consultants
 - Other doctors
 - Nurses
 - Nursing auxiliaries
 - Support staff (radiologists, physiotherapists)
 - Manual workers
 - Junior Administrators
 - Senior Administrators (Grade 12 and above)
- (b) Will the Minister set out the areas of expertise of the full time and part time consultants employed by the Department?

Answer

(a) Headcount and financial data is not routinely held and reported categorisation and format specified above. To collate the information under these headings would be resource intensive and HSSD is unable to undertake this without diverting staff from business critical work.

Set out below however, is an analysis and categorisation of 2012 HSSD budgeted posts that was undertaken earlier in this year. This analysis is not available for previous years and does not include a breakdown of salaries. Total HSSD staff costs (salary and on-costs) as set out in the 2012 business plan is £126,933,900.

Analysis of HSSD budgeted posts in 2012:

Full Time Equivalents	Direct patient/client care	Directly supporting patient / client care	Core Operational Services	Management	Administration	Total
Hospital	838	237	454	5	21	1,555
Community and Social Services	690	33	16	5	22	766
Public Health Services	7	22	7	2	8	46
Corporate and Other Services	-	21	37	11	51	121
Total	1,535	314	514	23	102	2,488
Proportion of total	62%	12%	21%	1%	4%	

Explanation of post categorisation:

Direct provision of patient/client care	Staff whose main activity is the provision of services directly to patients and/or clients. All nurses and medical staff are included in this category by default. Some staff from civil service pay groups are included in this category, for example social workers and therapists.
Supporting the direct provision of patient/client care	Staff directly supporting the provision of patient and/or client care, but not providing care themselves. This includes services such as radiology and pathology, outpatient appointments and physiotherapy.
Provision of operational services	Staff whose main function is to provide operational support services. This includes services such as catering, laundry, engineering, estates, sterile supplies, the crematorium, maintenance and domestic services.
Administrative function	Staff whose main function is to provide administrative operations not directly supporting patient / client care. This includes staff undertaking roles in finance, training and education, governance and risk management and general secretarial support.
Management:	Staff whose main function is the management of the services delivered by the Department. This includes the Chief Executive, Directors, and the senior management staff reporting directly to Directors.

The analysis shows that:

- 95% of staff are employed providing direct patient care, directly supporting patient / client care and providing core operational services, enabling the delivery of care. This can be further broken down as follows:
 - 62% direct patient care, e.g. medical and nursing staff
 - 12% directly supporting patient / client care, e.g. pathology staff
 - 21% providing core operational services, e.g. catering and domestic services staff

- 5% of staff are employed on core management and administration. This can be further broken down as follows:
 - 1% management roles, e.g. the Chief Executive and Departmental Directors
 - 4% administration, e.g. training and education staff

(b) An analysis of consultants (in terms of full time equivalent) by specialty, showing their relevant area of expertise, is provided below.

Specialty	FTE
Accident & Emergency	4.0
Anaesthetics	6.0
Child & Adolescent Psychiatry	2.0
Community Dental	0.8
Dermatology	1.0
ENT	2.0
General Surgery	3.0
General Physicians	8.0
Obstetrics & Gynaecology	4.0
Old Age Psychiatry	2.0
Oncology	0.7
Ophthalmology	2.0
Oral Surgery	1.0
Orthodontics	0.8
Orthopaedic & Trauma	3.0
Paediatrics	3.0
Pathology	4.0
Psychiatry	3.0
Public Health	1.0
Radiology	5.6
Urology	1.0
Total FTE	57.9

1.8 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING REDEVELOPMENTS IN TOWN:

Question

In relation to the following two St. Helier property developments abandoned or put on hold by the developers, will the Minister set out clearly the dates of all correspondence/communications between the Planning department and the developers, setting out the issues raised, resolved and reworked in each so that members can understand for themselves how and why these projects came to be abandoned or put on hold –

- (a) Le Masuriers Parkside North of Town Development;
- (b) Le Masuriers J1 Broad Street Development?

Answer

Answer to part (a) Le Masuriers Parkside North of Town Development

In answering this part of the question and to help members understand matters regarding the Le Masurier Bath Street development, I think it is important that I detail the history and actions of my Department relating to this site.

Land owned by Le Masurier at the Bath Street site has been in a state of decline for some time: the land and buildings are generally tired, underdeveloped and in need of regeneration.

The North of Town Masterplan, approved by the States in June 2011, identified this site, together with the Odeon building, as a key intervention site with the potential to bring about considerable regeneration and change.

The wording within the Masterplan was agreed with Le Masurier to ensure that the masterplan reflected the aspirations of both the landowner and the planning authority. The draft development brief (also known as Supplementary Planning Guidance or SPG) for the Bath Street site sets out the following key principles for its redevelopment:

The redevelopment of this site offers a significant opportunity to regenerate the area and repair the townscape. It provides an opportunity to create a predominantly residential development, which contributes to the Island's specific housing needs, within walking distance of schools and the central markets and retail core of the town centre.

There is also the potential to secure the provision of short-stay public car parking of benefit to local business and residents and replacing some of that lost to the provision of the Town Park, and/or securing a commensurate contribution to other sustainable transport infrastructure, as well as significant public realm enhancements, in accordance with the objectives provided by the North St Helier Masterplan.

The Planning and Environment Minister considers that there is an overriding environmental and community benefit for the regeneration of the area as outlined in the approved North St Helier Masterplan.

Following my appointment as Minister for Planning and Environment in November 2011, I set about progressing discussions with landowners to catalyse development activity to help deliver Island Plan and North of Town Masterplan objectives.

I have been working with landowners to develop more specific planning guidance so as to better inform the submission of any subsequent planning applications for the redevelopment and regeneration of their land. I have already done this successfully with Jersey Gas and adopted and published a development brief for their Tunnell Street site.

In relation to the Le Masurier site, I have not received any specific feedback from the company as to why they have withdrawn their interest in developing their site, other than what has been reported through the media.

I have consistently sought to engage with them and the offer to do so still remains and I am pleased that they have now taken up the offer of a meeting in order that I might better understand their actions. I still wish to see a planning application for this site and will issue supplementary planning guidance in order to facilitate such, following my meeting with Le Masurier.

The following is a summary of key actions and dates relating to the Le Masurier Bath Street Site that my department has supplied.

Date	Action / Comment
Nov 2006	Le Masurier submit planning application (PP/2006/2444) to the Department of the Environment (DoE) for the "Refurbishment & regeneration of the former Odeon cinema to form retail unit. Construct retail unit adjacent to cinema on basement & ground floor & multi storey car park on first to fourth floor. Extensive hard landscaping and external works including enclosed service yard and plant compound."
Feb 2007	DoE requests that a model of the scheme and justification for the demolition of Listed buildings be provided
May 2007	Le Masurier submit revised plans (omitting Odeon building) and traffic and retail studies. Application re-advertised
May 2007	DoE acknowledge new information and request that a model of the scheme and justification for the demolition of Listed buildings be

	provided
Jun 2007	DoE request again that a model of the scheme and justification for the demolition of Listed buildings be provided
Jul 2007	Transport and Technical Services raise concerns regarding Traffic Study. Concerns are shared with Le Masurier.
Jul 2007 to Jul 2009	No additional information received by DoE from Le Masurier
Jul 2009	DoE developing the North of Town Masterplan. DoE query with Le Masurier the lack of response to traffic and Listed building concerns and suggest that the application is withdrawn with the offer of a significant fee refund.
Jul 2009 to Jul 2011	No additional information received by DoE from Le Masurier
Jul 2011	DoE write to Le Masurier advising that insufficient information has been received to determine the application and suggest again that the application is withdrawn
Sep 2011	DoE Chief Executive Officer (CEO) and Le Masurier Managing Director exchange correspondence. DoE CEO offers Le Masurier final opportunity to withdraw the application, or a decision will be made on the application as submitted.
13 Jan 2012	Minister meets with key landowners in the North of Town area to encourage them to review the development potential of their land and buildings and to work with the Minister to bring about regeneration proposals in accord with the framework provided by the North of Town Masterplan. This meeting included Le Masurier and other key interests such as Jersey Property Holdings, the Housing Department, Jersey Gas, Comprop and the Modern Hotels Group. Further detailed meetings, involving extensive high level representation from the DoE, were held with Le Masurier to assist the progression of development on the Bath Street site, and the preparation of Supplementary Planning Guidance (brief) for any future scheme. These were attended by the Planning and Environment Minister, the Chief Executive Officer (DoE), the Development Control team leader, and a senior planning policy officer (either the Director or a Principal Policy Officer). From the Le Masurier side, meetings were attended by the Managing Director, Development Director, representatives from Sheppard Robson (Architects) and Gardiner & Theobald (Project Management).
16 Mar 2012	Le Masurier meet Minister and DoE to present broad design concept and proposed mix of uses for Bath Street site
16 Mar 2012	DoE request Le Masurier architect to send copies of design concept presentation
10 Apr 2012	DoE email Le Masurier a summary of the points to be addressed in the design concept.
17 Apr 2012	DoE circulate notes and other outstanding actions from the earlier meeting
17 May 2012	Le Masurier respond stating that the summary did not reflect the viability issues identified in their initial proposal
May 2012	Le Masurier withdraw their planning application (PP/2006/2444)

	originally submitted in Nov 2006. Le Masurier refunded 75% of original planning fee (£31k).
18 May 2012	Meeting between Le Masurier team, Minister and DoE team to discuss the planning process and procedures involved, including the development of Supplementary Planning Guidance (brief). Le Masurier undertook to produce an initial draft brief based on the structure of the recently approved Gas Works brief.
25 May 2012	Le Masurier write to DoE and provide a hard copy of the draft brief, based on the approved Gas Work brief
06 Jun 2012	In addition to the assistance provided in the development of a draft brief, further advice was also given as to the form of an outline planning application. The DoE advised what information should be submitted and what level of detail and assurance could be sought at this stage. This was accepted positively by the consultants working for Le Masurier.
7 Jun 2012	DoE respond to draft brief with a list of preliminary comments
7 Jun 2012	Le Masurier raise concerns about the preliminary comments and ask DoE for a tracked changes copy on the brief
7 Jun 2012	DoE remind Le Masurier that all parties should focus on the wider issues relating to this development as already identified
8 Jun 2012	Follow up meeting with Le Masurier team, Minister and DoE team.
13 Jun 2012	DoE officers meet Le Masurier to discuss issues of scale and character emerging from the brief
22 Jun 2012	Minister and DoE officers meet with Le Masurier team
29 Jun 2012	Minister and DoE team meet to discuss brief and forward this to Le Masurier team for comment
6/7 Jul 2012	DoE agree final changes to the brief with Le Masurier prior to finalising consultation draft
12 Jul 2012	Ministerial decision (MD-PE-2012-0075) approving the draft brief and authorising consultation
13 Jul 2012	Le Masurier invited to comment on consultation questionnaire, prior to its release
16 Jul 2012	Draft brief issued for public consultation by DoE
17 Jul 2012	Le Masurier and DoE both issue positive news releases
27 Aug 2012	Consultation ends The response to the public consultation was generally positive and there was clear support for the development of the site and regeneration of the area. However, representations received also raised a number of issues and concerns and a strong public view that any new development should respect the character and context of the area. Concerns were also raised over the potential conflict between vehicles and pedestrians accessing the site, the need to create a sense of community, and the need to ensure that the publicly accessible areas are properly administered
7 Sep 2012	DoE provide Le Masurier with results of consultation
3-15 Oct 2012	The DoE project team, comprising the Chief Executive Officer, the Planning Policy Director, the Principal Planning Policy Officer, the Historic Environment Team Leader and the Development Control Team Leader review the results of the consultation and any revisions required to the brief following the conclusion of the consultation period.

	<p>The comments made in respect of townscape; vehicular and pedestrian conflict; sense of community; and the administration of public areas were considered by the DoE to be of sufficient weight and importance to warrant changes to the draft brief, as set out in the proposed response to public consultation schedule.</p> <p>There was also considered, by the DoE Project Team, to be a need to address other issues in the draft brief to clearly set out the policy considerations that the Minister would need to consider when dealing with any subsequent planning application: these were not new considerations but simply a reflection of adopted policy and objectives set out in the Island Plan and the North of Town Masterplan, including: protection of employment land, retail policy, flexible living space, public realm improvements, heritage assets and introducing more flexibility in parking provision</p>
3 Oct 2012	<p>The issues raised by the consultation, and the DoE initial review of the consultation response and other issues relating to the robustness of the draft brief, were briefly outlined in an email to Le Masurier</p>
4 Oct 2012	<p>Le Masurier raised concerns in writing at potential changes to the document. The letter did threaten that the company would withdraw from the process unless the brief remained largely unchanged from the original agreed draft (that being the one prior to consultation).</p> <p>It is an important point to make at this stage in the chronology that this guidance is the Minister's guidance for a site, and not the guidance of the developer. It would be wholly unreasonable to expect a developer to write and agree their own guidance for their own site, which then enabled them to submit a planning application which would then be assessed against guidance that they had produced or unduly manipulated.</p> <p>It would also be wholly unreasonable to undertake public consultation on a document, but then not to accept any changes as a result of that consultation. This would render such an exercise meaningless, and not one expected of the planning system in Jersey. It is also relevant to note that officers of DoE would be failing in their professional duties if they failed to advise the Minister of the relevant policy and other material considerations that he is required to take into account in considering any planning application for this site and which, by necessity, therefore, ought to be included in the development brief which is intended to guide the preparation of any such planning application.</p>
29 Oct 2012	<p>The DoE proposed changes to the draft brief were set out as recommendations to the Minister. The Planning and Environment Minister signed a Ministerial Decision (MD-PE-2012-0109), endorsing the proposed changes to the brief but making it clear that the brief would not be finalised or released until further engagement with Le Masurier had taken place.</p> <p>It was considered that the changes were not substantively adverse and that they did not raise any new policy issues that would undermine the viability of any development scheme on the site: if anything, the changes were considered to provide clearer guidance and offered more flexibility to any developer.</p>
31 Oct 2012	<p>A tracked changes version of the draft brief was sent to the Le Masurier</p>

	<p>managing director with an invitation to a meeting. The DoE and Minister were very cognisant of the need to talk Le Masurier through the changes, so that they were not misinterpreted and to provide Le Masurier with assurance that they were not substantive and/or unduly constraining to the regeneration of the site. This was thought a necessary precaution as, throughout the preparation of the draft brief earlier in the year, there had been instances where misinterpretation had occurred, although these were overcome due to the close and positive working dialogue that best described the team approach.</p> <p>Le Masurier declined to respond to the invitations to meet and a meeting, therefore, did not take place. The concern raised by Le Masurier in their letter of 4th October demonstrated that Le Masurier had misinterpreted the proposed changes and the approach being proposed which made a face to face meeting imperative.</p>
27 Nov 2012	Le Masurier advise DoE in writing, that it was withdrawing from further engagement and was not intending to progress with a project for the Bath Street site because of 'wholesale and unacceptable changes' to the development brief. It further advised that a public statement to this effect would also be made.
28 Nov 2012	Le Masurier issue a media release which coincided with the article published by the Chamber of Commerce in its Connect magazine.
28 Nov 2012	DoE issue Statement in response to Le Masurier Parkside Village media release
03 Dec 2012	Minister issues a Statement regarding development of Bath street site
05 Dec 2012	DoE and Le Masurier agree to a meeting

Claims by Le Masurier and answers from the Department of the Environment

Le Masurier have not formally informed the DoE of the specific concerns in relation to the most recent draft brief. The following points have been taken from the media releases and magazine article published in the Chamber of Commerce newsletter.

Issue 1 – the need to provide underground car parking for 110 commuter spaces

The brief does not require underground car parking to be provided and does not specify a specific level of car parking to be provided. The brief does require that consideration be given to delivering underground car parking to encourage the optimum development potential of the site. This is not an absolute requirement and it is a question asked of all developers in town.

Issue 2 – the need to purchase and demolish properties not in the control of Le Masurier in order to provide a new road.

The brief expected pedestrian links, not new roads, to be made from the site into the rest of St Helier: links south to Minden Place are mentioned. This is not new and is derived from the North of Town Masterplan. It is acknowledged that not all of the land between the Odeon and Minden Place is owned by Le Masurier and that achieving a new north-south pedestrian link may not be achievable. The brief, therefore, introduced flexibility to allow other links to be enhanced, such as Rue de Funchal, to deliver this objective. The brief does not expect properties outside of the control of Le Masurier to be purchased and demolished.

Issue 3 – the need to provide a £5.5M transport contribution

No discussions have taken place as to the likely transport solution or contributions from the development of the site. It is acknowledged by both parties that if car parking is not provided, then it may be appropriate to provide parking elsewhere, or provide a financial contribution to enhance public transport, walking and cycling.

Issue 4 – the prevention of the demolition of listed buildings on the site

The brief does not state this. The brief just outlines that if demolition of listed buildings is proposed, then this must be fully justified, in accord with the Planning law. The starting point for the consideration of development proposals which affect Listed buildings in the planning process is their retention: this reflects adopted States-approved policy which, in turn, reflects the Island's responsibilities under international Conventions. A planning decision, however, does allow all relevant issues to be balanced, and demolition of listed buildings can be justified where the public benefit of a development scheme is considered to sufficiently outweigh their retention. This has to be acknowledged by Le Masurier who went through the same process in relation to J1 and ultimately received a decision to allow the demolition of Listed buildings.

Issue 5 – the control on size of commercial premises

The brief does expect the commercial premises on the ground floor to be "local" in nature and not a large scale supermarket or similar. A floorspace level is stated in the brief, reflecting adopted Island Plan policy, and this only corresponds to discussions with Le Masurier who have been discussing small shops and food and beverage outlets in order to enliven the public realm.

Issue 6 – proposals are to be withdrawn

There has not been a formal submission to the department and this proposal has not yet reached even an outline planning application stage. Various conceptual block plans and artist's impressions have been shown during the meetings with Le Masurier, but no scheme has been submitted.

The Odeon Cinema Building

There has been much said by Le Masurier in terms of the Odeon site and how the planning service made u-turns in relation to this building.

The Odeon cinema has been a Listed building since 1992. During the North of Town Masterplan discussions, text was included within the Masterplan which opened the issue as to its future.

Running alongside this has been a separate discussion on its heritage value. A decision was made by the previous Minister for Planning and Environment, to reconsider its heritage status. In deciding whether to List a building or place, the Minister must be satisfied that it has public importance by virtue of its special architectural and/or historic interest – not whether it should be knocked down. The previous Minister was advised by Jersey Heritage; the Listing Advisory Group; as well as expert advisors from English Heritage, that the building was worthy of Listing because of its special architectural and historic interest and he duly upheld its Listed status in January 2011.

The Listing of a building or place does not preclude change, it simply ensures that the Minister must have due regard to its special heritage interest when he weighs this against other benefits that development and/or redevelopment proposals might bring.

No application to demolish the Odeon was made by Le Masurier. It cannot therefore give such permission if none is asked for. The application submitted by Le Masurier in 2006 for the supermarket proposal, did include the Odeon, but was subsequently amended to remove the Odeon

building from the development proposal. This historic building has now been sold by Le Masurier and is in an alternative, viable use which will serve to safeguard the essence of its heritage value.

Summary

I am aware that Le Masurier have expressed some dissatisfaction with the planning process and draft development brief. It is my conclusion that this has been based on a misunderstanding of the planning process and the role a development brief takes. A brief is there to guide and provide advice on issues which will arise during any formal planning application process. Very often a developer will seek to challenge elements of a brief during the planning application process.

Looking forward, I need to understand the needs and motivation of the developer and what decisions need to be made to allow a scheme to be developed. For that to happen dialogue needs to recommence and I am pleased that Le Masurier have agreed to meet with me to progress this matter further.

Answer to part (b) Le Masuriers J1 Broad Street Development

I am not aware that the J1 project has been put on hold or abandoned: indeed all public statements from Le Masurier recently have indicated that the company is seeking to focus its efforts on bringing this proposal to fruition.

J1 is the largest single-building proposal ever considered by the Department of the Environment, with a gross floorspace of 469,429 sq ft. The application was received on 14 June 2011, and permission was granted on 16 December 2011.

The permit was subject to 23 conditions and it is the responsibility of the applicant to discharge them.

Since the approval, my department has had on-going dialogue with the applicant, generally relating to the planning conditions, including meeting with the project team to;

- agree the scope of the information they envisaged submitting (9 February 2012)
- agreeing definitions for terminology and technical information (23 April 2012)
- providing the applicant with the briefs required for conditions Nos 17 and 18 (18 May 2012), working with the applicant to discharge the conditions which require their action "prior to the commencement of development".

18 of the 23 conditions fall into this "prior to commencement" category. My department has received information from the applicant in relation to 8 of these conditions (to 28 June 2012), and following liaison with our technical / statutory consultees has provided feedback to the applicant on all of their submissions.

Since 2 November there have been no outstanding actions with the Department. The applicant still has a significant amount of work to do in relation to planning conditions, and will also need to prepare and submit an application for Building Bye-Laws permission.

1.9 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING CONSISTENCY IN PLANNING APPLICATIONS:

Question

Will the Minister set out the importance of consistency in Planning and enforcement decisions and actions taken by his Department and set out what actions, if any, are taken to ensure that there is consistency in both these areas and explain the legal consequences for the Department for failing to do so?

Answer

Consistency is important in all administrative decisions because it demonstrates to the public that matters are dealt with fairly and equitably through Government decisions.

Planning and enforcement decisions are, by law, those of the Minister for Planning and Environment. However, most decisions are taken by the officers of the department or indeed, the Planning Applications Panel, through powers delegated to them by the Minister. In respect of the department, all decisions are double-checked by a senior officer before they leave the office. The checking process includes a comparison of other similar decisions to ensure that broad consistency is maintained.

There is a statutory right of appeal for planning and enforcement decisions under the Planning and Building (Jersey) Law 2002. An appeal may only be made to the Royal Court on the ground that the action taken by or on behalf of the Minister was unreasonable having regard to all the circumstances of the case (Article 109(1) of the 2002 Law). The approach taken by the Royal Court in respect of consistency is that the Minister is not bound by previous decisions. This is because although consistency is important, the Minister may adopt a different approach if reasonable.

1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING WAITING TIMES FOR ELECTIVE SURGERY:

Question

Will the Minister update, to the end of Quarter 3 2012, the figures given in response to Question 6867 on 15th May 2012 and in Question 7240 on 12th June 2012 for waiting lists for elective surgery?

Will she state whether some elective procedures have been postponed until the start of the new financial year in January 2013?

Will she further state what the bed occupancy rate in the hospital is currently?

Answer

(i) The information provided to States members in response to the question on 15th May 2012, showed that between 2008 and 2010 there was an increase in the waiting list and the waiting times for elective surgery, but that between 2010 and 2012 that trend started to reverse with the percentage of patients waiting over the 3-month target as follows:

Q1 2008 7%
Q1 2009 12%
Q1 2010 25%
Q1 2011 18%
Q1 2012 15%
Q2 2012 14%
Q3 2012 15%

The slight increase in the percentage of patients waiting over 3 months in Q3 is to be expected due to theatre closures over the summer holiday period for essential annual maintenance.

The information also showed that demand for elective surgery increased between Q1 2008 and Q1 2012 by 18% and this continues to be a challenge in my department's work to reduce waiting times within existing resources. In Q3 2012, 2,354 procedures were performed and 1,671 patients were on the waiting list which means that quarterly demand for elective surgery has now increased to 4,025 or, in other words, a 22% increase in demand since Q1 2008.

- (ii) The Minister is pleased to confirm that no elective surgical procedures have been postponed until the start of the new financial year in January 2013 and there no plans to do so.
- (iii) Current average bed occupancy rates in the Hospital are 85% (Medical Beds 88%). Occupancy rates vary throughout the year however and in some wards have reached peaks of between 90% to 99%.

1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING DEMAND FOR SOCIAL RENTED ACCOMMODATION:

Question

Is the Minister surprised that the latest Housing Assessment shows that those in social rented accommodation who were planning to move in the next 3 years expressed higher levels of dissatisfaction with the state of repair of their housing than those in the private sector and even those in unqualified housing?

What measures, if any, has the Minister in place to meet the demand for social rented housing (especially houses rather than flats) shown by the Assessment to stand at 420 units over the period 2013 to 2015?

Answer

The fact that a proportion of our social housing stock is not in an acceptable state of repair is no surprise, my Department has been drawing attention to the fact since at least 2007. Our latest condition survey review has established that 76% of the stock does meet the standard which represents an improvement on the position in 2010. A number of significant refurbishment projects are in progress; Clos Gosset, Pomme D'or Farm, Jardin des Carreaux and the La Collette Flats Tower. Completion of these projects will improve standards for many tenants.

There is though still much to do and it is well established and understood that the need to make a significant annual return to the States from the Housing Department's income means that there is insufficient funding to meet the repair and refurbishment needs of the stock in the long term. The Housing Transformation Programme will introduce mechanisms to address that.

In respect of the demand for homes; what you will hear me saying with increasing frequency is Supply, Supply, Supply!

I believe that there is a significant lack of supply and overall the Housing Assessment Report suggests that this is the case; particularly in respect of affordable and social housing.

As we know housing needs are not static and are sensitive to economic conditions. This was one of the main reasons why I sought to establish the Affordable Housing Gateway as the single waiting list for affordable housing so that we had a mechanism for constantly monitoring affordable housing needs.

The identified shortfall in social rented housing is very real and reference to the latest Gateway statistics which are published monthly on the States web site show that the current demand for social housing equates to 815 new homes; that is actual means tested households, in need, today. This is about double the finding contained in the Housing Assessment report.

My Department and I have been drawing attention to the lack of supply for some considerable time and I have been doing all that I can as Housing Minister to develop available sites in my control, specifically:-

- 94 new homes have been delivered in the past 18 months
- Contracts for 113 new homes will be signed in the next month
- Contracts for a further 61 new homes will be entered into in 2013
- As sites are made available to me through the Planning system, another 500 social and affordable homes can be delivered by the social sector

I had hoped to have been developing detailed feasibility proposals for a major regeneration of the La Collette Flats low rise site which we started work on in the Summer; but this important work has been held up whilst the Planning Department prepare a Planning Brief for the site.

More homes are clearly required and finding sources and sites for these is the responsibility of the Minister for Planning and Environment.

With that in mind, on 1st November 2012, I wrote to the Minister for Planning and Environment expressing my concerns about supply and making some suggestions to him about how he could stimulate the development of homes on sites already approved and how we might generate some new supply.

1.12 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING INCOME SUPPORT ENQUIRIES AT THE CITIZEN'S ADVICE BUREAU:

Question

What specific measures, if any, does the Minister have under consideration to reduce the need for members of the public to seek help from the Citizens' Advice Bureau regarding problems with Income Support claims, which was recorded in their 2011 annual report as the top single issue brought to them by clients on 553 occasions, relegating indebtedness to second place at 262?

Answer

I am very pleased to note that the number of queries dealt with by the Citizens Advice Bureau in respect of Income Support fell from 629 in 2010 to 553 in 2011. The table below shows that both the number and the proportion of Income Support queries dealt with by the Citizens Advice Bureau has fallen over this period.

Year	2010	2011
Income Support enquiries	629	553
Total number of advice issues	10,468	9,769
Income Support queries as % of total issues	6.0%	5.7%

When considered in the context of the overall economic climate over the last two years, and the increased numbers of unemployed workers and Income Support claims, I believe these figures are very encouraging. They demonstrate the success of our investment in staff training and communications, as well as a strong working relationship between the Department and the Citizens' Advice Bureau.

In 2012, further improvements have been made including:

- Launch of a redesigned Income Support application form
- A new, detailed Income Support award letter
- A redesigned Income Support calculator, designed to provide information in the same format as the new award letter

All of the above projects included consultation with and feedback from community groups including the Citizens Advice Bureau.

1.13 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING FOREIGN ACCOUNT TAX COMPLIANCE ACT AGREEMENTS:

Question

Will the Chief Minister inform members of the extent of the proposals made by the UK government on a Foreign Account Tax Compliance Act (FATCA) equivalent agreement between the UK and the Crown Dependencies?

What financial instruments would the agreement be intended to cover and what changes, if any, are envisaged for the finance sector following a UK FATCA agreement?

Answer

The UK Government's proposals envisage an agreement that will mirror the FATCA agreement currently being negotiated with the USA. Discussions on these proposals are on-going.

The US FATCA agreement provides that the information to be obtained and Exchanged will include –

- The total gross amount of interest, the total gross amount of dividends, and the total gross amount of other income generated with respect to the assets held in an account;
- The total gross proceeds from the sale or redemption of property paid or credited to an account.

The information being sought by the UK is understood to relate to those UK residents who are engaging in tax evasion. Jersey has for many years sought to discourage this business and so it is not expected that the automatic exchange of this information with the UK will call for any changes for the finance sector.

1.14 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE LEGAL OBLIGATIONS OF JERSEY COURTS:

Question

“Are Jersey’s courts legally bound by the:

- (a) European Convention on Human Rights;
- (b) International Covenant on Civil and Political Rights;
- (c) Universal Declaration of Human Rights; and the
- (d) International Covenant on Economic, Social and Cultural Rights?

How do the French language statutes comply with Jersey's courts’ legal obligations under the above mentioned international Human Rights laws?”

Answer

The international instruments listed in the question have been ratified on behalf of Jersey and are therefore binding on the government of Jersey as a matter of international law.

However, with the exception of the ECHR, they are not capable of being directly enforced nor do they confer directly actionable legal rights on persons in Jersey. They may only be relevant in a legal action in Jersey where reference to their provisions might assist the court with interpreting a Law or the customary law, the meaning of which is unclear, so as to determine the basis upon which the court’s discretion should be exercised (i.e. in a way which is compatible with Jersey’s international obligations). Only the ECHR, most of the provisions of which are given further effect in Jersey under the Human Rights (Jersey) Law 2000 (the HR Law) can be said to have the force of law in Jersey.

The second (part of the) question does not identify which of the human rights might be engaged, but I do not think in any event that there is any issue of incompatibility with the ECHR or any of the other human rights instruments by virtue of the fact that certain legislation in Jersey is written in French.

1.15 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE ‘TRUST’ STATUS OF THE STATES OF JERSEY:

Question

Under Article 2 of the Universal Declaration of Human Rights, is the political, jurisdictional, or international status of the States of Jersey that of a ‘Trust’ government?

Answer

The full text of Article 2 of the Universal Declaration of Human Rights is as follows –

“Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty”.

I understand that the expression trust territory or country in Article 2 refers to United Nations trust territories, which were the successors of the remaining League of Nations mandates and came into being when the League of Nations ceased to exist in 1946.

Jersey therefore is not and never has been a trust territory

1.16 DEPUTY T.M. PITMAN OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE OWNERSHIP OF PUBLIC PROPERTY:

Question

Is all public property held in trust for the people of the Island?

Answer

No.

There are two types of property in Jersey law: moveable and immoveable. Essentially, immoveable property is land and certain rights attaching to land and there cannot, as a matter of Jersey law, be a trust of immoveable property in Jersey. The only exception to this is when the Royal Court has given permission for land to be held by trustees (*fidéicommissaires*) for certain charitable or other purposes under the *Loi* (1862) *sur les teneures en fidéicommiss et l'incorporation d'associations*.

In legal theory, public land is vested in the public of the Island. In a general sense public land is held for the benefit of the public in the sense that it is not held for the benefit of private individuals. The manner in which public property is used and administered, subject to the laws of the Island, is determined by the democratically elected representatives of the public.

It is not useful to characterise that as a trust arrangement as that characterisation would suggest that public property is held on a trust as defined by and subject to the Trusts (Jersey) Law 1984 which is not the case.

2. Oral Questions

The Deputy Bailiff:

The first question was due to be put and answered on 4th December and was put off at the request of the Minister. It is on the Order Paper today and I propose not to start the 2-hour period until after questions on this first question have been dealt with. So the Connétable of St. John has a question to ask of the Minister for Health and Social Services.

2.1 Connétable P.J. Rondel of St. John of the Minister for Health and Social Services regarding construction works undertaken at the General Hospital on 9th to 11th November 2012:

Would the Minister advise what construction works were being undertaken at the General Hospital on or around the Emergency Assessment Unit during the nights of 9th to 11th November 2012; what required such urgent work; by whom were they authorised and what action, if any, has been taken to discipline that person, given that patients were kept awake all night by the noise?

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

There was no construction work being undertaken at night in or around the Emergency Assessment Unit from Friday, 9th November to Sunday, 11th November 2012. A duty engineer was, however, called out at 10.20 p.m. on Saturday, 10th November to undertake an emergency repair to an oxygen compressor. That compressor, which provides oxygen to hospital patients, is in proximity to the Emergency Assessment Unit and was probably the source of the noise. I have no doubt the Constable will be reassured to know that I do not discipline staff for undertaking work that is critical to patient safety, even if that work should regrettably cause a disturbance to my patients. I am saddened again that the Constable goes straight to disciplining staff and his attitude has a very negative effect on staff who work tirelessly to ensure that all equipment is kept in good working order.

2.1.1 The Connétable of St. John:

Given the Minister's reply, could she please explain, if no building works were going on at that time in the morning, could the patients have been hallucinating or having nightmares or were they working in the operating theatre with kangos and power tools because it was kangos and power tools that were being heard and therefore I have to take issue with some of her reply.

The Deputy of Trinity:

As I have said, there was no construction work during the night on those times. It might have been, as I said, the compressor. The machine is close to the Emergency Assessment Unit and there was a problem with it at 10.20 p.m. The disturbance was reported and it was temporarily repaired. Other than that, I cannot say any more.

2.1.2 The Connétable of St. John:

If I could come back in on that, the Minister said 10.20 p.m. The complaints I received were in the early hours of the morning in writing from a member of one of the families of a patient and I am sure they would not have been complaining if it was before 11.00 p.m., as we say, the watershed.

The Deputy of Trinity:

As I said, there was no construction during the night. If any work needs to be undertaken during the night as an emergency, it is under specific authorisation by the Senior Management Team and no such work was requested or authorised on that weekend.

2.1.3 The Connétable of St. John:

Did the Minister receive any oral or written complaints about the noise from the families or public who attended the hospital?

The Deputy of Trinity:

We received one formal complaint which was addressed within, I think, 48 hours of receiving that complaint.

2.1.4 Deputy T.M. Pitman of St. Helier:

I was just going to try and be helpful and say there could be many reasons to be woken by heavy banging in the night and perhaps could the Minister for Health and Social Services undertake to do a bit of further investigation just to put the Constable at rest?

The Deputy of Trinity:

I thank the Deputy for his input. As I said, the formal complaint came in soon after this. We investigated thoroughly and we have investigated thoroughly since the Constable's question came in and, as I said, there was no construction work. There has been some construction work around the 1960s block for intensive care and there was some scaffolding put up but that was during the day. During the night, there was nothing.

The Deputy Bailiff:

A final supplementary, Connétable?

The Connétable of St. John:

No, Sir, I am not going to get any further, thank you.

The Deputy Bailiff:

It does not sound like it, Connétable, no. Very well, the 2-hour period will start now. Deputy Southern has a question to ask of the Chief Minister.

2.2 Deputy G.P. Southern of St. Helier of the Chief Minister regarding the calculation of the sums involved in the 1% non-consolidated public sector employees pay award:

Will the Minister inform Members how the sums involved in the 1 per cent non-consolidated pay award recently imposed on public sector employees have been calculated and whether any additional terms and conditions have also been imposed?

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

The funds identified for the 1 per cent non-consolidated pay award that was recently implemented within the terms of the employer's final offer were calculated on basic rates of pay within the public sector pay bill as at 31st December 2011, given that the award was due on 1st January 2012. Members will recall that no funds were allocated in the 2012 Budget for public sector pay awards, hence the original offer of 0 per cent in 2012.

[9:45]

Accordingly, any monies provided by Treasury were outside the 2012 Budget and had to be prioritised to staff in post at the start of the year and in post on 4th December 2012, the date when the award was implemented. Within the employer's final offer, the intent is to remove the telephone rental allowance and reduce the mileage allowance from 62.7 pence per mile to 45 pence per mile in line with the U.K. (United Kingdom) public sector in 2013 on a date to be determined.

2.2.1 Deputy G.P. Southern:

The net effect then was to have this award set at a level which was below 1 per cent of normal wages and salaries, was it not?

Senator I.J. Gorst:

Inevitably, it might be a slightly smaller number than had it been applied also to those on bank and zero-hours contracts but that was not the initial intention. It was trying to find a methodology that works and the employer believes that that is what they have done.

2.2.2 Deputy G.P. Southern:

Is the Chief Minister aware of the continuing dispute over this particular award and that his imposition has not been agreed and any changes to terms and conditions need to be negotiated, not imposed?

Senator I.J. Gorst:

I do not wish to rehash old arguments but, as I have said, and as the Deputy knows, the pay deal for 2012, 2013 and 2014 has been very difficult and the employer believes that they have made a fair and final offer. I am also aware that some union groups are not satisfied with that but we must take into consideration all the factors. We have found extra money, as I said, at the last States sitting and we have gone as far as we believe we possibly can in the current economic circumstances.

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

There is a view among a number of States Members, myself included, that the States Employment Board have not acted in good faith in the negotiations that they have had with the public sector workers. Will the Chief Minister publish for us a document showing the dates of all the negotiations and what was put to the different parties so we can follow the progress because, quite simply, the imposition seems to have come after a period of intransigence on the part of the States Employment Board? Will he publish the document?

Senator I.J. Gorst:

I would refute that claim. As the Deputy knows, the employer was working to the mandate that was approved by this Assembly and one could be forgiven if Members were accusing the employer of going beyond that mandate because, in the end, that is what we had to do to try and reach what we believe is a fair and final settlement, so I do not accept the Deputy's premise. A number of meetings were held with employee representatives and I do not believe the Deputy is right.

2.2.4 Deputy T.M. Pitman:

I would just like to ask the Chief Minister if he thinks he should reconsider terms going as far as they could, given that we are later going to be discussing a potential spending of up to £14 million, possibly even more, on Plémont. Does he think he has really gone as far as he can?

Senator I.J. Gorst:

Yes, I do. Inevitably we, in this Assembly, have to prioritise. We have to ensure that our money is being used appropriately across any number of priorities, not only priorities of today but priorities of the future as well. I would just perhaps refute the Deputy's comment that he believes that Plémont is worth the amount that he said it was. Perhaps he might consider showing us the evidence of how he reaches that valuation.

The Deputy Bailiff:

Not at the moment, Chief Minister. We will no doubt come to that later on.

2.2.5 Deputy M. Tadier of St. Brelade:

Does the Chief Minister acknowledge that he has made the same mistake as the Council of Ministers did a couple of years ago by completely disregarding the principles of free and collective bargaining by seeking to impose a pay deal without the consent of public sector workers? Will he take the consequences that arise from that?

Senator I.J. Gorst:

I do not believe that I have made a mistake. Although we do not like to do this, if we look across the water, we see that pay deals with public sector workers are implemented without coming to agreement and that is a common course of action. It cannot be right that this Assembly sets an

envelope for public sector pay. The employer works to implement a fair deal, tries to engage with employees' representatives and I hope that employee representatives will see that we have gone as far as we possibly can.

2.2.6 Deputy J.H. Young of St. Brelade:

Would the Chief Minister confirm that the pay deal which was not accepted did include a no redundancy agreement and would he tell us what is the position with the Council of Ministers on this question of redundancy in the imposition of the award?

Senator I.J. Gorst:

Yes, the Deputy is right and he does well to remind the Assembly that, as part of the deal, there is a no compulsory redundancy element and the Council of Ministers and the employer have been criticised by a number of individuals for believing that in times of austerity when private sector employers are having no choice but to make people compulsorily redundant, then that is what the States should be doing. But we have recognised the value of the jobs that our employees have got and we have tried, while ensuring that we do not make anybody compulsorily redundant, to offer a fair pay deal and it is inevitably a balance.

2.2.7 Deputy G.P. Southern:

I do not know where to start on this but I will try. Is the Chief Minister aware that any changes to terms and conditions must be negotiated and cannot be imposed? In particular, is he aware that the change to the mileage allowances is based on the AA rates for doing 10,000 miles a year, which very few employees can manage in Jersey?

Senator I.J. Gorst:

We have a number of what can only be described as historic terms and conditions which I believe that the vast majority of Members in this Assembly would believe are outdated and need to be changed and, in a small way, that is what this pay offer does with regard to those 2 terms and conditions which I outlined in my opening answer but there are lots of other terms and conditions which need to be addressed and need to be made fit for purpose for today's world.

2.2.8 Deputy G.P. Southern:

The Chief Minister did not address the question of imposition and not negotiation. Is he saying that in future, he is going to impose further changes and not negotiate them?

Senator I.J. Gorst:

The Deputy is well aware that my staff are negotiating around the modernisation programme with employee representatives right across the States employee sector.

2.3 Deputy J.H. Young of the Minister for Planning and Environment regarding the current status of the approved Masterplan for the development of the St. Helier Waterfront:

Will the Minister advise the Assembly of the current status of the approved Masterplan for the development of the St. Helier Waterfront and whether he has any plans to review it as a result of changed circumstances since the plan was adopted?

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

The Masterplan for the Esplanade Quarter was endorsed by the States in 2008 with a subsequent minor amendment being approved in March 2011. This, together with the Supplementary Planning Guidance adopted in 2006, provides the approved planning framework for the development of the

St. Helier waterfront, as set out in the Island Plan at Policy BE2 which was approved by the States in June 2011. In considering whether to revise the planning framework for the waterfront, it is worth considering what the current framework seeks to deliver. The primary objectives of the current masterplan are as follows: To integrate St. Helier with the waterfront and address the separation caused by the road; to create a distinctive mixed use quarter and to make a step change in design quality; to create a new office quarter to serve the financial services industry and create new opportunities to broaden the tourism and visitor sector; to create new areas of open space for residents and visitors and to provide new homes for local residents. Within this framework provided by these objectives, the masterplan does offer some flexibility to respond to market changes and demand. It is relevant to note that despite the prevailing economic conditions, the process of implementation of this plan is underway as evidenced by the current planning application by the States to develop the first office block on the Esplanade Quarter. As with all planning guidance and policy, however, there is a need to ensure that it remains relevant, up to date and applicable. While I have no stated aim to review the plan at the present moment, I must remain open-minded to the need to do so, having regard to the needs and aspirations of the community and any changes in circumstances.

2.3.1 Deputy J.H. Young:

Would the Minister confirm that one of those needs of the community that he referred to in the objective includes the site for a new hospital? Would he confirm that that is a changed need and would he confirm that he is looking at it?

Deputy R.C. Duhamel:

The Deputy is right that there is a process underway to look at potential sites for hospital relocation and it might well be that the waterfront is considered in that respect. That said, if it was to be the case, then that might well give rise to alternative considerations which would have to be added in to the current masterplan. When the current masterplan was considered, no consideration of hospitals or, indeed, police stations or anything else was put in as an objective.

2.3.2 Deputy S. Power of St. Brelade:

Could the Minister assure the Assembly that any individual or, indeed, piecemeal application to be considered under the waterfront masterplan does not compromise the overall waterfront masterplan as was approved that the Minister referred to, and that this is subsumed by the Island Plan 2011 and that any amendment to the waterfront masterplan must come before the Assembly?

Deputy R.C. Duhamel:

The Deputy is right that the consideration of the masterplan is a whole package which is made up of the parts that were outlined. Indeed, if a piecemeal application is to be forwarded that does not necessarily comply with those aims, then that may well be a material consideration for the planning process.

2.3.3 Deputy R.G. Le Hérissier of St. Saviour:

Would the Minister not confirm that the apparent efforts being put into the Waterfront Masterplan have ensured that the promise made at the time of the Island Plan debate that there would be a masterplan on Five Oaks, that this has now been put at the bottom of the agenda? Would he confirm that this is what is not happening?

Deputy R.C. Duhamel:

No, indeed. In the process of providing masterplans for any of the suggested areas that were highlighted within the Island Plan or indeed any others that come to light by parishioners or States Members in the intervening period, all such masterplans are to be treated with equal respect but this

has to be done within the context of the staff that I have to undertake these functions within the department. In some respects, the new Budget process has provided my department with some extra monies which will facilitate the raising of the status perhaps - as has been asked for by Deputy Le Hérissier - to the level that he would have the assurance that it was going to be done sooner rather than later.

2.3.4 Deputy R.G. Le Hérissier:

But what is the date for the submission of that plan?

Deputy R.C. Duhamel:

The date is probably going to be set to some months after we start and we have not started as yet.
[Laughter]

2.3.5 Senator S.C. Ferguson:

Would the Minister agree that the existing masterplan is not viable in the current financial climate and that the only thing which made it viable was the £98 million bond and that without the bond, the whole project, as previously envisaged, stands to make a £50 million loss?

[10:00]

Deputy R.C. Duhamel:

I think the interpretation that is being placed by the Senator might well have some justification and certainly, if that is the case, it might well be a material consideration as I mentioned earlier.

2.3.6 Deputy J.H. Young:

Would the Minister accept that one of the changes that his review, when it takes place, should take into account is the doubt of the demand for new office space for the finance industry, the availability of competitive arrangements and the problems with vacant office space elsewhere in St. Helier? Will he confirm that those things will be taken into account in his review?

Deputy R.C. Duhamel:

I certainly will and I think the Assembly must be reminded of the fact that at the present time there are some outstanding applications for building office space of some 850 square feet, which is well in excess of the office accommodation that is probably required for the finance industry or for other industries.

2.4 Deputy M.R. Higgins of the Minister for Home Affairs regarding missing witness statements made by victims of child abuse:

Will the Minister advise Members whether any written statements made by victims of child abuse that were made to and in the custody of the States of Jersey Police were subsequently lost? If so, have these statements now been recovered and if not, what are the implications for victims making claims for compensation under the Historic Abuse Redress Scheme?

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

I am aware of one individual who says, as I understand it, that he made statements in both 1980 and 2000. That is some years prior to Operation Rectangle. I am also aware that that individual and Deputy Higgins have met fairly recently with a senior police officer who has been allocated to examine this and a related matter. The police have been unable to locate any statements made in 1980 or 2000. They did make contact. There were 2 names of police officers mentioned, one of whom has died, the other of whom has no recollection of this and they have been unable to locate

these items. I simply do not know whether these have been lost or not but I am aware that this individual made a complaint as part of the Historical Abuse Inquiry and that is clear. Although this is strictly outside of my Ministerial remit, I am willing to express a view on the effect in relation to the redress scheme and that view is that because the individual made a complaint to Operation Rectangle, the Historical Abuse Inquiry in 2008, I would not expect that the failure to find these previous statements would have a material effect on whether his claim would be accepted or not. The decision on whether or not to accept the claims, of course, is being made by lawyers on behalf of the Council of Ministers.

2.4.1 Deputy M.R. Higgins:

Can I take it that the Minister is confirming that witness statements were lost... that is a fact, really, because all know that there were records showing that statements were taken but they have subsequently not been revealed. Will the Minister also confirm that other evidence relating to the child abuse scheme also went missing from the States of Jersey Police and the 2 police officers were suspected of removing evidence from the States of Jersey Police?

Senator B.I. Le Marquand:

I am not confirming whether or not the statements have got lost because we simply do not know. What we do know is that there is a gentleman who says he made such statements. I am not trying to impugn his honesty but we simply do not know the answer to that. In relation to the other matter raised by Deputy Higgins, I am completely unaware of this. I do not know whether he discussed this with the senior police officer at the meeting which took place but if he has information to that effect, it most certainly should be provided to that officer so that an investigation can take place.

2.4.2 The Connétable of St. John:

I have got some concerns here, given that we have lost statements and historically I am aware that we have lost drugs and lost cash from secure keeping at the Police Headquarters. I am also aware of firearms having gone missing after having been delivered to Police Headquarters and that is a real concern. Would the Minister please tell us how these statements and all things kept by the police, what kind of secure archives do they have and are they held on premises or away from the premises, please?

Senator B.I. Le Marquand:

It is not surprising to me that over a lengthy period of time, items might get mislaid or lost. Also there would be a weeding out process that would normally take place in relation to what was held and what was not held. That would be perfectly normal. Absolutely nothing has gone missing from the Historical Abuse Inquiry. We are talking about some statements which were allegedly made from an earlier period. I am satisfied that the police now have appropriate processes and appropriate storage. I am not precisely sure where all that storage is. I think some of it is off site and some of it is on site in practice. The armouries in relation to guns - if that is the concern - are most definitely on site although there are 2 different sections to that.

2.4.3 Deputy T.M. Pitman:

Just for the record, I have seen a letter from another member of the public whose evidence, not to do with the Historical Abuse, was conveniently apparently destroyed by a flood at the police station. However, my question to the Minister is - and I am not a lawyer I am pleased to say - the Minister says that he cannot see any problem with the fact that statements have been lost. However, surely if something can be seen, it was done in 1980 and 2000 and it has been done again recently, then that would have added weight to what the abused victim is saying. Could the

Minister just explain that to me, how he can say that is not going to be a problem, because surely that building up and that repeating of the same evidence is very valid and very important?

Senator B.I. Le Marquand:

In general, the fact that someone may say the same thing on a number of occasions does not necessarily increase the force of that. I have to say that I second a decision that has been made by the lawyers dealing with this on the basis of the inherent credibility of the allegations that are made and that the fact that a previous allegation may have been made would only be part of that. I am not aware of exactly what the conditions were going back to 1980. As I say, if the police are unable to find something, they do not know if it has got lost, they do not know if it is still with them, they do not know if the statement was ever made as a formal statement. That is why I am being cautious about the matter.

2.4.4 Deputy M.R. Higgins:

I am absolutely amazed at the final statement of the Minister because there is a record in Police Headquarters showing that a statement was made by this individual in 1980. That is why we know it is missing. I am also surprised that the Minister for Home Affairs is not aware that those police officers who were under suspicion and investigated at the time for loss of evidence and tipping off potential abusers I think took early retirement. So if he wants to talk later, I will tell him the names of the people that I am aware of. But what I would say is surely...

The Deputy Bailiff:

Can you ask the question, please, Deputy?

Deputy M.R. Higgins:

I am coming to that now, Sir. Does the Minister for Home Affairs think that it is good enough that evidence is going missing and what steps is he going to take to make sure that future evidence does not go missing on the part of statements and other things submitted to the police?

Senator B.I. Le Marquand:

I am satisfied that we now have proper systems in place in relation to all these things. If I may say so, when the Deputy met with the senior police officer, who was allocated to the matter specifically at my request, he was asked to come back with more detail. I would ask, would he please provide that detail to that officer so that he can conduct a proper investigation in relation to the matter because clearly there is detail in the possession of Deputy Higgins which is not to the knowledge of this officer who is my source of information for these answers.

2.5 Deputy G.C.L. Baudains of St. Clement of the Chief Minister regarding the progress of the proposed departmental restructuring:

Would the Chief Minister update Members on the progress of the proposed departmental restructuring and of the present membership of the working party responsible for this?

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

I believe the Deputy is referring to the reform agenda which is focused on 3 key areas: service redesign, workforce modernisation and cultural change. The key area of activity in service redesign is currently around mapping and scoping out front office activities, looking at areas where we can introduce digital technology to support service redesign which will in turn deliver improved services to the people of Jersey. Workforce modernisation is focused on creating a common baseline. Cultural change is currently focused on developing a leadership programme and looking at a performance management system which enables the creation of a delivery culture within the

States of Jersey. The setting up of a political oversight group is my priority for the Christmas recess.

2.5.1 Deputy G.C.L. Baudains:

I am somewhat disappointed by the Chief Minister's reply. It does seem to me that he is suggesting all systems as usual. What I would like to know is will he be seeking to reorganise the present departmental structure or, as it seems, simply modifying it slightly? In other words, would he be starting from a clean sheet, including a fundamental review of what services the States should be providing, and by whom?

Senator I.J. Gorst:

That is indeed part of the service redesign process but it is important first of all that we understand the services that we are providing and the way that we are interacting with the public prior to drawing conclusions about what that might look like in the future. The Deputy knows that in some respects, some work programmes already in place will mean that there will be coming together of departments. We need to understand the place in future for the Housing Department if we accept the Housing Transformation Programme with the Strategic Housing Unit sitting in the Chief Minister's Department. We know also that Treasury and Social Security have started to work more closely together and it is important that we do not, at this stage, decide where the end of that is.

2.5.2 Deputy R.G. Le Hérissier:

There are 2 parts. Would the Chief Minister acknowledge that the Modern Manager Programme which was part of government modernisation for so many years and was meant to provide the whole basis for succession planning has not worked? Secondly, will the new Organisation Performance Director be on a payment by results basis?

Senator I.J. Gorst:

I disagree with the Deputy with regard to the Modern Manager Programme. I believe that it is one of the great success stories and we have got people who have been on the Modern Manager Programme right across our organisation itching to change and to deliver change. I think it is only fair that I say that I believe that there perhaps have been some blockages to that change and this programme is about ensuring that every manager and senior manager as well is inspired in the same way as that programme has inspired junior and middle managers. I am not aware that the new organisational change individual is on a performance-based pay structure. That is something that the States Employment Board has considered but we are very firmly of the view that it should not just be one sector or one individual. If we are going to do that - and we are far from convinced at this stage that we should do that - it would have to be right across the board.

2.5.3 Deputy R.G. Le Hérissier:

Could the Chief Minister define where the blockages are?

Senator I.J. Gorst:

I thought that is what the Deputy was going to say. I think I can simply say that I believe that there are and I do not want to go into further detail. That is what this process is about; trying to ensure that they are moved on and change is delivered and not stopped.

2.5.4 Deputy G.C.L. Baudains:

I am beginning to suspect that the blockages are in the Chief Minister's Department, with due respect to the Chief Minister himself. I am not sure that I appreciate from his answers this morning that we are going in the right direction so I am going to ask him if he would be so kind as to prepare a short paper for Members to tell us exactly what he is doing and where he is at the present time.

Because I was expecting when he was undertaking this review that we would be starting from a blank sheet and it seems to me all we are doing is fine-tuning something which does not work particularly well at the moment.

Senator I.J. Gorst:

I am more than happy to provide such a paper and to hold another briefing but I can assure the Deputy that it is neither starting entirely with a blank sheet but we must ask the questions that I know that the Deputy wants to be asked so I am quite happy to do that.

[10:15]

2.6 The Connétable of St. John of the Chief Minister regarding an advertisement placed in the Jersey Evening Post on 5th December 2012 concerning a public meeting to discuss Plémont:

Who authorised the advertisement placed in the *Jersey Evening Post* on 5th December 2012 concerning a public meeting to discuss Plémont and why was authority given for taxpayers' money to be spent in this way?

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

The proposition before the States Assembly was lodged by me, as Chief Minister. I approved the placing of the advert in the *Jersey Evening Post* last week regarding a public meeting to discuss the Plémont proposal. I did so because I believe that the public should have the opportunity to express their views on this matter before the debate and therefore, in my opinion, it was an appropriate use of public funds.

2.6.1 The Connétable of St. John:

In the Members' book of interest, I understand that the Chief Minister is a member of the National Trust. That being the case, is it right that the Chief Minister should spend public money in an association that he is a member of, and he may be able to confirm or otherwise that he is still a member, but it is in the book of Members' interest. Therefore, why has he not declared an interest, given that he is answering a question on this at the moment?

The Bailiff:

You have not asked anything about the National Trust, Connétable.

Senator I.J. Gorst:

My interest is rightly and appropriately declared and the Connétable is right to bring that to people's attention today. I was going to declare the interest during the debate but it has already been declared.

2.6.2 Deputy G.C.L. Baudains:

One thing that has not been clear to me and obviously I do not want to touch on the forthcoming debate, is the proposition on behalf of the Council of Ministers or is it a private Members' proposition?

Senator I.J. Gorst:

It is a Chief Minister's proposition. It was debated by the Council of Ministers and, as I have said previously, the Council of Ministers was representative of public opinion when we debated this proposition and it was felt and decided that it would be better if I brought it as Chief Minister and therefore it is a departmental proposition. In actual fact, what it does is try to answer some of the questions that previous Assemblies have asked previous Chief Ministers to do with regard to

Plémont and I hope that either later today or more likely tomorrow, we will make that decision and I have believed for a long time that it is right that...

The Bailiff:

I think you have answered the question.

2.6.3 Senator S.C. Ferguson:

Do we understand that the Council of Ministers were unanimous on this or not?

Senator I.J. Gorst:

I think I carefully said that the Council of Ministers were reflective of public opinion.

2.6.4 The Connétable of St. John:

Given that this was a standalone proposition, why did the Chief Minister not bring it in his own name? Could it be because he wanted the public of Jersey to pick up all of these additional bills?

Senator I.J. Gorst:

Not at all. Perhaps if I could just touch on that issue. I held a Parish meeting in the Parish of St. Ouen and it was other Members of this Assembly who felt and asked that we have an Island-wide meeting that any member of the public could come to. I acceded to that request because I thought it was the right thing to do. Obviously, the St. Ouen's costs were met by the Parish and I am grateful to them for that, but I do not think it was acceptable to ask the Parish of St. Helier to have met the costs but it was right for it to have come from normal taxpayer costs.

2.7 Deputy T.M. Pitman of the Chief Minister regarding the Historic Child Abuse inquiry terms of reference:

In view of concerns raised by a number of States Members and stakeholders, will the Chief Minister ensure that the issues of both the police handover of investigations and the actions of those in political power will be fully covered in the Historic Child Abuse Inquiry terms of reference?

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

The Deputy is aware that I have received correspondence from a number of stakeholders, including himself, asking that the terms of reference be extended. I have confirmed to those stakeholders that I will consult with Verita and the Council of Ministers before making any decision.

2.7.1 Deputy T.M. Pitman:

I thank the Chief Minister for his answer. Could he give us some indication of when we are likely to get an answer because some of those stakeholders are deeply concerned, as I think the Chief Minister will fully acknowledge?

Senator I.J. Gorst:

It will indeed take some time. I will need to understand when Verita can respond to me and I will also probably need to request a special sitting of the Council of Ministers. However, I have indicated that should the answer be in the negative or should we not be able to meet all those requests, then I would be prepared to defer the debate so that those stakeholders could bring amendments.

2.7.2 Deputy M. Tadier:

Does the Chief Minister realise that the stakeholders and we States Members who have been actively seeking amendments do not want the debate to be deferred? We simply want the Chief

Minister to sit down with us in the earliest possible course - I know he is busy - hopefully before Christmas though, so that we can agree whether the Chief Minister will accept these amendments and if not, we can put them in without delaying this very important debate which has been delayed too long already.

Senator I.J. Gorst:

It seems this morning I cannot quite get it right. The Plémont proposition, it seems that Members wish I had brought in the name of the Council of Ministers. Now that I have brought a proposition which I think is rightly brought in the name of the Council of Ministers, Members are wishing it was brought in my name so they could simply sit down with me and we could change the terms of reference. It is rightly brought in the Council of Ministers' name. It shows that the Council of Ministers are supportive of a Committee of Inquiry and as Members know, that is, I think, the right thing to do. Therefore, if there are to be any changes, it is the Council of Ministers which must consider them.

2.7.3 Deputy M. Tadier:

I feel that the Chief Minister is being disingenuous. No one is commenting on the fact that this proposition should not be brought by the Council of Ministers; that is understood. But the Chief Minister knows himself that in the past, whenever there have been talks on this, either formal or informal, it has always been conducted directly with him and his Chief Officer, never with the Council of Ministers. I do not see any reason for any departure from that, although I am happy to talk with the whole Council of Ministers if he invites that. Would the Chief Minister explain why he needs to go back to Verita when quite simply we are asking for amendments which Verita had already recommended for the most part to be in there? They have now been removed. There is no need to stall this by going back to Verita for their comments. It is a very simple issue which the Chief Minister can do by sitting and talking to us or even email correspondence so that we can get this in before Christmas without delaying the debate any further. Will the Chief Minister agree to that reasonable request?

Senator I.J. Gorst:

I am always happy to meet but that caveat remains that it is a Council of Ministers proposition and therefore the Council of Ministers needs to agree to any changes to the terms of reference.

The Bailiff:

Deputy Pitman, do you wish the final question?

Deputy T.M. Pitman:

No, Sir. Deputy Tadier's was so long and involved and very, very elegant so I will leave it at that.

2.8 Deputy J.M. Maçon of St. Saviour of the Chief Minister regarding the impact of the Leveson Report in Jersey:

Has the Chief Minister considered the Leveson Report and if so, will he be bringing forward any proposals to better safeguard members of the public and if not, why not?

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

I think we can be grateful that our media has not been prone to the excesses of the U.K. printed media. I am aware of the Leveson Report findings and recommendations but will wait to see how the U.K. Government decides to respond before considering any potential proposals for Jersey.

2.8.1 Deputy J.M. Maçon:

Just for absolute clarity, is the Chief Minister saying he is giving the Assembly an undertaking that he will keep a watching brief on this matter and report back in due course?

Senator I.J. Gorst:

Indeed, but as the Deputy will be well aware, there is robust and strong argument taking place in the United Kingdom about what the correct course of action is and that, I believe, arises out of the inappropriate and illegal behaviour that some of the media have been involved in and I think in the meantime, we can, as I said, be very grateful that our media have not been prone to those excesses.

2.9 Deputy C.F. Labey of Grouville of the Chairman of the Comité des Connétables regarding the compilation of a booklet following the adoption of P.60/2011:

Given that in June 2011, the States adopted P.60/2011 requesting the Constables to investigate the possibility of compiling a booklet by January 2012 to publicise to their parishioners the workings of the Parish Assemblies and to investigate publishing a standardised set of recommended procedures for use at these Assemblies, can the Chairman advise Members whether this has been done and if not, why not?

Connétable D.J. Murphy of Grouville (Vice-Chairman of the Comité des Connétables - rapporteur):

In the absence of the Chairman, I have been asked to respond. I am pleased to report that the final version of the booklet was agreed yesterday by the Comité des Connétables and will be made available very soon through the Parish websites and printed copies will be available to any parishioner on request at the Parish Halls. As stated in the Comité's report of R.4/2012, the Comité has considered publishing a standard set of recommended procedures for use at Parish Assemblies but these would, in fact, be the requirements set out in law and therefore they are covered in the booklet.

2.9.1 The Deputy of Grouville:

I am heartened by the Constable's comments and, indeed, the comments on my desk this morning in P.119/2012 but given that the States Assembly requested the publication by January of this year, can the Constable give this Assembly an indication when the publication might take place when the information might be available to the public rather than just "very soon"?

The Connétable of Grouville:

The booklet was, in fact, ready in January but it had to go through the Law Officers' Department before we could arrange for it to be published. Very soon; I am not sure, that will depend on each Parish getting it on to their website as quickly as they can. I would say a matter of weeks rather than longer.

2.9.2 Deputy R.G. Le Hérissier:

I wonder if the Connétable could tell us whether within this booklet there will be steps taken or he believes this booklet will encourage people... notwithstanding the excellent contributions made by people within Parishes, poor attendance is a major issue in Assemblies. What steps are contained within the booklet to enhance attendance at such Assemblies?

The Connétable of Grouville:

The purpose of the booklet is to let people know exactly what happens at Parish Assemblies and how they can work with the Parish Assemblies. It does not go into detail about encouraging people to attend them even though obviously we do encourage people to attend them.

2.10 Connétable J. Gallichan of St. Mary of the Minister for Treasury and Resources regarding the disposal of publicly-owned assets to fund the cost of any project not contained within the Medium Term Financial Plan:

Under what circumstances could publicly owned assets be disposed of in order to fund the cost of any project not contained within the Medium-Term Financial Plan?

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

As the Connétable will be aware, the M.T.F.P. (Medium-Term Financial Plan) approves a total capital expenditure for each year of the M.T.F.P. Thereafter, each capital project is authorised in the annual budget. The capital programme assumes a proportion of funding that will be met from disposal of publicly owned assets. The procedure for disposal of property is covered by Standing Order 168. In addition to this, Article 18(5) of the Public Finances Law enables the Minister for Treasury and Resources to authorise a States-funded body that has disposed of an asset to use all or a specified amount of the proceeds of the sale for revenue expenditure or a specific or capital project. In practice, the funding generated from such disposals is needed to fund the agreed capital programme. That means in order to fund capital schemes over and above the M.T.F.P., the Minister is likely to need to use contingency funding. Under Article 11(7) of the law, the Minister for Treasury and Resources can approve use of contingency funding which could be for capital schemes but, of course, only to the extent of contingency funds being made available.

[10:30]

2.10.1 The Connétable of St. Mary:

Could the Minister tell me in English, please, is there a process whereby States owned assets can be disposed of simply if the Assembly identifies a project which is not contained in the Medium-Term Financial Plan?

Senator P.F.C. Ozouf:

I think there are 2 questions there. As far as disposal of assets is concerned, disposal of assets and certainly property assets is covered under Standing Order 168, which means that a proposition is laid before the Assembly and a calling is effectively available. So that deals with the issue of disposal. What can happen with the receipts of a disposal, they could be used but, as I have said, a capital project, construction of a police station, would need to be, in my view, normally included in the capital programme approved in the budget. I hope that that explains the question. The contingencies are there to deal with unforeseen and urgent issues and there is a policy, perhaps I can circulate it to the Connétable, which sets out the use of contingencies and how they could be made available.

2.10.2 Deputy S. Power:

I have to challenge the Minister on part of his response to the Constable of St. Mary. The question is quite clear and it is quite short. Under what circumstances can publicly owned assets be disposed of that are not contained in the Medium-Term Financial Plan? The Minister mentioned, among a lot of other things, that contingency funding may be available. How and what is the process for the Minister to make a report to fund a project out of public assets that is not in the Medium-Term Financial Plan? What is his discretion? How does it work?

Senator P.F.C. Ozouf:

It is quite difficult to explain that in an oral question but I would just remind the Deputy that we published in January 2011 effectively a policy on contingencies which I think was a question from Deputy Vallois and then there is in addition to that a code of direction, an internal Treasury

guidance to departments about how we will deal with contingencies. I certainly would only allocate contingencies... I think we have bound ourselves into rules that... say, for example, that I take a request for contingencies, I have to get a report from the Treasurer and then I have to take it to the Council of Ministers and, of course, then they are published.

2.10.3 Deputy J.H. Young:

Would the Minister confirm that the process that he has explained to the Assembly does allow him the opportunity to update the Medium-Term Financial Plan for projects which do not fall within the plan at the moment, for example, the outcome of a feasibility study into the essential improvements of Les Quennevais School?

Senator P.F.C. Ozouf:

I think that I would certainly be stretching the use of the availability of allocation of contingencies. Yes, the Minister for Treasury and Resources does have some discretion but as far as Les Quennevais School, that seems to be a capital project which would need to have been included in the capital programme and, of course, it is the Budget that approves capital projects. I would remind the Deputy, and indeed some Members of the Assembly who have been commenting on Les Quennevais School, that there was not a scheme that was put forward by Education for Les Quennevais. Of course, if there is a scheme that the Minister for Education, Sport and Culture wants to put forward for Les Quennevais, then that can be considered in the capital programme for 2014.

2.10.4 Deputy T.A. Vallois of St. Saviour:

When the Minister for Treasury and Resources makes his decision with regards to disposing of public assets, can he advise what Property Plan he makes that assessment against?

Senator P.F.C. Ozouf:

The Property Plan used to be part of the Business Plan and there are targets in the M.T.F.P. White Book. I will remind the Deputy of exactly which page it is. I was looking at it last night and I think it is page 122 but I will correct that if I have got that wrong. Where there is an assumption of the target of property disposals that Property Holdings need to make in order to fund some aspects of the capital programme. I think the target is £2.3 million for 2013 and some higher amounts for 2014 and 2015. So the capital programme is predicated to some extent on disposal of assets and those are set out in the actual M.T.F.P. White Book.

2.10.5 Deputy T.A. Vallois:

Could the Minister confirm that there is an ability still for States Members to contend against a decision made by the Minister for Treasury and Resources with the 15 days' notice?

Senator P.F.C. Ozouf:

I thought I had just said that.

2.10.6 Deputy R.G. Le Hérissier:

Would the Minister not concede that he has caused enormous confusion and distress among the electorate at large because having run a very tight austerity programme, he is now saying because it falls outside the M.T.F.P. that this programme can be breached to a massive extent, having done a U-turn from his 2010 speech?

Senator P.F.C. Ozouf:

Could the Deputy explain on what project he believes that the U-turn has been done? Does his question relate to Plémont funding?

Deputy R.G. Le Hérissier:

Yes.

Senator P.F.C. Ozouf:

I fully accept that the Minister for Treasury and Resources is in a very difficult position in relation to Plémont and I would say to the Deputy that I would only consider allocating contingencies... and I have advised the Assistant Chief Minister and Chief Minister that the only way that the Treasury could respond to this Assembly's approval of Plémont is by the use of contingencies and the valuation indicates that we could meet from contingencies. I have to advise and I am criticised if I do and criticised if I do not. I have to tell the Assembly what I would do if they passed the Plémont proposition and I have been clear. The only source of funds is contingencies.

2.10.7 Deputy G.P. Southern:

The question is partially answered but with specific reference to Plémont, since the proposition is lodged in the Chief Minister's name, does the Minister for Treasury and Resources not consider that such a large spend should have been in the Medium-Term Financial Plan, either in capital or revenue?

Senator P.F.C. Ozouf:

All capital expenditure and expenditure should be within the Medium-Term Financial Plan and I have advised on the use if the States pass Plémont and, of course, Plémont is a kind of different situation because the cost of Plémont could be with CP and under the CP Rules, the Minister for Treasury and Resources has to make available ahead of expenditure in order to fund it. I am advising that the use of contingencies could meet that. Now, that is what I am doing in terms of responding to a request that the Assembly is asked to do. I would not allocate such a large amount of money without the States decision and that is why we need to have a decision on Plémont.

2.10.8 Deputy G.P. Southern:

Just to make it clear that in the event of compulsory purchase processes taking place, that decision comes back to the States on whether to spend or not?

Senator P.F.C. Ozouf:

No, I am asked to approve... the decision before the Assembly today is to request... I have not got the proposition in front of me but clearly if the States agree Plémont, then I will have to allocate contingencies. There are no other available resources. Deputy Le Hérissier is quite right to say we are running a tight ship. We have put in place contingencies so we do not have to come back with Article 118 and I am advising that based upon the valuation that I have been given for Plémont and then the outcome of an arbitration, it would be contingencies that would be used and contingencies of course can be used for a one-off.

Deputy G.P. Southern:

Just for the sake of clarity, please, if I may.

The Bailiff:

I am sorry, Deputy, that was 2 questions. There are others who want to ask questions. I am sorry.

Deputy G.P. Southern:

I still do not think we have got clarity, Sir.

2.10.9 Deputy M. Tadier:

I note from the Council of Ministers' comments when Deputy Pitman asked for £3,000 for Reform Day, we were told the Council of Ministers is unable to support the allocation of £3,000 because it was not approved as part of the Medium-Term Financial Plan. Does the Minister for Treasury and Resources think there is a risk, or at least a perception, that depending on who is bringing this particular proposition that we might be able to accept, I do not know, maybe a few million if it is brought by the right person even although it has not been part of the Medium-Term Financial Plan but if it is the wrong Member... that we risk giving out a mixed message? Does the Minister accept that and that we have set a precedent?

Senator P.F.C. Ozouf:

I think I am criticised by all Members of the Assembly in relation to different positions on financial matters and that is the situation that you have. I have no favour or otherwise on who brings propositions. My job is sometimes to be completely independent. Sometimes I have arguments with the Council of Ministers in relation to funding aspects and the Medium-Term Financial Plan has certainly been a difficult process but it was ultimately successfully resolved in the Assembly and we considered amendments of it. I have no favour of who brings amendments.

2.10.10 Deputy M. Tadier:

So on that basis then, will the Minister for Treasury and Resources be lodging comments to the Plémont debate this afternoon to say that the Minister for Treasury and Resources and Department cannot approve this because it has not been made as part of the Medium-Term Financial Plan for consistency's sake?

Senator P.F.C. Ozouf:

I am very clear that if the States approve the Plémont proposition, the only recourse if the States wants to go down this route is the use of contingencies. There is no other way that I can fund that States request and I am just saying to the States exactly what we should be doing in terms of what the Treasury will have to do in the event of passing this proposition. I cannot really be clearer than that but I realise that I am going to be criticised by those that do not want to do it and I am going to be supported by those that do. So you cannot win. That is the job that I have got and my job is to inform the Assembly of the facts of what available options there are.

2.10.11 The Connétable of St. Mary:

I would like to first of all say that I did not raise this question to criticise the Minister for Treasury and Resources but out of a genuine lack of understanding on my part. I came to the Medium-Term Financial Plan understanding that due to financial constraints, *et cetera*, there were big projects out there that Ministers had to prioritise and were not in that plan but I now find that there is possibly a way around this. Can the Minister for Treasury and Resources advise me, if I come back to him with a capital project that has not been identified by the next Budget, that there will be a mechanism for me to arrange funding or to achieve that funding, even though it is not in the Medium-Term Financial Plan? It is not Plémont and it is not Les Quennevais School.

Senator P.F.C. Ozouf:

The States has agreed a total amount for capital projects and last week we approved the capital projects for 2013. Of course, there are a further 2 opportunities to have capital projects for 2014 and 2015 in the next 2 years' Budgets. So I think the answer is yes, there are 2 opportunities that can be had but it has got to be within the total allocation of the capital that is available because we approve a gross amount annual programme for each year of the Medium-Term Financial Plan. The details of the projects come back in the annual budget. I hope that has answered the Connétable's questions.

2.11 Deputy R.G. Le Hérisier of the Minister for Health and Social Services regarding the need for a Head of Policy, Ministerial Support and Engagement within her Department:

Is the post of Head of Policy, Ministerial Support and Engagement intended to act as an intermediary between the Ministerial team and senior officers and if so, why is this deemed necessary?

The Deputy of Trinity (The Minister for Health and Social Services):

I can be very brief and the answer is no.

2.11.1 Deputy R.G. Le Hérisier:

Does the Minister not think it very odd that a person is being employed who is going to be interposed between the senior officers of the department and the Ministers? Are she and her team not capable of liaising directly with the senior officers of the department and is this not yet another example of a department which necessarily needed to strengthen its management but is now entering into *Yes, Minister* territory?

The Deputy of Trinity:

No, and also this is not a new job. It already exists. To run a big department - and we run it very efficiently on management staff I hasten to add, and an answer to the question has already been put - this role is important because it allows me, the senior officers and many hands-on staff to operate efficiently and effectively. If the resource was not in place, operational staff would be pulled away from operational priorities and I am sure the Deputy would agree with me that that is the last thing that he would want. I would also like to stress that this post holder, like others in departments, spends a considerable amount of time facilitating States business, managing scrutiny requests, responding to States questions, to name but a few. The process of government would not happen if we did not have these post holders.

2.11.2 Senator S.C. Ferguson:

The questioner suggested we might be moving into Sir Humphrey territory. Does the Minister not think that perhaps we are getting to the point that we are getting an awful lot of chiefs and not enough Indians? We are short of nurses and we add management at the top. Is that really the way to run the department?

[10:45]

The Deputy of Trinity:

Management is a very low number of management staff compared to other departments. We are very efficient regarding management and this is not *Yes, Minister*. It has enabled the department to run efficiently and effectively and part of that role is to liaise with other departments and accept corporate policy, which can only be a good thing.

2.11.3 Deputy R.G. Le Hérisier:

Would the Minister confirm that all senior positions in her department are put before her for ultimate approval in order that the very process to which the Senator referred, namely the ongoing expansion of management positions, is kept under some form of control? Would she confirm that she checks every senior management position before it is put in place?

The Deputy of Trinity:

That is not my role. My role is to make policy. It is not operational. The job descriptions that I do see are those identified in - and I am sure the Deputy can remind me which P number it is - I think

P.59/2012, which was approved by the States and any job over £100,000 salary. This is an important role and I would like to thank the present post holder because she has done an amazing job of answering questions from the good Deputy very efficiently and very effectively.

2.12 Deputy M.R. Higgins of the Attorney General regarding cases of alleged criminal offences committed by serving officers in the States of Jersey Police:

Yes, but I would like to point out to Members before I do that the original question referred to illegality on the part of police officers rather than criminal offences. The reasoning will become apparent, I think. Is the Attorney General aware of any cases of alleged criminal offences or illegality committed by...

The Bailiff:

No, the question is criminal offences because you refer to prosecution. You can only prosecute for criminal offences, Deputy.

Deputy M.R. Higgins:

Okay, Sir, I will accept that point.

The Bailiff:

You cannot prosecute for illegality. So your first question was wrong and this is now the correct question.

Deputy M.R. Higgins:

If that had been communicated to me, it would have been helpful. It was not. Is the Attorney General aware of any cases of alleged criminal offences committed by serving officers in the States of Jersey Police and if so, what action, if any, will he be taking to prosecute such officers to maintain or restore public confidence in the police and to show that no one is above the law?

Mr. H. Sharp Q.C., H.M. Solicitor General:

The rule of law requires that, subject to any immunity or exemption provided by law, the criminal law of the land should apply to all alike. A person is not to be singled out for adverse treatment merely because he or she holds a high or dignified office of State but nor can the holding of such an office excuse conduct which would lead to the prosecution of one not holding such an office. The maintenance of public confidence in the administration of justice requires that it be, and be seen to be, even-handed. So said the Privy Council in the 2007 case of *Sharma v Brown-Antoine* and I respectfully agree. It follows that there is no special or different test when it comes to considering a prosecution decision that concerns a police officer. The same tests that are applied to a member of the public are also applied to the police officer. Finally, insofar as this question invites discussion between the Law Officers and one or more States Members as to the merits of a particular prosecution, then I decline that invitation. It goes without saying that prosecution decisions must be taken on a consistent and independent basis, free from political pressure.

2.12.1 Deputy M.R. Higgins:

It is not a question of bringing up a particular case so the Solicitor General has no need to worry on that. It is a question of principle and about procedure. The case or cases I particularly wish to raise is a question of police officers entering property without a warrant or lawful cause. Now, any ordinary person who enters someone else's house would be charged with breaking and entering. If a police officer enters the house he should have a warrant under the Police Powers and Criminal Evidence Law. Equally, he should show a warrant card and yet there are examples of police officers on 3 occasions, and one of these has been confirmed by a former police officer, where they

entered without a warrant. They raised the issue with their fellow officer and they were told to keep it quiet, the public do not know. Does he feel that the police should first of all follow the law and if they do not that they should be prosecuted for not doing so?

The Solicitor General:

The Deputy will no doubt be aware from recent events in the United Kingdom involving BBC News Night and the false criminal allegations made on that programme that conducting trials through the media or internet blog is a proven recipe for creating injustice and smearing the name of an innocent person. [Approbation] Trial by States Deputy is not an improvement.

2.12.2 Deputy M.R. Higgins:

Can I come back on that? First of all, I have no idea what he is talking about, States blogs and everything else, because my question is not concerned with that at all. What I am concerned about are 3 separate occasions when police officers have entered property without a warrant or without lawful cause and, in one case, they were in plain clothes and they did not even show their warrant cards. Is that acceptable behaviour on the part of the police?

The Solicitor General:

As I have already said, I am not going to engage in a trial through question time of particular police officers. The Law Officers will consider any case file that comes to them and will assess it on its merits and no police officer will be treated any differently to any member of the public. I should add in a broad sense that police searches sometimes are conducted without the appropriate warrant. That does not normally result in a prosecution. It may give rise to a civil claim for whoever's property has been trespassed.

2.12.3 Deputy T.M. Pitman:

To give a nice direct generic hypothetical instance, if a police officer is accused of doing something illegal or a criminal offence but his defence is: "Well, the Law Officers told me to do it" are those Law Officers then subject to the same scrutiny and investigation as the police officer would be or is there some different code of operation?

The Solicitor General:

Firstly, that is not a hypothetical situation, that is a real case, so I am not commenting on it. Secondly, a police officer is responsible for his or her own actions. The fact that a lawyer gives that police officer legal advice does not make the lawyer responsible for the police officer's actions.

2.12.4 Deputy M.R. Higgins:

I am really surprised at the Solicitor General's attitude on this. What I am seeking him to do is make a statement to the States and to the public at large on the protection that members of the public should have against arbitrary police action. Would the Solicitor General please state clearly for everybody the right of police officers to enter a property, the procedures they must follow and also would he also address the fact of Article 8 of the European Convention on Human Rights where the police are invading the privacy of the people concerned when they do so?

The Solicitor General:

Article 8 of the Human Rights Law provides a person with a right to privacy and that is why the police powers, in terms of search, are qualified and have suitable safeguards to ensure there is a proper balance between the police's ability to investigate crime and the individual's right to privacy. As I have said, if the police get it wrong in terms of their use of their search powers, then they are exposed certainly to a civil claim. If a police officer acts in a way that constitutes a criminal offence, then that officer will be considered for prosecution in just the same way as any

member of the public. There have been, I should add, previous well-known examples of prosecutions of police officers in this Island. I personally have prosecuted 2 such cases.

2.13 The Connétable of St. John of the Minister for Treasury and Resources regarding the future of Jersey's tax system:

In light of the recent move to clamp down on Jersey's tax system, what efforts have been taken to ensure that Jersey and other Crown Dependencies can work with London to secure financial services growth for London and the U.K. as acknowledged by the United Kingdom Chancellor during his recent meeting with the Minister?

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

Firstly, I think it is important to remind the Connétable that the inaccurate headline but correct report by the *J.E.P. (Jersey Evening Post)* was corrected a couple of days after the report following the meetings that I did have with the U.K. Exchequer in Tokyo. In those meetings, I reinforced the benefits that a strong financial services industry in Jersey brings to the United Kingdom and indeed we did agree that more work could be done on this area. While, of course, I cannot speak for the other Crown Dependencies, what we can say is a great deal of work is being done in order to secure our future in the changing financial services world. Members will be aware that approval has been given for a new London office, a new Director of Financial Services has been appointed, and research is underway in the future structure and form of financial services and how that is going to be affecting Jersey. I am not sure exactly what the Connétable meant by a clampdown on Jersey's tax system. Certainly, the States of Jersey and indeed the Council of Ministers, I think, recognises that there is a changing world on tax evasion. Tax evasion has been illegal in Jersey for a number of years. Hence, I do not believe that any of these focuses on tax evasion - certainly not a business which we would wish to be associated with - has any particular concern for our financial services industry in Jersey.

2.13.1 The Connétable of St. John:

Does the Minister not consider he should be fighting Jersey's corner and being more robust in our defence and drawing to the attention of United Kingdom Ministers that the city of London and also the E.U. (European Union) States should be getting their own house in order before they turn on a jurisdiction such as ours which has got a good record?

Senator P.F.C. Ozouf:

I could not agree with the Connétable more. Certainly the parlous state of the financial situation of the public finances in many countries is a result of short-term political decision-making - which I do not think this Assembly has been a part of - and inappropriate financial regulation. Clearly, there are some mixed messages being sent from Finance Ministers across the world about how they are going to deal with their problematic public finances. We have strong public finances in Jersey and that is something which the Assistant Chief Minister, the Chief Minister and I regularly explain to politicians and Ministers that we meet from other jurisdictions around the world.

2.13.2 Deputy R.G. Le Hérissier:

Given the question that the Constable seems to be asking where growth is going to come from, I wonder if the Minister for Treasury and Resources could tell us, given that any system which is based upon secrecy/confidentiality is now under enormous stress and questioning, where does he feel the future growth will come from for Jersey's finance industry?

Senator P.F.C. Ozouf:

There is a presumption in the Deputy's question that Jersey is a secrecy jurisdiction. We have never had banking secrecy in Jersey and that is why I think in certainly the wider media message where there are big deals done between the U.K. and Switzerland which are paying, I think £13 billion to the U.K. Exchequer, Jersey has not been involved in that sort of thing. We have not had banking secrecy. Yes, we do have a deposit-based system which has U.K. originating business but that is legitimate business. Tax evasion has been illegal in Jersey. We have not had banking secrecy and if the Connétable is saying that we need to be doing more to explain what we do in Jersey because there is misinformation about what happens in Jersey, then we should be stepping up our efforts on that and the London office is going to help us do that.

2.13.3 Deputy R.G. Le Hérissier:

But in the case, for example, of a very large retail bank facing pressure to reveal its U.K. clients, would he not accept people are being dissuaded from coming here and we have to put our mind to future growth? Where does he expect to find it?

Senator P.F.C. Ozouf:

I think that is a very good question which is the reason why the Minister for Economic Development and I and the Chief Minister have been strongly supportive of the research that we need to do in future-proofing our financial services industry. The reason why Jersey has been successful is that we have adapted to change in the whole ever-changing world of globalisation. Where globalisation improves, Jersey provides a conduit for that business. We do need to be alert to the changing landscape of banking legislation. The banking review in the U.K. is going to change the nature of the U.K. banking system and we need to adapt and change and prepare for that, but I remain optimistic that Jersey, with its good public finances and good reputation, has a good position and good opportunities for growth in the longer term, particularly in the growing areas of the world.

[11:00]

2.13.4 Deputy G.P. Southern:

Does the Minister for Treasury and Resources accept that potential agreement to a U.S. (United States) F.A.T.C.A. (Foreign Account Tax Compliance Act) style agreement with the U.K. would have major implications for the finance sector on the Island?

Senator P.F.C. Ozouf:

The Deputy is asking me a question on that later on. Certainly, as far as the debate about F.A.T.C.A., the United States F.A.T.C.A. agreement is a universal agreement which is applied to jurisdictions equally across the world and Jersey wishes to sign that and be clear about that. The difficulty for the Jersey authorities is when we are asked to do something which our competitor jurisdictions are not and that is always the difficult situation because it looks as though Jersey has been singled out for some of this unfair treatment which often is now a feature sadly of high profile media campaigns dealing with short-term media issues in Parliaments elsewhere.

2.13.5 Deputy G.P. Southern:

Is the Minister for Treasury and Resources not aware that the Isle of Man, one of our rivals, has already signed up, or is in the process of signing up, to a U.K. F.A.T.C.A.?

Senator P.F.C. Ozouf:

What the Isle of Man has agreed is to negotiate and they have agreed provisionally in order to indicate their agreement, as I understand it, to sign up to a U.K. F.A.T.C.A. agreement. The nature of their financial services industry is obviously different to ours and will be subject to different

competitive pressures but our position is that we are willing to sign international agreements which are universal and have a level playing field.

2.13.6 Deputy T.M. Pitman:

Save F.A.T.C.A. or “fat cat” legislation for later. Could I ask the Minister for Treasury and Resources, instead of taking the approach that he seems to be that we should not be criticised because other people have not got their house in order, that we all get together, work together and come up with an ethical and moral approach to tax so that tax havens can be eradicated?

Senator P.F.C. Ozouf:

This word “tax haven” is an interesting one because the U.K. itself could be regarded as a tax haven by some. Where the Deputy and I probably would not agree is if the Deputy is indicating that there is somehow going to be some global standard on tax rates and some sort of global government. I just do not believe that is going to happen. In the autumn statement last week, the Chancellor of the Exchequer cut corporation tax. The U.K. Prime Minister himself had rolled out the red carpet for French business when there was an issue of rising taxes in France. Tax competition is alive and well between the U.S., the U.K., between E.U. Member States and around the world and as long as there is tax competition, then I am afraid that Jersey will need to continue to compete on that basis.

2.13.7 The Connétable of St. John:

A lot has happened since Jersey went into the British-Irish Council and would the Minister agree that sometimes loose talk about what is going on in Jersey and the way we keep on praising ourselves for doing so well is being picked up by the other members around the table and has been creating a lot of our problems? Would it not be far better, Minister, if the least said soonest mended attitude was taken and you and your colleagues who attend keep their cards close to their chests?

Senator P.F.C. Ozouf:

The Connétable, I think, is asking me to do 2 completely divided issues. On the one side, he is telling that with Ministerial colleagues we need to be absolutely robust in explaining the good aspects of Jersey. On the other side, he wants me to be less transparent in terms of our public finances. I am proud of being the Minister for Treasury and Resources of one of the most transparent jurisdictions in terms of our G.A.A.P. (Generally Accepted Accounting Procedures) accounts. I have signed a Ministerial decision for the guidance of our public accounting next year which is transparent, G.A.A.P. accounted, which shows people what the liabilities are, shows what our assets are, and that is a virtue and it is one of the things that we can show people. People want stability and certainty when they come to a jurisdiction and with our stability of our public finances, that is one of our unique selling points. I am afraid the Connétable cannot have it both ways.

2.13.8 The Connétable of St. John:

Yes, the Connétable would like to but he would like the people who represent us to be that diplomatic that they do not spill the beans, for want of a better word, and say how well we are doing. In these times when everybody has got their back to the wall, the last thing our Ministers need to do when they represent us is say we are doing that well. You just keep your head down below the parapet.

Senator P.F.C. Ozouf:

I think the Connétable does make a couple of interesting points because when we say we have strong public finances, at the same time we need to say how very difficult the last 15 years have been for Jersey residents where we have seen, as a result of global competition on those tax rates that I was speaking about before, how we have had to shift the burden and I am afraid that this was absolutely a requirement. We have had to move the shifting burden of paying public services from

corporates to individuals and Ministers not only say yes our public finances are strong but yes, we have taken enormous pain and this has been difficult and I have had to stand in this position and ask Members to increase G.S.T. (Goods and Services Tax) and make some very difficult decisions. So we need to say both those things when we are talking to other parliamentarians. Yes, we are strong, but we have taken difficult decisions and we have not kicked the tin can of a problem down to the next Assembly so I agreed with him in part. We need to say all of these things.

2.14 Deputy M. Tadier of the Minister for Home Affairs regarding the outcome of the Hampshire Police investigation into the circumstances leading to the arrest of Curtis Warren:

Could I first apologise for not having been in the Chamber for question 11. I misread the running order and there was no discourtesy intended. I am sure if there is time at the end, Christmas cheer, you may allow it. I am not sure if there will be time, Sir.

The Bailiff:

We will have to see how the Christmas cheer is... [Laughter]

Deputy M. Tadier:

Was the Hampshire police investigation into the circumstances leading to the arrest of Curtis Warren and others due to be completed in December this year and if so, will the Minister inform Members whether any investigation has been completed and if so, will he make the outcome known?

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

The Hampshire Constabulary was commissioned in February 2011 initially to conduct an operational review of the policies and procedures adopted by the States of Jersey in respect of surveillance methods undertaken during an investigation into the activities of Curtis Warren and others concerned with the importation of controlled drugs to Jersey. Subsequently, Hampshire Constabulary considered whether there were possible criminal charges or disciplinary issues. The operational review was completed in mid-2011 and all recommendations have now been acted upon. The secondary investigation was completed in September 2011 and that has also been acted on appropriately.

2.14.1 Deputy M. Tadier:

If I read from the Privy Council's judgment of 2011, they also talk about a senior member of the Law Officers' Department in Jersey that advised the police: "That despite the French and Dutch refusals, he did not think that the Jersey Court would be likely to exclude any evidence" so essentially saying that he gave permission, or at least allowed the police to plant a bug which was later controversial. Does the Minister for Home Affairs know whether there has been any review or disciplinary proceedings with regard to the Law Officers' action?

Senator B.I. Le Marquand:

That I do not know. It was not within the remit of the Hampshire Police and that would be a matter, of course, for the Law Officers' Department and not for me.

2.14.2 Deputy G.P. Southern:

The Privy Council judgment upheld the decision of the judge to admit evidence against Curtis Warren and therefore uphold the conviction. Why has it been necessary to have a review and/or investigation into the police and waste so much public money?

Senator B.I. Le Marquand:

Because it was quite clear from the judgments of all levels that there were very serious criticisms of the conduct of police officers in relation to this matter.

2.14.3 Deputy G.P. Southern:

Did those criticisms not apply to the Law Officers?

Senator B.I. Le Marquand:

Apparently they did from the words which have just been read out by Deputy Tadier, but that was not a matter for me.

2.14.4 Deputy T.M. Pitman:

Could the Minister inform the Assembly how many officers this applies to and what their ranks are, please?

Senator B.I. Le Marquand:

No, I am not going to go into such details. I am going to explain why I am not going to go into such details. I absolutely deplore the recent article of the *Jersey Evening Post* in purporting to name individuals. The fact is that we have a dual duty here. We have a duty to the public in terms of being open and honest as far as we can but we also have a duty as employers. In the case of police officers, they are not, of course, employees. They are public officeholders, as I understand it, but nevertheless we have duties to them and it is very unfair to them if matters are made public in relation to disciplinary issues irrespective of what the outcome may be and at the stage where things are still going on and I will not therefore provide the information requested.

2.14.5 Deputy T.M. Pitman:

Can I ask my supplementary even though I did not quite get the answer that I would have liked? Without going into ranks, I know there are 3, so could the Minister just tell us, will he reveal how much this is costing the taxpayer to undertake this investigation and when he is likely to know that figure if he does not already?

Senator B.I. Le Marquand:

I do not have that information in relation to the investigation to hand. I could certainly find out the cost of the investigations but there is no doubt that these investigations were necessary.

2.14.6 Deputy M.R. Higgins:

I am just wondering if the Minister for Home Affairs would like to comment on the message that is going out to the public today that police officers can enter property without warrant, without showing I.D. (identification) cards and bug people's cars. Is it a case of, as far as the police are concerned, the ends justify the means?

Senator B.I. Le Marquand:

I have always made my position plain on the Curtis Warren matter, and indeed on other matters, that the police must act lawfully and within appropriate procedures and powers. That is my position and it always has been and it always will be.

2.14.7 Deputy G.P. Southern:

Why was the Hampshire Review announced before the Privy Council had delivered its judgment?

Senator B.I. Le Marquand:

I think that was because if you look at the dates of February 2011, you will see that corresponds very closely with the arrival of the new Chief Officer of Police. It is quite clear to me that he started to review the situation once he had arrived and decided that this was an appropriate step to take.

2.14.8 Deputy G.P. Southern:

Can the Minister state whether Curtis Warren is still receiving legal aid and if so, how much has he cost the public purse so far?

The Bailiff:

I cannot see that that has anything to do with this particular question, does it, Deputy?

Senator B.I. Le Marquand:

It is not within my knowledge anyway, Sir.

2.14.9 Deputy M. Tadier:

Is the Minister aware of an independent legal opinion that was sought of Simon McKay who, among other things, is an expert on covert policing, which seems to exonerate the 3 officers which were involved in this case and has he read that and seen that report?

Senator B.I. Le Marquand:

No, I have not.

2.15 Deputy G.P. Southern of the Minister for Treasury and Resources regarding sums held in Jersey accounts which were liable to European Union Savings Tax Directives and any US Foreign Account Tax Compliance Act Agreement, when signed:

Will the Minister advise Members how much of the sums held in Jersey accounts is held by E.U. subjects and liable to the E.U. Savings Tax Directive? How much is held by U.K. residents and how much is exempt from E.U. S.T.D. (Savings Tax Directive) and how much is held by U.S. citizens and would be subject to any U.S. Foreign Account Tax Compliance Act agreement when signed?

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

This is rather complicated and I will do my best to summarise what the position is. Under the European Savings Directive, the Jersey Taxes Office does have access to 2 sources of information: either for E.U. resident taxpayers who have opted for the voluntary disclosure information the amount of interest per taxpayer. Alternatively, for E.U. taxpayers who are subject to the Retention Tax, i.e., who do not choose to voluntarily disclose the paying agent must disclose an aggregated amount of the tax retained per country on the interest arising.

[11:15]

In neither case is the sum, as the Deputy asks, generating the interest disclosed. It is the actual interest so there is no requirement for the information on interest received or capital sums to be disclosed to the Taxes Office in relation to accounts held by persons not in residence in the E.U. In the event of an inter-governmental agreement being reached between Jersey and the United States of America, then it is likely that Regulations would be brought to the Assembly for agreement along the same lines to Regulations for E.U.S.D. (European Union Savings Directive) but again, this relates not to sums but to the actual income arising. So in answer to the Deputy's question, no information is held by government departments or the J.F.S.C. (Jersey Financial Services

Commission) as his question asked on E.U. subjects, U.K. residents and U.S. citizens. I am also not aware of any jurisdiction that does that.

2.15.1 Deputy G.P. Southern:

What impact does the Minister believe the arrival of a U.K. F.A.T.C.A. compliance agreement would have since the U.S. F.A.T.C.A. applies to all business accounts and trusts and the beneficial owners thereof?

Senator P.F.C. Ozouf:

If the Deputy is asking about an equivalent worldwide U.K. F.A.T.C.A., which would be effectively the same requirements as the U.S. which is across all jurisdictions, then very little. If the U.K. is asking us to do something exceptional that they are not asking some competitor jurisdictions, then obviously that is an issue but obviously the issue is one of detail and it depends on exactly what the information that the U.K. F.A.T.C.A. will agree to. I fully accept that the Deputy is correct in saying that the U.S. F.A.T.C.A. does agree a wider definition of income arising, again not sums, and includes trusts and other activities. Certainly, we are aware that there are discussions within the E.U. to extend the European Savings Directive to cover other issues apart from just income interest arising on bank deposits.

2.15.2 Deputy G.P. Southern:

It is probably a repeat question but perhaps not and I will get a new slant on it. Why is what is good enough for the Isle of Man Government not good enough for ours?

Senator P.F.C. Ozouf:

I am not sure that there is a big difference effectively between what the Isle of Man Government is saying and the statement that was issued by the Chief Ministers of Jersey and Guernsey. The U.K. officials are holding negotiations and discussions with the U.K. I think the Jersey position is that we will comply with international standards. Jersey has absolutely no desire, and has not had for many years, to be involved in tax evasion. If the U.K. wants to deal with tax evasion, then Jersey will co-operate but where Jersey finds a difficulty in responding is when there is an unlevel playing field when the U.K. are asking us to do something which they are not asking other competitor jurisdictions to do, and that is obviously the difficulty that Ministers have. Certainly, as far as withholding any requirement, we want to sign an I.T.A. with the United States of America as indeed the U.K. and everybody else is and the 2 things should certainly not be linked.

2.16 Deputy J.H. Young of the Minister for Planning and Environment regarding the production of a Masterplan to guide the future development of the Eastern Gateway Area of St. Helier:

As the Minister now has a planning application pending for the proposed new Police Headquarters at Green Street, does this prevent the Minister from producing a masterplan to guide the future development of the Eastern Gateway Area of St. Helier as required by the Island Plan and if not, will he inform the Assembly whether he intends to do so before he determines the application?

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

It is important to appreciate that the Island Plan provides an approved planning policy framework against which planning applications can be considered. The Island Plan is the primary consideration for decision-makers. There is therefore no statutory requirement to produce masterplans before applications are determined. The absence of the masterplan for an area does not preclude the determination of a planning application and likewise the submission of a planning application does not prevent me from developing masterplans at some time in the future. However,

it might well be deemed to be unreasonable by a current application if a masterplan were produced in the middle of that process. There are reviews underway by the Scrutiny Panels in response to Deputy Martin's call for reconsideration of the Eastern Gateway Area and indeed the application for the Police Headquarters at Green Street and, as an outcome of that process, there might well be a call for the Minister for Planning and Environment, myself, to issue or produce a masterplan for the area as well as a review for other sites.

2.16.1 Deputy J.H. Young:

The Minister has advised us that there is no need for him to do so but he might do if the Scrutiny Panels ask it of him. If this is not done, would he confirm that his consideration of the planning application will include the wider impact of parking in town generally and the impact on traffic in addition to the effects on the surrounding residential area?

Deputy R.C. Duhamel:

Parking and traffic will be material considerations for the police application and will necessarily be considered as part of that application.

2.16.2 Deputy R.G. Le Hérissier:

I wonder if the Minister could outline to us the conditions where he says a masterplan is necessary when he receives a planning application. When does he say a masterplan is necessary? Could he outline the criteria when he says that?

Deputy R.C. Duhamel:

Certainly. The Island Plan contains a proposal not a policy at the moment that the development of masterplans, which sit within and below the policy framework provided by the Island Plan, might well be helpful to encourage development and to shape change in some areas of town. Although there is no requirement for me to do this, I do think that if it is helpful to guide development of particular areas, then I can bring forward supplementary planning guidance to lend weight to a masterplan.

2.16.3 Deputy J.A. Martin of St. Helier:

Yes, it is quite hard to determine whether the Minister for Planning and Environment is going to do a masterplan or not because he seems to be relying on Scrutiny. Scrutiny terms of reference, although it was my proposition that was referred back to them, has one terms of reference to basically look at whether the Police Station is good use now and for the future but does not mention traffic and what Deputy Young is asking. So it is quite disappointing that this does look like it is going to be half-baked and I do ask in my proposition that the Minister for Planning and Environment does this, so I would like him to be a bit more upbeat and say that he will look at the issues. I request the Minister to reconsider his answer to the Deputy and be a bit more positive. Could he agree with me, please?

Deputy R.C. Duhamel:

Certainly, I am happy to accede to any requests that are made by Deputy Martin. **[Members: Oh!]**

2.16.4 Deputy J.H. Young:

The Minister has very much in his answers sat on the fence and I am hoping that he will come off the fence, despite the invitation from Deputy Martin. He has confirmed that these aspects need reviewing: parking and traffic in town. Would he please tell us whether he thinks that these aspects are better looked at by the Scrutiny Panel or better looked at by his department before this application is decided?

Deputy R.C. Duhamel:

I think, of course, they are best looked at by the Planning Department and through our departmental officers with the assistance of the Scrutiny Panel. [Laughter]

2.17 Deputy G.C.L. Baudains of the Minister for Social Security regarding steps to ensure efficiency and reduce overpayments within the Income Support scheme:

I hope I get a more straightforward answer to this one. [Laughter] Would the Minister advise what steps, if any, he is taking to ensure efficiency and reduce overpayments within the Income Support Scheme?

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

The department commits considerable resources to the administration of Income Support. Over the last 12 months, a number of operational areas have been reviewed and improvements have been introduced that help to ensure that the benefit is administered efficiently and that overpayments are kept to a minimum. The 3 main improvements we have made are as follows. Firstly, a new income support application form to ensure that initial information is collected accurately and at the correct level of detail at the start of the claim. Secondly, a new award letter which gives a clear breakdown of claim detail. The new award letter gives the claimant full details of each part of their claim and a list of changes to household circumstances that must be reported to the department. Again, this improves the efficiency of the benefit administration and reduces the potential for overpayments. Lastly, invested in more staff in light of the increased volume of income support claimants.

2.17.1 Deputy G.C.L. Baudains:

I wonder if the Minister could enlighten me as to what steps he either is or might be taking to create an incentive for the work-shy to do some work because I am tired of hearing about people who apparently have to produce certain requirements to the department. One of these is that they have appeared for a job but they turn up on Monday and go home at lunchtime and phone in sick on Tuesday but still carry on collecting their £90 a week while living with their parents.

Senator F. du H. Le Gresley:

The Deputy asks about an incentive. Now that I have achieved my C.S.R. (Comprehensive Spending Review) savings target for 2013, I will be working with officers to see to what extent we can increase the disregard for earnings from the current 20 per cent. On the other side of the coin, I will be shortly bringing a proposition to the Assembly to introduce stricter sanctions for those people who do not fulfil job seeking activities to our satisfaction.

2.17.2 Deputy G.P. Southern:

Does the Minister not accept that the fundamental flaw with overpayments is that the assessments are done a month in advance and this inevitably leads to circumstances in which recipients are overpaid and this often causes hardship? Will he, at the very least, ensure that the cap of £21 per week of claw-back of overpayments is applied in every case and never breached because there have been a number of occasions where it has been breached?

Senator F. du H. Le Gresley:

The cap that the Deputy refers to is a guidance for officers. Where it is believed that the claimant can afford to pay more and agrees to pay more to recover an overpayment, we will do so. However, where I have been personally asked to intervene on a figure in excess of the cap, I have used my discretion to reduce it down to the cap.

2.17.3 Deputy G.P. Southern:

Will the Minister also pay careful attention to the use of non-medical components to prop up Household Medical Accounts to cater for medical costs because, again, I believe this is happening with enormous sums being taken out of people's benefit and shifted across to pay for medical costs when they should be additional and not coming out of an individual's benefit?

Senator F. du H. Le Gresley:

The Deputy refers to income support households who have Household Medical Accounts where we set aside money for the likely medical costs of all the members of the household. We are in the process of reviewing the use of Household Medical Accounts and which components within income support could be used to accrue money in the account. We have not completed this piece of work and I am therefore not able to provide any more information today.

2.17.4 Deputy G.P. Southern:

If I may just ask the Minister when he believes he is likely to complete that report because we have been awaiting it for some time?

[11:30]

Senator F. du H. Le Gresley:

As I said, I cannot give the Deputy a date. We are, of course, involved with the review of primary healthcare and that may, in fact, include the review of whether Household Medical Accounts is an appropriate way to assist people with their medical costs.

2.17.5 Deputy G.C.L. Baudains:

The Minister has spoken chiefly about overpayments and how he intends to deal with them, and the one I ask him is, does he consider it morally acceptable that ratepayers' money, not taxpayers, is used to subsidise those who choose not to work? I mean the example I gave earlier... in fact I ask is it right that somebody, a young person living with their parents, should receive that type of money? Once they have enough money for their beer and their telephone bill, where is the incentive to work?

Senator F. du H. Le Gresley:

The Deputy is probably aware that my predecessor removed the entitlement to the personal component for anybody under the age of 19. That is something that I have maintained and we currently only pay the personal component to somebody under the age of 25, as we do not provide any rental or household component for somebody under 25 unless they have a dependant, or perhaps have special circumstances such as coming out of care.

2.18 Deputy J.M. Maçon of the Chief Minister regarding the attendance of the Chairman of the Comité des Connétables and the Assistant Chief Ministers at Council of Ministers meetings:

Why do the Chairman of the Comité des Connétables and the Assistant Chief Ministers regularly attend the Council of Ministers meetings and does the Chief Minister consider that other groups and/or interested parties should be routinely present and if not, why not?

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

The Chairman of the Comité des Connétables has regularly attended meetings of this Council of Ministers and also the 2 previous councils in order to provide a link with the Parish administrations. The Assistant Chief Ministers attend council meetings in their capacity of holding responsibility for

co-ordination of social policy and of external affairs. Although they do not have the ability to vote, the Ministers value the input of the Chairman and the Assistant Chief Ministers in their deliberations.

2.18.1 Deputy M. Tadier:

Would the Chief Minister be willing to keep on the tradition of having a representative from the Comité des Connétables at Council of Ministers meetings even if the Constables themselves were not automatically present in the Assembly?

Senator I.J. Gorst:

I may be feeling under the weather but I do not think I am so much under the weather to fall for that trap.

Deputy M. Tadier:

He does not have to fall for it but a straight answer would be good, otherwise I may have to do another blog.

2.18.2 Deputy M.R. Higgins:

Just a follow up, if the Assistant Ministers are attending the Council of Ministers and the Chairman of the Comité des Connétables, does this mean to say that - obviously they speak on the different issues - they may not have a vote, but do they not have an influencing factor on the deliberation of the Council of Ministers and is that correct? Should they be able to persuade Members of the Council of Ministers?

Senator I.J. Gorst:

Of course they do speak, but it is just as important that they are aware of what the Council of Ministers are considering and the decisions they make, because of the overarching responsibilities that they have.

2.18.3 Deputy R.G. Le Hérisier:

I noticed the Chief Minister did not answer the latter part of the question. Does he think that there are other groups or interests who should attend and thereby raise the level of debate to even greater levels than at present?

Senator I.J. Gorst:

The Deputy makes a good point and it is often when one gets asked a question that one realises perhaps where gaps are occurring and the previous Council of Ministers did indeed expect Assistant Ministers of departments to attend when issues regarding their department were being considered by the Council of Ministers, and it occurs to me, looking back over the last year, that that has not necessarily been the case, and that is something that I want to encourage Ministers to do.

2.18.4 Deputy J.G. Reed of St. Ouen:

Has the Chief Minister ever considered inviting the Chairman of the Chairmen's Committee to attend at a Council of Ministers meeting?

Senator I.J. Gorst:

No, I have not. Someone sitting in front of me is suggesting that she would indeed enliven it and indeed she might, but I think it is important that there is a separation between the Council of Ministers and the Scrutiny function and I fear that should the Scrutiny Chairman attend, that separation might become blurred.

2.18.5 Deputy J.A. Martin:

In his first reply I think the Chief Minister said... and I could probably live with why the current Chairman of the Comité des Connétables needs to be there, but he did say that it is good to keep Assistant Ministers informed. Well, the other Assistant Minister or the only other Assistant Minister who sits there is his Assistant Minister who, if he is running his department well - a department without portfolio as they say, so there is not much else to discuss except what the other departments have going on - would it not be best to rotate this? All Assistant Ministers are equal except sitting around the table at the Council of Ministers and I would like to have some input sometimes. Does he not agree?

Senator I.J. Gorst:

In actual fact, with regard to my follow-up answer to Deputy Le Hérissier, the exception to that general rule is that the Assistant Ministers for Health do generally attend when it is a Health issue being discussed, so I think Deputy Martin does have input. I think that Senator Routier has got a very important role of co-ordinating social policy and I know that the social policy framework was premised on the fact that everything that we consider as a Council of Ministers should be considered through the social policy implications prism, and therefore I think his attendance helps to do that. It is well known that I believe the Assistant Minister post with responsibility for external relations should in fact be a Minister anyway, but there again we have an overarching remit and therefore I think it is important that those 2 attend.

2.18.6 Deputy T.M. Pitman:

If having the President of the Chairmen's Panel would enliven matters, would it not be good to perhaps have a Member such as the unofficial leader of the unofficial opposition to add some spice and ideas, and raise the level of debate?

Senator I.J. Gorst:

I am not sure who that might be. I fear it could be any number of the other 50. Be in no doubt that we do have robust and sometimes heated debate at the Council of Ministers and we are a coalition that comes with a diverse range of opinions. While sometimes it might be difficult to manage the range of opinions, they are given full voice and generally we are able to then build consensus. Perhaps later today you are going to see an area where we are not always able to build that consensus.

2.19 Deputy T.M. Pitman of the Chief Minister regarding the justification of the purchase of the Plémont site by compulsory purchase in the present economic climate:

As the cost of any purchase by compulsory purchase is determined by a Board of Arbitrators and the Assembly therefore has no control over the purchase price and any associated legal costs, how does the Chief Minister justify the proposal to purchase the Plémont site by compulsory purchase in the present economic climate?

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

I would like to ask my Assistant Minister to answer this, please?

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

When compulsory purchase is under consideration by the Assembly, the Assembly obviously has to consider very carefully the expert advice that is available to it and the Minister for Treasury and Resources has given an assurance that the advice that he has received, and will receive, will be of the highest quality and it will be a matter for the States subsequently to weigh all these matters in the balance.

2.19.1 Deputy T.M. Pitman:

Given that the last Chief Minister estimated legal costs in the region of 3 million, I believe; further still, that this instance is a highly questionable compulsory purchase on behalf of a third party, is this process not setting us up for a potentially bottomless pit of protracted legal machinations and costs?

Senator P.M. Bailhache:

No.

2.19.2 Deputy M.R. Higgins:

At the meeting that was called yesterday at the Town Hall for States Members, it was very interesting to see that the adviser who came up with the estimate would not commit himself, was hedging a lot, as most, almost like auditors and others do, have enough caveats in their reports that they can always wiggle out if it is wrong. Is it not true that we could be facing a bill from anywhere from the £4 million that has been suggested by the Council of Ministers up to, let us say, £12 million? The truth of the matter is when the States Members do vote to decide to get it compulsorily purchased, they must be aware it could fall anywhere in that range and they must be prepared for the higher one if that is the case, because once the States go down the compulsory purchase route we are committed to whatever the figure they come up with. Thank you.

Senator P.M. Bailhache:

I do not agree with that £12 million is a realistic, or probable, or likely outcome of any compulsory purchase but I think that this is a matter that is much better addressed in the context of the debate that will follow very shortly.

2.19.3 Deputy M.R. Higgins:

It makes sense and it is a question of law in a sense. If we go to compulsory purchase we are talking about the different parties will be putting out their case for what they feel the land is worth, and the point is it is for the arbiters to determine. It is not for the States to determine that point. Whatever the arbitrators determine is the value of Plémont, we will have to pay because we have gone that route. Is that not the law?

Senator P.M. Bailhache:

The Deputy knows very well that that is the law. If the matter is referred to compulsory purchase by the Board of Arbitrators it is for the Board of Arbitrators to establish what the fair value of the land is and, as I say, this is a matter which is going to be subject to debate in due course.

2.19.4 Deputy J.A. Martin:

Whatever the price, if it is £4 million the Minister for Treasury and Resources said earlier he can now fund this out of contingency. What I would now like to ask the Assistant Chief Minister, have the Treasury and the Chief Minister's Department discussed what was in the contingency fund? Because on P.P.C. (Privileges and Procedures Committee), we were told not to push the F.O.I (Freedom of Information) payments and we are talking millions. I think the Discrimination Law - and we were told it will be paid for out of contingency... so have you discussed this and if it has not been discussed, can the Minister then talk to the Minister for Treasury and Resources and come up with a list that will have to be scrapped if somebody says we can do this out of contingency? Thank you.

The Bailiff:

It is not entirely clear to me, Deputy, that that arises from the original question.

Deputy T.M. Pitman:

It is nearly Christmas, Sir.

Deputy J.A. Martin:

Well, they mentioned Plémont and it all does sort of, you know, round it up.

The Bailiff:

Well, it is a good try. Deputy Power.

2.19.5 Deputy S. Power:

My question to the Senator who is answering these questions is, has the Senator given any thought to a worst case scenario on P.90(c)? In other words, has he given any indication or has he given any consideration to what might be a worst case scenario in terms of price under compulsory purchase in acquiring this site? He must have some idea.

Senator P.M. Bailhache:

Yes, he has and he will be revealing that during the course of the debate.

The Bailiff:

Very well, do you wish to have the final question, Deputy Pitman?

Deputy T.M. Pitman:

Yes, please, Sir. At the rally the other day that the Assistant Chief Minister and Senator Gorst held, did they mention the sum of a maximum fee of £200,000 as the maximum legal cost and if so, is that really credible in any shape or form?

Senator P.M. Bailhache:

The advice of the expert valuer, who has given advice to the Minister for Treasury and Resources, was that the amount of money to be expended in costs would be expected to be very much lower than £200,000. The advice from the Law Office of the Crown was very similar. That is my answer.

Deputy T.M. Pitman:

She did not use my lawyer.

The Bailiff:

That brings the questions to an end. Can I just say this? We in fact did not have time to consider whether to turn to Deputy Tadier's question which he was not here for. I think I wish to make it clear to Members in future that if a Member is not here when his turn to ask a question, while I accept entirely this was accidental and no discourtesy was intended, it nevertheless has a discourteous effect to our Members and I would not, in future, allow any question to be asked when the Member was not here, even if we have time at the end of questions. Members must be here for their questions or lose the question. Very well.

[11:45]

Now then, we come to questions without notice and the first one is to the Minister for Housing. Deputy Southern?

3. Questions to Ministers without notice - The Minister for Housing

3.1 Deputy G.P. Southern:

In his written answer to question 11, circulated today, the Minister talks about a number of new housing to be built, but he refers to them always as affordable and social properties. What proportion of the numbers he has produced today are social rented housing, because I believe that that is where the greatest and most urgent demand is?

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

Just give me a minute to find my place, I can go through exactly where we are on social housing. We have projects for social housing planned for Lesquende. We have projects to increase social housing by 3 units - it is under discussion at the moment - at Osborne Court in First Tower. We have almost concluded negotiations - hopefully successfully - with Dandara at St. Saviour to have a proportion of social housing there. I cannot remember the exact figure there, I am still desperately looking for it, but it is something like 45 homes that we have planned there. We are on phase 2 at the moment of Le Squez. I cannot disclose too much, other than we are out to tender on that at the moment, and we have other plans for, let me see ... it depends how long you want me to go on for? La Coin, Pine Ridge, La Collette...

The Bailiff:

No longer I think, Minister, because it needs to be a concise answer.

Deputy A.K.F. Green:

Yes, well it is difficult to be concise because there are a number of sites where we are going... but the Deputy did ask about affordable homes as well. That is something that we are short on and I will come back to that in another answer if somebody wants to ask about that?

3.1.1 Deputy G.P. Southern:

If I can help the Minister be more concise, of the 268 houses, new homes he refers to in his answer in question 11, how many of those are social rented housing? Not affordable, social rented.

Deputy A.K.F. Green:

The majority of them. I am sorry, I can be more precise later and I will advise the Deputy, but the majority.

3.2 Deputy T.M. Pitman:

Could the Minister please explain what process he will be following to keep residents of La Collette updated of current problems in proposals with the refurbishment of the estate?

Deputy A.K.F. Green:

For the sake of the other Members I ought to explain that, as you know, we are renovating the high rise of La Collette and regrettably we have found we have significantly more problems than we expected and it does mean that tenants will unfortunately be relocated to other housing sites, initially on 5 floors at a time. It will be impossible for us to carry out the work that we had planned to carry out while the residents are still in place. To answer the Deputy's question exactly, we have visited - rather than writing we thought it was better when we realised the significant problems there - the tenants of La Collette and explained to them what we need to do. I will not say they were not worried, they were, but the arrangement we intend to make is that we will vacate the premises 5 floors at a time and relocate those residents to other accommodation. Obviously we will pay for that relocation. We will assist people that need assistance and those residents will be given the option, if they like where they have moved to, of staying there. If they want to move back to La

Collette when it is renovated they will have the right to do so. We will be as helpful as we can to them, but while we are having to... sorry, Sir.

The Bailiff:

I think, Minister, that is probably sufficient.

3.3 Deputy T.M. Pitman:

Could - and I think I know the answer anyway - the Minister just give those reassurances that any persons with mobility problems, *et cetera*, will be fully considered in wherever they go and where they come back to?

Deputy A.K.F. Green:

Absolutely.

3.4 Deputy J.H. Young:

A few weeks ago the Minister for Planning and Environment told us that the H3 Policy was effectively no more for affordable housing for first-time buyers, and that he was working with yourself, as Minister, in finding a new solution. Could the Minister tell us how he is getting on with this, please?

Deputy A.K.F. Green:

Well, that is interesting because I have not had a discussion on this at all. But I am concerned, seriously very concerned that when we debated P.48 in June 2011, it was agreed to that, in order to provide affordable homes, a number of States sites would be made available and to date - I could list them, but I will not because you would be telling me to get on and be concise - we have not got those sites. It was also agreed as part of that debate that if we did not have planning permission for 150 affordable homes within 12 months of the adoption of that plan or... sorry, planning permission was in within 12 months of the adoption of that plan, or indeed planning permission was not given within 18 months or 2 years of that plan, from memory, we would bring back other sites. Sites such as Longueville Nurseries, sites such as Samarès Nursery, sites such as... well there are a number but again I will not list them all. Unless I am convinced fairly soon that we have not got these homes then...

The Bailiff:

At the moment I think we are going to have about 3 questions.

Deputy A.K.F. Green:

Sorry, Sir, but they are complex questions.

The Bailiff:

I appreciate that.

Deputy A.K.F. Green:

Unless I am convinced fairly soon that we have plans for affordable homes - and I could talk about that for the whole of question time, but I will not - then I am considering bringing a proposition back after the break to ask the Minister for Planning and Environment to rezone those sites.

3.4.1 Deputy J.H. Young:

I thank the Minister, but could he just tell us, is this a subject he is going to raise round the table at the Council of Ministers to try and break this impasse?

Deputy A.K.F. Green:

I did write to the Minister for Planning and Environment with my concerns on the residential land availability on 1st November. I am still waiting for my reply.

3.5 Deputy K.L. Moore of St. Peter:

Could the Minister inform the Assembly how many new units of social housing will be provided as a result of this Housing Transformation Programme, please?

Deputy A.K.F. Green:

As the Deputy knows the business plan that we have put together will result in a similar number of social housing as we have today, except that they will all meet the decent homes standard. But what that will put us into a position to do is that, site by site, business plan by business plan, provided we can get the sites, we will be able to borrow the money, mortgage that particular site and build as many as are needed. But it has to be sustainable, it has to be affordable and it has to be on a proper business plan.

3.6 Deputy J.M. Le Bailly of St. Mary:

The term “affordable housing” is not realistic with current properties starting in the region of £450,000. What is the Minister doing to achieve realistically affordable housing for the lower income sector who wish to buy, which we both know is achievable at about £250,000?

Deputy A.K.F. Green:

The Deputy asks a very good question. Of course I need a site on which to build and it is something that I will have to discuss with the Minister for Planning and Environment. My vision is if we build affordable housing, what is affordable? Probably somewhere in the region of £240,000 to £300,000, and even that will not be affordable for many families, but at least that will be affordable to a great deal more than it is presently. My vision there is we need to build those on sites that we have acquired for that and that if the States agree that my Housing Association should be formed, that they be sold by the Housing Association and in essence that they be sold back to the Association. The mistakes we have been making in the past, is that affordable houses are only affordable for the first time and then they become unaffordable when they are sold on in the general market. We need a system that takes that heat out of the market.

3.7 The Deputy of St. Mary:

When is this likely to happen?

Deputy A.K.F. Green:

All I can say is it is one of a number of things I am working on, but we need to get through the Housing Transformation Programme first. We need to form the proper Housing Association and that will be down to this House.

3.8 Deputy R.G. Le Hérisier:

What are the precise details of the hold-up on the La Collette low rise site?

Deputy A.K.F. Green:

I have a vision for the low rise site and very quickly that is to bring a new development on the front, on the green there, and drop the development behind. That allows for easy transfer because that accommodation is not up to standard and not repairable. The hold-up is that we are waiting for the masterplan before we can get our planning permission.

3.9 Deputy T.A. Vallois:

Could the Minister be kind enough to explain what his definition of the differences between affordable housing and social housing are, and what his actual responsibilities are?

Deputy A.K.F. Green:

A very interesting question. Affordable housing is about both social and houses to purchase and I see my role really, although it concentrates a lot on social housing, as providing - when we get it right - a number of options for householders in Jersey. So those options will be affordable rental, social rental. My job is to provide homes. It is Social Security's job to provide the support to families that need to get into those homes, but I would like options for people when their circumstances improve, and that they could then move into the affordable purchasing or even shared equity. Some people do not like shared equity. There is a very good scheme in Guernsey where people can buy 20 per cent shared equity at a time, up to a maximum of 80 per cent, and it gives people options and keeps them out of the social housing in some cases.

3.10 The Deputy of St. Ouen:

With a real need for significant additional social housing, could the Minister explain why more units are not being provided on the Jersey College for Girls site?

Deputy A.K.F. Green:

I think that is one that you need to ask Property Holdings. I have made my case, I have got my allocation. Of course I would like more, but this is the thing. It has to be financed and the sums have to stack up.

3.11 Deputy J.A. Martin:

Could the Minister for Housing please explain how he thinks he can come back and convince this House to change their mind on Longueville Nurseries, Samarès, *et cetera*, all brown-filled sites when the Minister today is going to vote to not build on a brown-filled site at Plémont? Thank you.

Deputy A.K.F. Green:

The market these are aimed at would be totally different. We are talking about affordable homes for ordinary people.

3.11.1 Deputy J.A. Martin:

The Minister is misleading. They started the...

The Bailiff:

Inadvertently misleading, Deputy.

Deputy J.A. Martin:

Sorry, inadvertently misleading. The Deputy said affordable and not... I said affordable and they start at just over £500,000. What is the difference between £450,000 for a first-time buyer?

Deputy A.K.F. Green:

Perhaps the Deputy was not listening to my first question. I was saying I was aiming for houses around £240,000. They are affordable.

3.12 Deputy M. Tadier:

Does the Minister know whether the mooted land swap or land sale to fund Plémont would affect his portfolio? Would that land be coming out of land that could potentially be used for social or affordable housing?

Deputy A.K.F. Green:

No, I do not know that.

4. Questions to Ministers without notice - The Minister for Planning and Environment

The Bailiff:

Does any Member wish to ask any questions? Very well, we will bring questions to the Minister for Housing to an end, so we will move to the second period which is questions to the Minister for Planning and Environment. Deputy of St. Mary.

4.1 The Deputy of St. Mary:

I will recycle my question. The term affordable housing is not realistic with current property starting in the region of £450,000. What is the Minister doing to achieve realistically affordable housing for the low income sector to purchase, which we both know is achievable at about £250,000?

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

What the Minister is doing is attempting to bring forward a policy whereby the definition of affordability will be redefined in those terms. We have already had some statistical surveys that have lent weight to the definition that I endorse and uphold, in that 80 per cent of those on medium wages could well afford a property of £200,000.

[12:00]

I have had discussions with some local banks that are prepared to put up funding to pay for 150 mortgages at £200,000. I am also suggesting that the affordable units be built as far as possible on States-owned sites, which would include the sites that the Minister for Housing was referring indirectly to. These policies cannot be brought into being before they have been discussed fully and openly in this House and before that happens there has to be a period of consultation, not only with the public but with the Council of Ministers who I will be seeking their support. These things are in hand and they will happen shortly in the New Year.

4.1.1 The Deputy of St. Mary:

When is the timescale likely to happen?

Deputy R.C. Duhamel:

I have already referred to that. There is a meeting. I have been through a number of discussions with the building construction companies, in particular the Jersey Construction Council. There is a further meeting tomorrow to discuss revisions to the previous plans that were being put forward in terms of affordability in order to secure their support. As I mentioned to this House on a previous occasion in relation to a question, in respect of 4 questions, they were supportive of 3 of those issues. I am hoping to secure their support for the fourth part of the policy at which point it is available to me and open to me to bring the discussions to the Council of Ministers in the early part of the New Year.

4.2 Deputy R.G. Le Hérissier:

I wonder if the Minister could tell us, without breaching confidence, what progress has been made on resolving the impasse over the La Masurier site, including whether or not he would be amenable to an independent personal group analysing what has gone on and then perhaps further amenable to the use of mediation so that we can move this thing forward.

Deputy R.C. Duhamel:

The Deputy should read the very comprehensive written reply to the question put forward to me - I think it was by Deputy Higgins - in respect of the discussions that have taken place with this particular company. In particular, I think he should read the very last entry which suggests that the company themselves have agreed to meet with me and that decision was taken on 5th December. A meeting is being arranged for 20th December which was the earliest opportunity at which any final points in dispute will be resolved and the situation will move to the next phase.

4.2.1 Deputy R.G. Le Hérisier:

A supplementary: is the Minister hopeful of a resolution?

Deputy R.C. Duhamel:

Absolutely. That is why I have made my statement prior to getting the agreements from the company that they would meet me at a future date on 5th December. I think a lot of these things that were being spoken about in the media were storms in a teacup and, indeed, I have resolved to meet and I think we can have a successful resolution.

4.3 Deputy J.H. Young:

Following his Minister's answer to the excellent question from the Deputy of St. Mary regarding affordable housing, could the Minister confirm that he and the Minister for Housing are working together closely on producing this new policy and when will the point be reached in his discussions where he will look at the sites kept in reserve in the Island Plan, in the event of an impasse in this matter?

Deputy R.C. Duhamel:

I am unable to do that in part. I do not think that the Minister for Housing is necessarily in full agreement with the position that I would wish to be discussed by the Council of Ministers and, indeed, by this House. I think there is a substantial difference of opinion as to what is meant by "affordability". I think the Minister for Housing, without trying to put words in his mouth, is suggesting that his affordability criteria is generally for affordable houses for social renting, whereas I am looking at affordability for purchase. I do not necessarily agree that his definition of £250,000 for houses to purchase in part or in whole represents the best terms that could be understood and agreed by the majority of those persons in a position to purchase as being definitely affordable. My definition, as I have said on previous occasions, is one that is tied into a person's ability to pay the market rentals on a 3-bedroom house in the States sector which corresponds to round about the £275/£280 a week mark, which would give a person the ability to have 5 per cent, 25-year mortgages to acquire a mortgage for £200,000. The key has always been the difficulty in the local market as to whether or not you would get anything sensible for that £200,000 and this is the thing that needs to be discussed. There are a whole host of building technologies that have been mentioned by myself and other Members which could radically bring down the cost of the provision of housing to those levels to make it, in my view, truly affordable to a whole load of people who are not able to participate in the earning market at the moment.

4.3.1 Deputy J.H. Young:

Notwithstanding the Minister's very comprehensive analysis on the subject, would he not agree that members of the public listening to that answer would be astonished that we seem to be in a position where there is not joined up working to try and resolve this? Would he not agree that in that situation, it is imperative that this matter is brought to a head to prevent the problem getting worse? Then we start to get some affordable homes for our young people as the Island Plan seeks us to do.

Deputy R.C. Duhamel:

I would agree but not at the expense of not discussing alternative points of view or coming forward with a course of action that only looked at half of the problem and sought a solution that really was not a solution for the majority of those who could have a solution.

4.4 Deputy M. Tadier:

I will ask a similar question which I asked the Minister for Housing with regard to Plémont and the land swap. Does the Minister know what type of land would be used and would it be land which could potentially be used for social housing or affordable housing?

Deputy R.C. Duhamel:

In me and my department's analysis of the potential sites that are available for the provision of affordable housing, what we are looking at, at the moment, is the opportunity for States-owned sites to provide a large quota of that type of housing. Certainly with some sites, with potential redevelopment, there is an opportunity to increase the density. It is not by packing people into rabbit hutches but by giving them proper, up-to-date facilities and amenities to increase some of the density of these particular sites by, in some cases, as much as 100 per cent.

4.4.1 Deputy M. Tadier:

Can I thank the Minister for that answer? I think it did not address my question which was to do with the land swap that would take place with Plémont. Does he have any idea what land is being proposed in that and what impact it would have on the objectives for strategic affordable homes, both social and buying?

Deputy R.C. Duhamel:

I do not but again, this is part and parcel of perhaps a difference of opinion in terms of what States Members might wish and what the public might wish in terms of what happens with the States-owned properties. There is no doubt that some sites could be offloaded at a very high price in order to put back the sizeable sum of monies which would allow those monies to be reinvested in Plémont. Whether or not that represents the best use of the States portfolio and assets, in particular housing assets, that we have, I am not at all convinced at this point in time.

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

The Minister spoke about the discussions he has apparently had on affordable housing on States-owned land. Has he discussed this with other Ministers, and in particular with the Minister for Treasury and Resources and the Minister for Housing, and if not, why not?

Deputy R.C. Duhamel:

There were early discussions last year but we got ourselves into a bit of a mix in that there were behind the door suggestions by the Jersey Construction Forum that they would wish to have the early release of other greenfield sites or brownfield sites. That has derailed the process for a period of time. I think the process is almost back on board and these documents and discussions will be coming back to the Council of Ministers for proper discussion as, indeed, should have taken place at an earlier stage but for those reasons, was not able to be done.

Deputy E.J. Noel:

Is that a "no"?

Deputy R.C. Duhamel:

No, that is not a "no". I said there are documented meetings that have taken place with the States working party groups that were set up to consider this question when I was first given the job. Those meetings have taken place and they are documented.

4.5.1 Deputy E.J. Noel:

Could the Minister enlighten the Assembly as to when the last meeting of that body took place?

Deputy R.C. Duhamel:

The last meeting of that group took place prior to the summer recess when a lot of the flames were being fanned by the construction industry in order to bring about a revision of the Island Plan before it had properly bedded in and before we had settled the question of whether or not long-term urban regeneration is a sensible way forward to provide affordable units or whether or not we should be releasing wholesale greenfield or brownfield sites in order to build expensive units for the few.

4.6 Senator S.C. Ferguson:

When will the Minister be bringing forward his recommendations for amendments to the third party planning process?

Deputy R.C. Duhamel:

The process at the moment is with the Crown Officers. Letters have been written asking for their opinion and I am awaiting a reply.

4.6.1 Senator S.C. Ferguson:

Will there be consultation with the members of the public who have suffered this process?

Deputy R.C. Duhamel:

I think I probably need a little advice on that.

4.7 Connétable S.W. Pallett of St. Brelade:

What procedures will the Minister for Planning and Environment consider to ensure any affordable housing that is built remains affordable in perpetuity and is not sold for profit at a later date?

Deputy R.C. Duhamel:

This indeed is part of the proposals that are coming forward from my department to suggest that a new body be set up whereby people will be offered affordable homes and those homes will be ring-fenced in terms of ownership and have to be offered back to a holding company, which will be in a position to keep the price at the affordable level in the future. That is not to say that people will be disadvantaged in terms of the normal capital speculation that they get from owning an asset. The monies will be dynamised by the ordinary cost of living but we will not have the situation which has pertained in the past potentially if we go down this route whereby houses that have been discounted are sold in a very short period of time back on to the open market and people pocket the difference.

4.8 Deputy J.M. Maçon:

In the battle between thermal efficient windows and drafty historic windows, is the Minister able to inform the Assembly in his opinion which one should take precedent?

Deputy R.C. Duhamel:

I certainly know which ones take precedent in my house and that is the historic ones. There is an absolute benefit in the old building techniques in terms of having external shutters, internal shutters and curtains as opposed to having the double glazed windows which do not encourage people to open windows in the summer and indeed, kind of move a lot of houses into mechanical ventilation systems which are expensive in energy terms. I personally think that there is room for both and I attended the Bingham(?) Centre earlier during the year where a new Pilkington glass offering was

on the market which would enable the same type of thermal properties which could be achieved through double glazing to be achieved by a lightweight glass, which was accepted by heritage bodies as being acceptable to be fitted into the wooden frames. So I think it is not a case of which one is the best although I do have my preferences. I think there is room for both.

4.9 The Connétable of St. John:

Could the Minister give us an update, please, on the 3 historical church applications: the Sion being one of them; one at St. Aubin's or St. Brelade; and one out east? Given that we would like to get this put to bed once and for all, it seems to be dragging on and on. Could the Minister update Members please?

[12:15]

Deputy R.C. Duhamel:

In relation to church applications, there are a number of church applications that are going through our books at the moment, all with differing requirements in terms of the element of the historic fabric within some of these listed buildings that should, as far as possible, be retained. I have had further meetings with Deputy Young over Sion and I am awaiting a further application by the owners of that building as to whatever they have decided upon in terms of making an application.

4.9.1 The Connétable of St. John:

Will the Minister give us an undertaking that this will be sorted out within the next 6 months because this has been going on for years and years and is going to be an embarrassment to my Parish if the building concerned gets into total disrepair. I am aware the trustees have not got the funds which are required to do everything, even to keep it maintained, so in fairness, I do not want to see a dilapidated church in my Parish. Would you please give us an undertaking it will be sorted?

Deputy R.C. Duhamel:

I think I have done and I have indicated to this House just now that I had meetings with Deputy Young and the historic officer to reconsider, with Deputy Young, who was liaising for the owners, as to what may or may not be possible for that building. As I say, that happened a number of weeks ago and I am awaiting a further application from the owners as to which direction they would like to go in. It has been quite clearly explained, as it is to all historic building owners, that the law as it stands does not stop things from being rebuilt, knocked down, refurbished or whatever, but in the case of historic buildings, you have to make a special case for the benefits in doing so. That, in some instances, is quite easy to be made as I have reported to this House on previous occasions. The town church managed to put in an application to remove its old wooden pews in favour of modern seating and that just gives you an indication as to what might be available if you have the right architects and advisers working for you in order to submit your application.

The Connétable of St. John:

Will the Minister agree that the law is an ass?

PUBLIC BUSINESS

The Bailiff:

That brings the period for questions to an end, I am sorry. I can inform Members that Deputy Baudains has lodged Projet 134 Higher Education Grants: Method of Assessment. So there are no matters under J or K, so we then come to Public Business. Now, it just occurs to me, it is a matter

for Members, but if, and I am not encouraging it - that is entirely for Members - but if anyone is going to suggest an adjournment to the Plémont debate, would it be worthwhile considering that now so that everyone knows where they are for this afternoon? If they are not, then we will proceed. The only matter which I should remind Members of is that Deputy Maçon has lodged an amendment, a second amendment. He has only lodged it today therefore, it cannot be debated unless Members agree to his request that it is of such public importance and urgency that it should be. But to remind Members of the proposition, they may reduce the lodging period if they are of the opinion the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. Again, certain Members know where they are. Do you want to ask Members, if you are going, Deputy? It seems to me it is a very high threshold. It is quite hard to say that just because you were late that criteria is met, but it is a matter for Members.

Deputy J.M. Maçon:

Thank you for that. While I think I prefer to wait for the amendment, the time, it very much hinges on how we are going to proceed with Deputy Southern's amendment.

The Bailiff:

So you do not want to ask for this amendment?

Deputy J.M. Maçon:

I do not think I would get very far if I tried to ask for a deferment of the whole proposition.

The Bailiff:

Very well.

Senator P.F.C. Ozouf:

Just for clarification, are you ruling that you have invited Members to defer the proposition and that no further discussion will be available as to whether or not the proposition should be deferred?

The Bailiff:

No, I am not ruling that. I invited Members for convenience that if they are going to ask for it to be deferred now would be a convenient moment, and no Member has come forward but that does not prohibit them from doing so later, if they wish.

5. Draft Intellectual Property (Unregistered Rights) (Application, Transitional Provisions and Savings) (Jersey) Regulations 201- (P.112/2012)

The Bailiff:

Now, so we come then to Public Business and the first matter is the Draft Intellectual Property (Unregistered Rights) (Application, Transitional Provisions and Savings) (Jersey) Regulations, Projet 112, lodged by the Minister for Economic Development. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Intellectual Property (Unregistered Rights) (Application, Transitional Provisions and Savings) (Jersey) Regulations. The States, in pursuance of Article 408 of the Intellectual Property (Unregistered Rights) (Jersey) Law 2011, have made the following Regulations.

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

This morning when I arrived at the States Building, I was met by the media in a large crowd. I was hopeful it was to discuss intellectual property matters. It turned out to be something completely different and I therefore hope Members are not too frustrated by having the inconvenience of this important piece of legislation before, what was described by the media as the main act, later on. The Intellectual Property (Unregistered Rights) (Transitional Provisions) are important. They are vitally important to the economy of Jersey and it was on 1st December 2010 that this Assembly approved the Intellectual Property (Unregistered Rights) (Jersey) Law 2011. This new law will update Jersey's copyright framework to take account of many technological changes since the current law, the U.K. Copyright Act 1911 as it extends to the Island, was enacted. Members who were present that day will recall the marathon session in considering the complexity of the law and its 411 Articles. Today should be much simpler. This proposition is an important piece of subordinate legislation that we need to have in place before the new law can come into force. The Regulations before Members today simply make provision for the transition from the old law to a new intellectual property law approved by this Assembly, as I have said, in December 2010. As soon as this is brought into effect, this new Copyright Law will offer a modern but balanced legal framework that fairly protects creative content. This framework of rights and exceptions to rights in the Intellectual Property (Unregistered Rights) Law will underpin Jersey's position as an attractive place to do business in the area of e-commerce in particular. It will ensure that Jersey provides unregistered intellectual property rights comparable to those available in other territories at the forefront of the knowledge economy. For example, digital technology and the internet are now crucial to how many copyright owners are able to deliver creative content in exciting new ways to consumers. The new law ensures that the copyright owners will have all the rights necessary to get a return on the often considerable investment in creating the valuable content that we all value. The current law does already deliver copyright protection for much creative content by providing some very important rights. We cannot simply sweep away all of those and start again without explaining how the transition from the old law to the new will happen. These Regulations therefore spell out exactly when and how the different types of works that attract copyright under the existing law can continue to have copyright under the new law. There is more detail on, for example, which law applies to things done before and after commencement of the new law. The Regulations also make provision about whether or not, and if so, how the rights in addition to copyright apply to material that already exists. I accept that the Regulations are not an easy read, not least because they do often refer to specific provisions in the new law and in the 1911 Act. I would like to take this opportunity to thank those Members who were able to attend our recent briefing which I hope helped to clarify what is somewhat of a complex area. The new law, with 411 Articles, is a substantial piece of legislation that this Assembly passed unanimously, as I have said, in 2010. The explanatory note does though explain each Regulation carefully with helpful references to the relevant laws. I certainly think that anyone who wants to know the reason for a particular Regulation will find the detail in the explanatory note particularly useful. We consulted some key stakeholders about an earlier draft of the Regulations and that has led to an improvement which I will explain later. I would also like to thank the Economic Affairs Scrutiny Panel for their very thorough examination of this legislation including their decision to commission an independent report from a leading I.P. (Intellectual Property) expert from the U.K. This adviser's report contained a number of detailed comments about the policy and the drafting. We were able to see the report before lodging the draft Regulations and this has led to another improvement which I will also explain further shortly. The overall conclusion by the adviser to the Scrutiny Panel is supportive of the legislation contained within this proposition. There is a recognition that implementation of the 2011 law by this proposed subordinate legislation delivers a modern and comprehensive legal framework for unregistered intellectual property rights. The adviser's comment that this should place Jersey on an equal footing with our international trading partners is welcome confirmation that we are delivering exactly what we intended to. I am

therefore confident that the provision we have drafted in these Regulations delivers an effective transition from a law written over 100 years ago to a modern framework for copyright that is coherent, fair and reasonably comprehensive. The new law is a crucial piece of legislation in our work to encourage diversification of the Island's economy, especially in the area of e-commerce. In summary, by approving these Regulations and the Appointed Day Act that is the following proposition, we will ensure that our new Intellectual Property Law, approved in 2010, can come into force before the end of this year. This will mark an important milestone in our work to modernise our intellectual property laws. I therefore propose the principles.

The Bailiff:

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

5.1.1 Deputy J.H. Young:

Only briefly. I apologise, I was not able to attend the Minister's presentation but clearly this is a very important law and a major step forward since I think our present law, which has served the Island very well for over a century, was drafted I think in the days when plagiarism, if it occurred, was of sheet music in music halls. We now obviously have Regulations for the computer world. I would just like the Minister to highlight please or give us assurances that the new Regulations do not accidentally impose new restrictions on works that are already out of copyright under the existing law, either because of the death of the author or the work exceeding the limits put in that law. So I would like to be sure that we are not accidentally imposing a new copyright restriction on the use of material that is already out of copyright. But I thank him for that. I am not able to find in the Articles because all the Articles refer to the main law, of course, which was passed 2 years ago but again, I think this is a very important provision. I just hope it does not become bureaucratically worked and expensive to administer.

The Bailiff:

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

5.1.2 Senator A.J.H. Maclean:

Thank you to Deputy Young for his question. The answer is: "No, it does not" and indeed, that is the purpose of the transitional provisions. That is exactly what this does. It ensures that that is not the case and I am going to speak briefly on the Regulations when we come to those, hopefully shortly, and that will highlight the area in particular that references what Deputy Young is referring to.

Very well. All those in favour of adopting the principles, kindly show? The appel is called for in relation to the principles. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 37		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				

Connétable of St. Mary				
Connétable of St. Martin				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
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.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				
Deputy of St. Mary				
Deputy of St. Martin				
Deputy R.G. Bryans (H)				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

The Bailiff:

Now, Deputy of St. Martin, I think this matter has already been considered by your Scrutiny Panel?

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

It has. Thank you.

The Bailiff:

You do not wish it to be referred to? Very well. Now then, how do you wish to take the Regulations? In parts, Minister?

5.2 Senator A.J.H. Maclean:

That is a good question that I have been musing over. There are 9 parts and they total 77 Regulations. My intention on reflection is to take it *en bloc*. I will make some comments as I go through but I will try and be as brief as I can and then invite Members to ask whichever questions they wish.

[12:30]

The Bailiff:

Very well. Then please proceed with all the Regulations.

Senator A.J.H. Maclean:

I will try and be as brief as I can but I do feel it is fairly substantial so I do need to make some comments as I go. As I have said, there are 77 Regulations: 53 of the Regulations are in part 2.

Part 2 deals with copyright and it is, of course, the substantive part of the Regulations. This is an area where we have an existing law and where there is therefore a need to provide for continuity as we move from the old to the new. For copyright Regulations do not permit the right to apply to existing works, unless they are of a type that can currently attract copyright. Regulations 10 and 11 are particularly important here and, for example, mean that many existing films will continue to be protected as dramatic works. For some existing films the copyright will only be in photographic form that makes up the film but no existing film will fall under the new category of the copyright work protecting a film as such. Of course in practice we think that this is most unlikely to mean the lack of protection for existing things of a type that would get copyright in the future. This approach does avoid problems that would arise if we were to say that whole new categories of existing works can be copyright without regard to how they have copyright at the moment under the 1911 Act. The Regulations also rule out the revival of copyright for existing works which had copyright in the past but where copyright has expired before commencement of the new law. Regulation 5 covers this rule and other important provisions about subsistence of copyright. We have had to consider the issue of revival of copyright because the term of protection of the new law is generally a bit longer than at the moment. But not reviving copyright is the position set out in the main international convention about copyright, the Berne Convention. Reviving copyright would give rise to all sorts of problems where people expect to be able to do things because copyright restrictions had ended. The Regulations also ensure the terms of protection for existing works cannot be longer than terms in the new law. Subsistence of rights also needs to be covered in other parts of the Regulations. The new rights relevant to databases may apply to existing material according to the provision in Regulation 56. That is part 3. With regard to performance rights, they can apply where performances took place before commencement and the performance was recorded in some way as a part of Regulation 64. That is part 6. This is something that is required by international conventions for performers' rights. For the database rights, this matched E.U. rules and so should facilitate protection in the E.U. for Jersey databases. Regulation 73 of part 7 does not permit there to be unregistered design rights for existing designs as this avoids problems. There is no convention obligation that requires anything else. The policies on subsistence rights and duration of rights are also relevant to existing material having its origin in other countries. The new law can apply to both existing and new material having its origins in other countries. The way this will be delivered will largely depend on obligations in international conventions and treaties. The main international copyright conventions that many countries belong to require each contracting party to automatically provide rights for material having its origin in all other contracting parties. The main international conventions and treaties about unregistered intellectual property rights make different provisions about what must be protected and what rights must apply. How the new law applies to material of foreign provenance will, therefore, vary to different countries, depending on their membership of the relevant conventions and treaties. In some cases there may be modifications to which rights apply and on the duration of rights. For existing work having their origin in other countries the modification on duration are provided in Regulations 20 to 22. They work the same way as the modifications that would apply to new works from other countries. Another issue we need to consider is infringement of rights. In order to provide certainty for things people have already done, the Regulations provide the existing law continues to apply to anything done as a result of agreements reached or arrangements made under the existing law before commencement of the new law. For example, for copyright this is in Regulation 26 but there is also provision of this type about the other rights in Regulations 59, 65 and 74. However, there are a greater number of exceptions to copyright under the new law compared to the existing law. Exceptions set out limited activity with protected material that people can undertake without having to obtain permission from right owners and without infringement rights. Regulation 30 ensures that continuing activity that would have been permitted by the new exceptions to rights will be treated as though those exceptions had always been in place. The new law establishes a special category of

copyright for works made under the direction or control of the States Assembly or by a Minister or other person in the course of their duties for the States. It is Regulations 48 and 49 that ensure that the States Assembly or States can use existing works where States Assembly and States copyright would have applied if created after the commencement of the new law. This includes a licence for the States Assembly or States if they are not the copyright owner of and have no right to exploit those works. In most cases, the sort of material that will get the special copyrights will be material that is very likely to have been implicitly licensed to the States Assembly where the States is not the copyright owner and so this licensing provision is unlikely to apply. There is one more policy issue I would like to explain. That is moral rights, which are provided in addition to economic rights, will be new in Jersey, even for copyright. This is though something that international treaties and conventions make a provision about. These rights are essentially the right to be identified as the creator, and the right to object to derogatory treatment of what has been created where the treatment damages the creator's reputation. Regulation 34 ensures that all of those moral rights will apply to existing works if the author has not died before commencement. The performance moral right will not apply to past performances according to Regulation 64. This approach is consistent with what is required by international conventions. There are several new exceptions to rights which only apply if copyright owners are not licensing the activity in question. In order for the licensing to replace the exception it must though be notified. Copyright licensing is not a new concept and there certainly can be and is copyright licensing under the existing current law. As a result of approaches made by a body that is engaged in copyright licensing, we have added provisions to Regulation 47 to remove the need to notify any existing licensing in the areas covered by the new exceptions for a transitional period of up to a year. On the subject of design rights, we are not backdating design rights to apply to any exiting designs of any type but we had also not included any transitional period for the new exception to copyright. So existing functional designs, even ones created very recently, could have neither copyright protection nor design right after commencement. We have, therefore, made sure in Regulation 30 that the new exception to copyright does not apply for 10 years from the date an existing design was first recorded in a design document. The earlier draft to the Regulations was also made available to the Economic Affairs Scrutiny Panel. I have already mentioned that the report from the panels advisory provided a very helpful contribution. A number of suggestions about the detailed drafting were made. After careful consideration we made a drafting change in Regulation 31 and a substantive change as recommended in the report. The substantive change concerns possible compulsory licences that might exist under the 1911 Act. This would be a compulsory licence to republish a work after the author's death, where a licence has been refused by the copyright owner and as a result, the work is withheld from the public. This is not surprising because in general where there is public demand for a book or so on, whoever owns the copyright is usually keen to keep publishing the material or license others to do so. If that is happening there can be no compulsory licence in any case but we agree that such compulsory licences are generally contrary to current international standards. Finally, Regulation 43, therefore, now ensures for the avoidance of doubt that any such licences are terminated in no more than a year from the commencement of the new law. That covers the main points that I wish to draw out of the Regulations. I, therefore, propose the Regulations 1 to 77. Thank you. I invite questions from any Members.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? Very well. All those in favour of adopting Regulations 1 to 77 kindly show... Those against? They are adopted. Do you propose any Third Reading, Minister?

5.3 Senator A.J.H. Maclean:

Yes.

The Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak to the Third Reading?

5.3.1 Deputy R.G. Le Hérisier:

The Minister may have covered this, my apologies if he has. I notice in the consultant’s report he raises the issue of the future proofing of the legislation, in order that we do not have to go through this too often. After the masterful explanations by the Minister, I wonder if he could comment on that topic.

5.3.2 The Deputy of St. Martin:

Could I concur with the Minister that it is indeed a shame that the importance and significance of these proposed changes have been relegated somewhat in today’s sitting. My panel congratulates the Minister and his department for all their hard work in this area, work which should place the Island on an equal footing with our international trading partners. My panel urges the Minister to be continually vigilant and proactive on the subject of both registered and unregistered property rights. In this digital age and with the ever increasing speed of technological development, staying ahead of the game will become increasingly challenging and important, especially as we develop our own Digital Jersey initiative. My Scrutiny Panel look forward to working together with the Minister as he further develops our new digital sector of the economy.

The Bailiff:

Does any other Member wish to speak in the Third Reading? Very well. Do you wish to reply, Minister?

5.3.3 Senator A.J.H. Maclean:

Yes, it would be rude not to say a few words. Deputy Le Hérisier has raised the point about future proofing. Future changes can be made by Regulation and indeed will give us the opportunity to move and be more fleet of foot as international changes in this vital area of I.P. develop. I think that is a major improvement and will ensure that we can stay, hopefully, ahead of the pack and not 100 years out of date, as has been the case in the past. I thank the Deputy of St. Martin for his comments and his panel for their help and contribution, which I have already mentioned.

The Bailiff:

All those in favour of adopting the Regulations in Third Reading kindly show. The appel is called for in relation to Regulations in Third Reading. I invite Members to return to their seats. The Greffier will open the voting.

POUR: 42		CONTRE: 0		ABSTAIN: 0
Senator P.F. Routier				
Senator P.F.C. Ozouf				
Senator S.C. Ferguson				
Senator A.J.H. Maclean				
Senator B.I. Le Marquand				
Senator F. du H. Le Gresley				
Senator I.J. Gorst				
Senator P.M. Bailhache				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				

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

6. Draft Intellectual Property (Unregistered Rights) (Jersey) Law 2011 (Appointed Day) Act 201- (P.111/2012)

The Bailiff:

Do you wish to move then to the Draft Intellectual Property (Unregistered Rights) (Jersey) Law 2011 (Appointed Day) Act, P.111/2012, lodged by the Minister for Economic Development. I will ask the Greffier of the States to read the Act.

The Greffier of the States:

Draft Intellectual Property (Unregistered Rights) (Jersey) Law 2011 (Appointed Day) Act. The States, in pursuance of Article 411(2) of the Intellectual Property (Unregistered Rights) (Jersey) Law 2011, have made the following Act.

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

Yes, the Appointment Day Act 2011 will bring the 2011 Law into force in 7 days. I maintain the proposition.

The Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on the Act? All those in favour of adopting the Act kindly show. Those against? The Act is adopted.

LUNCHTIME ADJOURNMENT PROPOSED

The Bailiff:

Yes, the adjournment is proposed, so we will reconvene at 2.15 p.m.

[12:43]

ADJOURNMENT

[14:15]

7. Plémont Holiday Village – acquisition by the public and sale to the National Trust for Jersey (P.90/2012)

The Bailiff:

We come next to Plémont Holiday Village - acquisition by the public and Sale to the National Trust for Jersey, P.90. I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion – (a) to approve the acquisition by the public of the site known as the Plémont Holiday Village and adjoining land as identified on the drawing attached as Appendix 1 to the Report; (b) to negotiate with the owners for the purchase of the said land at a fair and proper price to be agreed by the Minister for Treasury and Resources; (c) to agree that, in the event of it not being possible to agree a fair and proper price with the owners of the land, the Minister for Planning and Environment should be empowered, in exercise of the powers conferred by Article 119 of the Planning and Building (Jersey) Law 2002, to acquire the land and any interest therein by compulsory purchase on behalf of the Public in accordance with the provisions of the Compulsory Purchase of Land (Procedure) (Jersey) Law 1961; (d) to request the Minister for Treasury and Resources to make the payment or discharge of the expenses incurred in connection with the acquisition of the said land and any interests therein, and of the payment of all legal expenses, from central reserves; (e) to agree that, following the acquisition of the land, it should forthwith be sold to the National Trust for Jersey for a consideration of £2 million subject to a condition that the National Trust for Jersey will thereafter restore the land to nature; (f) to authorize the Attorney General and the Greffier of the States on behalf of the public to pass any necessary contracts in connection with the acquisition and subsequent sale of the site and adjoining land.

The Deputy of St. John:

Regrettably, I must declare an interest and retire from the Assembly for the duration of this proposition.

The Bailiff:

It is an interest which you feel disqualifies you from...?

The Deputy of St. John:

I do, yes. There is a pecuniary interest.

The Bailiff:

Very well, it is a matter for you and you withdraw.

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

As was mentioned earlier, I must also declare, while it is in the Members' Register of Interest, I am a member of the National Trust. I would like to ask Senator Bailhache to act as rapporteur for this proposition. He has done a lot of work on this and I am very grateful to him for that.

The Connétable of Grouville:

Excuse me, on a point of order, does that mean all members of the National Trust must withdraw?

The Bailiff:

No, not at all. It seems to me that...

The Connétable of Grouville:

I only asked the question because the Chief Minister has withdrawn because he is a member of the National Trust.

The Bailiff:

No, he is not withdrawing. He simply declared an interest as a member of the National Trust.

The Connétable of Grouville:

Okay.

Connétable S.W. Rennard of St. Saviour:

I occupy land that the National Trust owns.

The Bailiff:

I do not think that is an interest at all.

The Connétable of St. Saviour:

All right. Thank you.

The Connétable of St. John:

Could I challenge that given that if you are a tenant of the National Trust you could have undue influence put on you?

The Bailiff:

No, you may not challenge it. It is not a financial interest nor is it an interest. Very well, Senator Bailhache.

Senator P.M. Bailhache:

I assume you are saying that declarations of interest are not required for members of the National Trust.

The Bailiff:

No, I think that members of the National Trust because the proposal includes, does it not, a sale to the National Trust. I think those Members who are members of the National Trust should declare that interest. They do not have to withdraw.

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

May I make a declaration at the start. I have been a member, although not a very active one I am sorry to say, of the National Trust for quite a long time. With your approval I have asked the Usher to circulate, and I hope you have, a copy as well of a site plan of the area in question. This has been a controversial issue which has divided the Island and upon which strong views have been expressed on both sides. May I begin by setting out some of the things which unite us, rather than divide us. I believe that few people, if any, would contemplate for one minute building houses at Plémont if there were not the ruins of the old holiday camp on the site. This is green zone land, which according to policy in E7 of the Island Plan is to be given a high level of protection.

Paragraph 273 of the Island Plan records the concept of the green zone is already well established. The vigorous response in the Green Paper and Imagine Jersey 2035 to further protect the countryside from development has demonstrated a clear need to review and strengthen the existing countryside policies in order to further protect this important asset. The environmental case for buying Plémont, I suggest, is overwhelming. The vision of the National Trust expressed in the photograph on the wall behind me showing the derelict buildings airbrushed out is surely one that we can all share. In principle, do we not all feel that it would be far better had no building ever taken place on this site and we could all go home. In retrospect, although it is always easy to be wise after the event, it seems to me that it was a mistake on the part of the Department of the Environment some years ago even to contemplate housing development on this site. The tourism use of the site had passed its sell by date and measures should have been taken years ago to acquire Plémont for the people. For a number of legal and planning reasons I think that the decision recently of the Minister for Planning and Environment was a grave mistake. But I am not going to cry over spilt milk. The Plémont site does have planning permission for the development of 28 houses. The positive aspect of the Minister for Planning and Environment decision is that we have for the first time a much clearer idea of the value of the land. It is a completely different scenario from the one obtained when the last debate of this Assembly took place in 2010. The caution expressed by the Council of Ministers at that time was understandable but we are now much better informed. The fears expressed at that time, and no doubt they will be expressed during the course of this debate as well that what happened at Lesquende might repeat itself is equally ill-founded. Most of the argument that revolved around that case concerned what it might be possible to do with the site. Here we know the answer to that question because the Minister for Planning and Environment has given a planning permission. All of us have been deluged with emails, letters, approaches and cards, all urging us to support or oppose the Chief Minister's proposition. In the midst of all this sound and fury, it seems to be all the more important that we hold fast to the facts because if we do not hold on to the facts it will be more difficult to make a rational judgment. I have been struck by how many of the opponents' views of the Chief Minister's proposition have been influenced by misleading information put into the public domain by the owners or their agents. I did not hear it but I am told that it was suggested on a radio programme on Sunday that no contact had been made by any politician with the owners and that they were just waiting for an approach to sit around the table. I am afraid that that is just not true. I wrote to the owner on 5th March this year telling him that there was a wish to acquire Plémont and inviting him to discuss the matter with me. He declined. On 26th June I wrote again, as a matter of courtesy, to say that the proposition was about to be lodged by the Chief Minister and I suggested that a discussion should take place about a fair price for the land. I offered to go to the Isle of Man where the owner lives in order to have such a discussion. He replied to me on 2nd July saying: "It would be premature to meet with you until we have the outcome of the public inquiry." Three weeks ago, after the Minister for Planning and Environment had given his decision, I wrote again inviting a discussion, on 21st November to be precise. I have had no response to that letter. I do not complain about that. It is up to the owner whether he wishes to engage in discussion about the sale of the land. But to suggest that there has been no attempt to engage with him is simply not true. It is constantly said that two-thirds of the site will be given free to the public. That is misleading. It is constantly implied that the development will be pulled back from the cliff and by implication would hardly be visible. That is not true. It is also said that the land will be hugely expensive to buy. Figures of £14 million or more recently £16 million have been quoted. That too is a gross exaggeration designed, I am afraid, to deter people from supporting the acquisition of the land, and it has been successful. As I was driving into town this morning I heard a man from St. Ouen being interviewed, saying that he was opposed to the purchase of Plémont but that if the price were £2 million or £3 million then he might take a different view. Too many online polls and discussions

have taken place about the States spending £8 million or £10 million or more and it is hardly surprising that many people are concerned about this.

[14:30]

I invite Members to look at the site plan which I have had circulated. Members will see an area at the top of the site bordered by a green line and a dotted black line. This is an area of land which the developers originally believed belonged to the company. Their predecessors in title clearly thought so too because they built a tennis court and some other buildings on the land too. In fact, it is part of the common and it does not belong to the company. It was an encroachment at the time. Probably no commoners were concerned about it or nobody knew or cared at the time.

Connétable J.M. Refault of St. Peter:

Excuse me, would the Speaker just give way for a point of clarification, if I may. It is my understanding that if a piece of land in Jersey is occupied by a party and if nobody complains about them using that piece of land for a period of excess of 40 years, they then acquire the title of that land. Perhaps it is a question for the Solicitor General.

Senator P.M. Bailhache:

I am happy for the Solicitor General to speak about that. I think that there is considerable doubt as to whether a prescription in that way can run against the Crown. This is a fief and seigneurial land again, it seems to me, which is held from the Crown, is probably not amenable to prescription. Common land is frequently occupied by other people. That does not mean to say that it is not any longer common land but I will yield to the Solicitor General if he wished to express a contrary view.

The Bailiff:

I do not think he does.

Senator P.M. Bailhache:

A few months ago the Seigneur of that fief gave the land to the States, as well as the rest of commune. When the Law Officers' Department conveyancers were carrying out the necessary work in connection with that gift they were able to confirm to me that the encroachment had taken place. So that area now belongs to the States, together with all of the land to the north leading down to the sea. Obviously the States cannot be given what they already own. More importantly, if Members would look at the plan carefully they will see an area of land that is virtually enclosed between the 3 clusters of houses that make up the housing development. That is included in the two-thirds of land which the developers say they are going to give to the States. This is, in my view, a village green essentially for the benefit of those who would live in the houses. One cannot really imagine people taking their picnics to that area of land surrounded by the housing development. The National Trust has told me that it has no interest in taking over that particular land if the housing development takes place. So, if one looks at the land outside the red line, the land to be given would represent, I suggest, about 40 per cent of the site. The reality is that it would not be given for nothing. The price of the so called gift is that planning permission that the owners now have and the enhanced value of the land as a result. The land to be transferred has no value to the owner and is probably indeed a liability because it will have to be maintained. Having said all that, I do accept that if the development takes place there will be a part of the land that will be transferred to the States free of charge. The more important misleading suggestion, however, is that the development would somehow be pulled back from the cliff, would be largely invisible and would somehow be less damaging to the landscape than the existing eyesore of the old holiday village. Whether the housing estates would be an enhancement of the environment is a matter for

argument. I do not suggest and I have never suggested that it is other than a good design. But I am clear that this development would transform a wild and natural part of the north coast of Jersey into a suburban environment. It would totally change the character of the place and the development should not take place at Plémont. The first estate of 12 houses, if Members will look for them, is the south-eastern corner of the site and would be what one would see driving down the narrow lane from Portinfer. No longer would there be a view down across the fields to the derelict holiday camp and further down to the sea, but a group of houses would be there in your face, as it were. The second estate of 12 houses would be in the middle of the site and clearly visible from the north-west of the Island. The third estate of 4 5-bedroomed houses would be quite close to the edge of the site, would obviously have very fine views out to the north but would be very visible from the coastal path from the Devil's Hole onwards and perhaps from the north-west as well, unless the view was obscured by the second estate of houses. The suggestion somehow that the houses are being pulled back from where the ruins of the holiday camp are is not correct and Members will see, perhaps very faintly but, nonetheless, be able to see on the site plan - and it has been circled in a black dotted line for ease of reference - where the limits of the ruins currently are. Part of the second and third clusters will be built over them. I ask Members to continue to look at the site plan, at Field 48 to the east. This was bought by Plémont Estates Limited on 4th August 2006 for £30,000. Then at Field 54, to the east again, which was bought on the same day, also for £30,000. Then at Fields 52 and 53 to the north, also bought on the same day for £40,000. I do not believe that Plémont Estates Limited is going into agriculture. Why did the company buy this land? It is possible that the land was bought in order to pre-empt any third party appeal against the planning permission because a third-party appellant must be within, I think, 50 metres of the land in question. It is possible that that was the reason but, if so, it seems a rather expensive precautionary move at £100,000. The only other explanation is that these were speculative acquisitions, like the acquisition of the old holiday camp. I appreciate that some Members may feel that the money that would be spent on buying Plémont would be taken away from potential spending on health, education and so on and I respect that view. There is, of course, a balance to be struck between preserving our environment for future generations on the one hand and all the other demands of the public purse. The cost of buying Plémont, however, I think needs to be seen as a long-term investment, one that will be paying dividends to our grandchildren and their grandchildren and so on, for centuries to come. Against that background, the likely cost seems to me to be modest, £3 million, £3.5 million for the preservation of Plémont as wild, open space, preserving, thereby, one of the most beautiful parts of the Island in perpetuity seems to me a small price to pay. Members have received a note from the Treasurer as to how the acquisition could be funded but my understanding, from what the Minister for Treasury and Resources said yesterday, is that the expected cost could easily be accommodated from the contingency vote. Buying the land at Plémont would have no effect upon other spending, whether included in the Medium-Term Financial Plan or otherwise, at all. What would the cost be? The National Trust for Jersey obtained a valuation a little while ago but I will not speak about that. The initial valuation obtained by the Chief Minister through the Property Holdings Department placed a value on the site of between £3 million and £6.6 million. The Chief Minister was prudent and added £1 million to that top figure and the result was the upper figure of £7.8 million that Members will find in the Chief Minister's report. But that valuation was given or done inevitably before planning permission had been given by the Minister for Planning and Environment and before the extent of the planning obligations imposed by the Minister for Planning and Environment was known. The valuation received a short time ago was given in the full knowledge of all material facts and it is the valuation upon which the Chief Minister and the Minister for Treasury and Resources rely. It puts the value of the land at £4 million. As I say, we do not rely upon the earlier valuation but one can say that it is a long way away from the £14 million claimed by the owner. I do not criticise the owner or his agent for clinging doggedly to this figure but Members do need to consider carefully the respective

merits of these figures; £14 million is not the professional opinion of a qualified valuer. I am quoting from the bundle that was circulated by the owner's agent yesterday; it is what the owner's professional team consider to be the current site value. As was suggested in a different context, he would say that, would he not? At the hearing of the dispute over the value of the Lesquende land, the owner claimed that the value was £14.5 million. The States have made a formal offer of £5 million. What was the award of the Board of Arbitrators at the end of the day? It was £5.5 million.

[14:45]

I said this morning that I would offer Members a worst case scenario. I have thought long and hard about that and I have discussed the matter with the Chief Minister and also with the Minister for Treasury and Resources. Of course, there can be variations in figures placed by valuers upon land, it would be silly to suggest otherwise. No one can be absolutely certain what the final figure would be if the matter went to a board of arbitrators under compulsory purchase. The final figure would be in the discretion of the Board of Arbitrators. But the arbitrators' discretion is a discretion that has to be exercised in accordance with the law. It is not a discretion to conjure up some figure that bears no relationship, either to the evidence or to the application of proper principles by which land is valued. Chartered surveyors are cautious but good chartered surveyors are not wildly wrong if they apply the correct criteria to the task in hand and use the proper principles. The chartered surveyor who produced the recent valuation told the Chief Minister and me that a reasonable variation from his £4 million he thought was 25 per cent, which was why the figure of £5 million was used by the Minister for Treasury and Resources in the documentation that he circulated. The other chartered surveyors said that the top figure was £6.6 million. My worst case scenario is that the States ought to consider that they might have to pay £7 million. Of that £7 million, £2 million would be produced by the National Trust for Jersey in accordance with the offer that was made some time ago. Yesterday I received an email from the National Trust saying that the Constable had considered the amendment of Deputy Southern very carefully and agreed that because their fundraising campaign had been so remarkably successful they could offer a further £500,000 if the sale price exceeded £5 million. My worst case scenario, from the viewpoint of public funds, is that the States would have to be prepared to pay £4.5 million. I do not believe it would be as much as that but I was asked for a worst case scenario and that is what I venture. At the briefing on Monday Members received an introduction to the law of compulsory purchase from the Solicitor General. I will only say at this stage that, in my view, it is a simple and straightforward procedure. There is always a special law that governs compulsory procedure that sets out the authority under which the States must act. Members will find in the report of the Chief Minister the relevant provision of the Planning and Building Law that sets out the circumstances in which compulsory purchase is available to acquire land. If the States grants the power to acquire the land compulsorily there is, of course, a negotiation and, hopefully, a negotiation that would result in an agreement. If, after a reasonable time, there were to be no agreement then on a proper instruction from the Minister the Greffier would make an application to the Royal Court and a vesting order would be made. This is a purely administrative process, it is not a contested matter, and the vesting order vests the land in the acquiring authority. At the same time, the Royal Court establishes a Board of Arbitrators and the object of the Board of Arbitrators is to establish the fair market value of the land. I may say more about compulsory purchase in the context of Deputy Baudains' amendment. The Lesquende arbitration was an exception to the general rule. There are a number of reasons for that but there is absolutely no reason why it should be repeated here. I ask Members to have courage and vision. So much of life is concerned with the pressures of the moment. Just occasionally we need to think about the future and what it holds. I have been struck by how many young people have approached me or written to me and asked me to vote for the preservation of Plémont. The future is theirs and I do not want, for my part, to bequeath an Island where more and more of its natural beauty has been encroached upon. I do not always share the views of the former Deputy of St. Mary but I must say

that I thought his letter to the *Jersey Evening Post* last Saturday hit the nail firmly on the head. He wrote: "Let us make Plémont a symbol of a can-do community. It is so easy to shelve projects and to find reasons for saying no. It is much more difficult to have the courage to grasp the nettle of difficult decisions." I also agree with him, and I state publicly, that the quality of life for people who live in the town is just as important as the quality of life for people who live in the country. The restoration of Plémont is for all the people of the Island wherever they live. The Planning Law contains a provision that has been there ever since the first planning regulation came into force in 1945. It says that one of the purposes of the law is, and I quote: "To ensure that the coast of Jersey is kept in its natural state." That should be our purpose too. I move the proposition.

[Approbation]

7.2 Plémont Holiday Village - acquisition by the public and sale to the National Trust for Jersey (P.90/2012) - second amendment (P.90/2012 Amd.(2))

The Bailiff:

Is the proposition seconded? **[Seconded]** Very well, then there are amendments to the proposition and the first one taken is the amendment lodged by Deputy Southern, as a matter of fact it is the second amendment. I will ask the Greffier to read that amendment.

The Greffier of the States:

1. Page 2, paragraph (a) - Before paragraph (a) insert a new paragraph (a) as follows - "(a) to request the Chief Minister and the Minister for Treasury and Resources to enter into negotiations with the National Trust for Jersey in an attempt to reach agreement that, in the event of the purchase by the public of the site known as the Plémont Holiday Village and adjoining land, the land should, once acquired by the public, be sold forthwith to the National Trust for Jersey for a consideration equal to the sum paid by the public for the land, with £2 million being paid by the Trust at the time of the sale and with the remainder of the consideration being made subject to a loan by the States to the Trust that would be repayable over a period of 10 years and with the sale subject to a condition that the National Trust for Jersey would thereafter restore the land to nature; and to agree that, notwithstanding any decision to purchase the land made as a result of this proposition, no steps to initiate the acquisition process shall be taken by the public until an agreement with the National Trust on the terms set out above has been reached", and renumber the remaining paragraphs accordingly. 2. Page 2, paragraph (e) - For the words "for a consideration of £2 million subject to a condition that the National Trust for Jersey will thereafter restore the land to nature" substitute the words "in accordance with the terms of the agreement with the Trust as set out in paragraph (a) above".

7.2.1 Deputy G.P. Southern:

Before I start I will just say I will reserve any comment on the main proposition for later and concentrate solely on this amendment, which is about requiring the National Trust to pay back any money that is spent from the taxpayer. First of all, I have to congratulate the National Trust on a very slick and effective campaign that they have produced. **[Approbation]** But when I first heard the Chief Minister say what he proposed I did in fact at the time, have lots of questions going through my mind but one of them was about his sanity. In the light of the current recession and the repeated and harsh cuts to public services and to States spending, one has to doubt whether this was the appropriate time to bring forward an additional spend. On the top of my notes, we have heard today, I have got 2 words and the first one is prioritise and it seems to me we have a very clear mechanism by which we prioritise spending and tax-raising in this Chamber and it is called the Medium-Term Financial Plan. We have just been through it within the last 6 weeks, it seems like yesterday. We are told time and time again that these priorities were the ones that we were settled on. We were not told that within an 8-week period the Chief Minister would be back with some

more spending, from where I do not know but he was going to do that. It seems to me that that was to negate what we had been doing over the Medium-Term Financial Plan. The second word I have got on my sheet here - and I am not sure if I know how to spell it, and I had to look it up in the dictionary - and it is called compromise because my initial reaction was to say I could not possibly support the Chief Minister's proposition at this time, absolutely no way. Then the thought came to me, what might I be able to support? The answer came to me and I have discussed with several Members in the States and suggested I cannot accept that we spend, at the time it was upwards of £8 million on this particular project and now I cannot tolerate it. But I might be able to support and consider a loan because eventually that money would come back and that we could spend it on what I consider to be the real priorities of spending that we have already decided and which we will see coming forward. That is a possibility and I was encouraged by several Members to lodge this amendment. Despite the slick campaign though, over the weekend, for example, I was receiving 50 per cent of emails for the purchase of Plémont and approximately 50 per cent against. It was coming in, literally, like that, one for, one against, one for, one against. Since the weekend, however, my inbox is clogged up with people saying: "You do not dare let them spend this money" and the proportion is about 9 to one.

[15:00]

It is 9 to say do not spend this money, do not dare. Certainly the impression I have got and certainly on the street - I have never been stopped so many times on the street, my hand shook, my hand is aching from shaking their hands - "Thank you for the pension rise, well done, mate. Don't you dare spend that money on Plémont" and that has overwhelmingly been the reaction of people in my constituency. I think I may be on the right track. Just to illustrate what I feel I just want to use 3 of the 4 quotes I have got on my proposition in the report and the words, I think, are the Minister for Treasury and Resources' words initially and he says: "It is crucial to keep recurrent public sector spending under control so that the Island can remain competitive with relatively low levels of inflation. If the States are to provide sustainable services to the public it is fundamental that we take account of the economic outlook." The economic outlook is not looking any brighter than it has done for the past few years. It then goes on: "Be prudent in our spending plans, ensure that savings and efficiencies are implemented and not increase public spending unless it is matched by savings or additional income." That is the reality. Those are the words of our Minister for Treasury and Resources in discussing the Medium-Term Financial Plan: "Be prudent in our spending plans, do not increase public spending unless it is matched by savings or additional income." Yet, here we are, 8 weeks on from the Medium-Term Financial Plan, planning to spend some more money funded from where, we do not know. The words of the Chief Minister, and here I must question what is happening in this House because I question the motivation of the Chief Minister in putting the Chief Minister on his proposition. I believe the more appropriate thing to have done was to put his own name, Senator Gorst, on the proposition and to bring it as a Back-Bencher. **[Approbation]** The fact that we are spending money on this particular campaign, it seems to me, is a quite doubtful process. But, nonetheless, I do share, to a certain extent, the sentiments of the Chief Minister on the desirability of restoring Plémont. He says: "It is hoped that few Members would disagree that in principle it is desirable and in the public interest that the Plémont Holiday Village and adjacent land should be restored to nature" and in principle I absolutely agree with him. However, I cannot agree with him when he goes on to say: "There is, of course, a balance to be struck between the desirability of achieving that end and the cost to the public purse of doing so." That is precisely my point. I do not believe the Chief Minister has got the balance right. In terms of the body of this amendment it seems to me that even in the worst case presented by the Assistant Chief Minister, the £4.5 million of taxpayers' money, it seems to me, that over a 10-year period it seems that it should be possible for the National Trust, which has shown remarkable agility in raising something like - I hear it keeps going up - £2.9 million, I hear

now, over the next 10 years if it is truly the will of the people that we should restore Plémont to its natural state, then almost in a way of a plebiscite, if that is the will of the people then the people will find that money. Fundraise like billy-o and achieve your aims but do not expect the taxpayer at this time to pick up the bill, that money has to come back in. Just like a plebiscite if it is the will of the people it will happen. If the lower ends of figures are to be trusted then we are down to something like £3 million to raise, £3 million over 10 years. Going on the track record so far it seems that might well be within the National Trust's capacity to do so and, in that case, I think we can safely support this amendment. I maintain the amendment.

The Bailiff:

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

7.3 Plémont Holiday Village – acquisition by the public and sale to the National Trust for Jersey (P.90/2012) – second amendment (P.90/2012 Amd.(2)) – amendment (Reduce lodging period)

The Bailiff:

Very well, Deputy Maçon, you have lodged an amendment to the amendment. It cannot be taken today unless the States can bring it in Standing Orders. Are you going to ask them to do so?

Deputy J.M. Maçon:

Yes, Sir, I would maintain and ask them to consider that option.

The Bailiff:

Do you want to say why?

7.3.1 Deputy J.M. Maçon:

Certainly, Sir, yes, thank you. I was not quite sure whether I should fire obviously into my amendment because we are just talking about shortening the lodging period initially. I do apologise for the lateness of the amendment. I did try to get it out Thursday but it did not quite go to plan. I am asking Members to consider that they may wish to give the States the option to debate the possibility of amending Deputy Southern's proposal from 10 years to up to 50 years in order to repay any loan, if the States feel that is agreeable. The reason why I am asking the States Members to suspend the Standing Orders is that we must consider the urgency of this particular debate. I think with the amount of build-up and everything that has occurred this is clearly a very important and urgent matter that we do need to consider and consider today. I do think that we should do that properly. We are asked to consider whether if we did not do this it would be prejudicial to Jersey and its people. This whole debate is about how important this land is to Islanders. It has potentially got a huge amount of money to the public purse to go along with it. I will maintain that I think it is very important that we should at least be able to consider the option and if States Members decide that that is not the route they want to go down then that is for the States Members to decide. But I do not think we should be cutting off our noses to spite our face by not allowing this to go ahead. I have put my point across and it will be for Members to decide whether they want to allow the suspension or not.

The Bailiff:

You are requesting Members to take it because you say that the amendment relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay the debate. Is that seconded? [**Seconded**]

7.3.2 Deputy M. Tadier:

Can I speak very briefly on why I think that is the case? Clearly, because we do not know the outcome of this debate today I think many of us agree that Plémont should be safeguarded in one form or another. This may be the only way to do it, we do not know yet, I am sure it is not and I think that Deputy Maçon's amendment does give that extra leeway if we do want to go down the road of Deputy Southern's amendment. It gives much more leeway to the National Trust to do that. I will not debate the pros and cons of that but I think it definitely does meet the criteria to lift Standing Orders, which we have done on past occasions for Ministers quite rightly.

The Bailiff:

Just to be clear, it is not to lift Standing Orders, it is to bring in the matter within Standing Order 26.

Deputy M. Tadier:

Thank you, Sir.

7.3.3 Deputy G.P. Southern:

I do not believe this particular instance. We have a solution in front of us. I do not believe it is a matter of urgency that something which almost negates the principal of the loan, 50 years is a very long time, should be heard. I believe we are far better off taking something realistic in a 10-year period and getting on with the matter.

7.3.4 Deputy A.K.F. Green:

I would urge Members not to agree to bring this within Standing Orders for 2 reasons, an amendment to an amendment only requires a week's lodging and if it is that important and that urgent I cannot understand why my good friend, the Deputy, on my left here did not get it done within the week. But also I have done something quite unique and spoken to the National Trust about something similar, it is a pity the Deputy did not. This would not be particularly helpful to the National Trust, this clouds the issue and gives them a much longer period. They have got lots and lots of things to do and I have got a lot more to say if I speak in the main debate. I urge Members not to bring this amendment within the Standing Orders.

7.3.5 Deputy J.A. Martin:

Yes, I will be very brief - and I know he is not that nervous a States Member - but in the last year, just put it this way, depending on whatever is going to happen in Jersey and they have all come from the Ministerial benches and we have allowed a day here, a day there, even a week in some cases, so I would allow the amendment. I have a question on the actual proposition because any loan between Treasury, the Minister for Treasury and Resources will know when you make a loan and it is in the proposition for the new loans for deposits, any loan that the Minister for Treasury and Resources makes to anyone under the Public Finances Law is for a maximum of 20 years. I just wonder if this can even be debated because I do not know where it is coming from, if the Minister for Treasury and Resources could answer that.

The Bailiff:

We are just discussing whether the time should be abbreviated to allow Deputy Maçon to bring it, so perhaps Members can restrain themselves unless they have something important to say.

7.3.6 Deputy T.M. Pitman:

I just really want to echo Deputy Tadier's speech and, indeed, I have that query that Deputy Martin has but if it is at all possible I would support that we allow to bring this because 2 things, in 50 years' time I mean Plémont might be worth even more because sea levels are going to rise with

global warning apparently. The other thing is that Deputy Maçon is going to be the only one of us still in the States to pick up the tab.

7.3.7 Deputy J.H. Young:

I would advocate that we should allow this because we do not know the result of this debate and I think Deputy Maçon has put this forward in a strong interest of public interest in trying to find a solution. I think it is a proposal to shut the door and be able to consider what may turn out to be a possible way out of this situation. I think it is premature. We should give Deputy Maçon a chance and have that debate.

The Bailiff:

Very well, do you wish to reply, Deputy Maçon?

7.3.8 Deputy J.M. Maçon:

I thank all Members who have spoken. I appreciate that there will be strong views on either side. I will only make the point again, what is in the Island's and what is in Members' interest? Surely that is to have all the options before them and let them consider that and if they disagree with it then vote against it, that is absolutely fine but they should have all the tools to their disposal I believe. I maintain the request.

Senator P.F.C. Ozouf:

Sir, just my point of clarification for the point that Deputy Martin made, there is not an issue in the Public Finances Law that I am aware of but a 20-year issue; that is a separate issue that is governing the loan deposit scheme, so it is not a relevant factor, if I could say to Deputy Martin.

The Bailiff:

Thank you. Very well, the appel is called for then. If you wish Deputy Maçon's amendment to be taken on the basis that it comes within the Standing Orders you vote pour, if you do not you vote contre. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 32		CONTRE: 17		ABSTAIN: 0
Senator P.F.C. Ozouf		Connétable of St. Helier		
Senator A. Breckon		Connétable of Trinity		
Senator S.C. Ferguson		Connétable of Grouville		
Senator A.J.H. Maclean		Connétable of St. Clement		
Senator B.I. Le Marquand		Connétable of St. Peter		
Senator F. du H. Le Gresley		Connétable of St. Mary		
Senator I.J. Gorst		Connétable of St. John		
Senator L.J. Farnham		Connétable of St. Brelade		
Senator P.M. Bailhache		Deputy R.C. Duhamel (S)		
Connétable of St. Lawrence		Deputy G.P. Southern (H)		
Connétable of St. Ouen		Deputy of Trinity		
Connétable of St. Martin		Deputy E.J. Noel (L)		
Connétable of St. Saviour		Deputy T.A. Vallois (S)		
Deputy R.G. Le Hérisseier (S)		Deputy A.K.F. Green (H)		
Deputy J.A. Martin (H)		Deputy J.P.G. Baker (H)		
Deputy of St. Ouen		Deputy of St. Mary		
Deputy of Grouville		Deputy R.G. Bryans (H)		
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				

Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy T.M. Pitman (H)				
Deputy M.R. Higgins (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. Martin				
Deputy of St. Peter				
Deputy R.J. Rondel (H)				

7.4 Plémont Holiday Village - acquisition by the public and sale to the National Trust for Jersey (P.90/2012) - second amendment (P.90/2012 Amd. (2)) - amendment (P.90/2012 Amd.Amd.(2))

The Bailiff:

Very well, we will now ask the Greffier to read out the amendment of Deputy Maçon to the amendment of Deputy Southern.

The Greffier of the States:

Page 2, Amendment 1 - in the proposed new paragraph (a) for the words “of 10 years” substitute the words “of up to 50 years as agreed between the Minister for Treasury and Resources and the Trust during the negotiations and at a rate of interest agreed between the Minister and the Trust”.

7.4.1 Deputy J.M. Maçon:

I certainly must begin by thanking Members who did support that, that is very kind of you. I do appreciate that, thank you very much. To move on to this specific matter, first of all I believe that Deputy Southern should be congratulated for bringing forth his amendment and I do think he has made a lot of valued arguments in what he has said. The only difference, in my opinion, is that I do not believe that if the States Members are to agree this, they should not be so restrictive.

[15:15]

What I have asked for is up to 50 years. The reason why I have phrased it in that way and having just put 50 years is because this amendment does not rule out a 10-year, a 25-year, however long a period is deemed to be desirable. It just gives that scope and allows that flexibility. But why is that important? I believe that is important because, yes, absolutely right in the words of Senator Bailhache: “This States Assembly needs to take a long-term view.” If we are to acquire this land for the posterity of the Island for Islanders until... Deputy Pitman pointed out we might be eroded into the sea, then we do need to take a long-term view and think outside the 3-year cycle of elected States Members. We must also consider that the National Trust is a charity and I do not think it is reasonable to impose 10 years on a charity. I do think that they should be able to negotiate what is appropriate and what they can do. I do think and I agree tremendous work has been done, in what the National Trust has done so far in the money that it has raised and I think they are to be commended and praised about it. I think it is absolutely brilliant work and, on behalf of many Islanders, I would like to thank them for their efforts. But at the same time I, like many other Members, have been contacted by constituents from Islanders who hold... I am not going to say polar-opposite views because there has been a spectrum of views to those who feel that any price for buying Plémont is worth it, to those who think that it should be purchased but within a certain framework, within limits, those who are indifferent, those who are very much against and those

who think... I have had an email that just repeated the words: “Never, never, never, never, never, never buy Plémont”, I think some other Members have had it. All Islanders, all our constituents, need representation, all of them have valid arguments and have valid points of view that I and the States Assembly need to listen to and need to respect. That is why I think it is absolutely right that the compromise that is being proposed is the right way forward because we need to be able to bring all of our community with us and not have the division, which I believe the original unamended proposition may result in. I will add in now, we do also have to remember that, yes, we have got responsibilities to the people of the Island, to the taxpayers but we do have also responsibility for other creatures that live on this Island. I think, again, it is looking at that long-term view. It is looking at other beings that we have responsibility for that we need to show stewardship for and in order to do that we need to produce a practical proposal. I do not think, by restricting it to 10 years in and of itself, is good enough, which is why I have lodged my amendment and ask Members to consider it. Members might query why I have included the rate of interest; I have simply done that for good order. If, with the negotiations that the National Trust has deemed that the public contribution should be zero per cent, then that is one that can be made because we do not want, in real terms, any loan or negotiations to be eroded or we might say: “Because that is the public interest, that is the public contribution, we are willing to take that hit.” I have just added it in there so it can be discussed, as I am sure it would be anyway but it is just to highlight the point. Another reason why I do not think 10 years is possibly enough is because we are currently in recession and, despite the views of some other Members, I think we are going to be in it for at least a short to medium term, so 3 to 5 years, if not longer. The issue with that is we know that charitable organisations struggle - and they are suffering now - to reach the required amounts. In the paper recently we had the issue of the soup kitchen that was not able to raise as much as it had done in previous years until someone had stepped in. We know that charities at the moment are struggling because we are in the recession. Is a 10-year period long enough in order for them to pay anything back, when we do not know what the figure in the long run is going to be? I do not think so, which is why I think we should give more flexibility to this proposal and I think almost the maximum of half a century is reasonable. It is something that the Island and the Minister for Treasury and Resources can work with. Also, I think we have got our responsibilities to the trustees and the National Trust. They have got to manage how they are going to do things. Again, is a strict arbitrary 10-year period sufficient? Is that good? I am not convinced at the moment. In the grand scheme of things this is a minor thought for Members to consider and I am thankful that Members have allowed themselves to be able to consider this. I make the amendment.

The Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment?
The Connétable of St. Mary.

7.4.2 The Connétable of St. Mary:

Just briefly, I voted against pursuing this because one of the reasons was that obviously the point of the Standing Order on lodging is to give us all a chance to make the necessary background research *et cetera*. I have not had time to do that, so I can only rise to ask the questions I would have asked, perhaps of the Trust or perhaps of someone else, to Deputy Maçon himself. I was quite concerned to hear Deputy Green say that he had been in contact with the National Trust and that this amendment would not be of any benefit to them. I would like to ask Deputy Maçon what communication he had with the National Trust to discuss this and how he feels that this amendment benefits the Trust’s position over and above what is already on the table?

7.4.3 Deputy R.G. Le Hérissier:

Yes, I speak as a member of the Trust. I was going to ask the same question as the near neighbour of the Trust, the Constable of St. Mary. Have Deputy Southern and Deputy Maçon spoken to the Trust? The other question I would ask, which is germane to the bigger proposition and where I think it is lacking, is it an analysis of the different financial options? I would have thought, although the Deputy has done it with the finest of motivations, that rather than pulling figures out of the air at 50 and 10 years and so forth, these figures and these approaches and these methods, have they been analysed as to what is the best approach or what could be one of a series of approaches? Quite frankly, I do not see that homework having been done. The other point I would make, we will wait to hear if either of the Deputies have approached the Trust, I do have to say I think it is very unfair to put the burden on a body that has heroically whipped up the campaign, has maintained it. But in terms of a bureaucracy, in terms of structure, is very much a front of house organisation and has minimal, albeit heroic, management structures to deal with these issues. Just to put it on the back of one body, rather than, for example, there should be a pound-for-pound campaign or there should be a coalition of relevant bodies drawn in if we are going to look at a longer-term project, I think that would have been better. I think we are lacking some basic research but I look forward to hearing whether both parties have spoken to the Trust and what were the results of those discussions if they took place.

7.4.4 Deputy G.P. Southern:

The proposer to this amendment says that his proposal is practical and reasonable, I could not disagree more. It smacks, to me, of watering down the amendment to the point where it becomes not worth considering and reminds me of some of the sharper practices in some businesses where the people set up a business and then take a loan from it, nudge, nudge, wink, wink, knowing full well that that loan will never be paid back. 50 years just stretches credibility to beyond reasonable. But, on the other hand, this will make the rest of the debate very easy for me, if the House were to accept 50 years I could not possibly vote for it.

Deputy R.G. Le Hérissier:

Just on a point of order, I would say it was a bit of an attack on the integrity of the Trust to say that they have allegedly engaged in a process of considering a loan where they do not necessarily have any intention of paying it back. That seems a very strange...

The Bailiff:

I did not understand Deputy Southern to say that. Deputy Baudains.

7.4.5 Deputy G.C.L. Baudains:

When I first read this amendment I was heartened to see that, at least over such a long period of time, it did include interest because, as we all realise with inflation, such a large sum of money, in 40 or 50 years' time, will, in real terms, be considerably smaller. But what does concern me that while at this present time obviously quite a number of people are very enthusiastic about purchasing Plémont, I have to ask how long that enthusiasm will last? It seems to me that it could be, in a year or 2 or maybe slightly longer, that the Trust finds that its ability to bring in funds has declined and then I ask, what will happen then because I can foresee that probably a year or maybe 5 or 10 years down the line the National Trust will come back to the States and say: "We are having trouble paying the interest, the chances of repaying the sum altogether is becoming almost impossible and could we have the debt cancelled, please?" Because, let us face it, the National Trust are not exactly rolling in money and they have tried very hard to get the sums that they already have so far. I am not sure that they could meet the entire sum. If the figures that the proposer was bringing forward were realistic it might be possible but when I speak later on the subject I think I will be able to make it clear that the figure of £4 million, £5 million or so is totally

unrealistic. I cannot see that the National Trust would be able to cope with a debt probably 3 or 4 times that.

7.4.6 Deputy M. Tadier:

First of all, if I can also congratulate the National Trust - who I know, many of them are listening - for their fresh and clear approach. I think what they are experiencing today is... if I use the analogy of the water, their fresh clear water, when it hits the ground of politics and politicians becomes very muddy very quickly and the waters do get metaphorically muddied. That is not say that is disparaging in any way of the amendments that have come forward because, of course, politics is about political realities and economics, *et cetera*. Clearly, what we have here, is just a choice between, is it preferable to have a 50-year loan or a 10-year loan? I think, certainly, one good thing that Deputy Maçon does do is put the requirement for some rate of interest - which I would hope will be low if it were to be approved - a base rate that would be necessary. I also see it as being permissive, it does not have to take 50 years to be paid back, it allows 50 years for it to be paid back. I think it has been raised, perhaps I have heard mutterings, saying that, what happens if a future States Assembly decides to write off the debt? That may well happen but when I hear the argument that this loan may not get paid back or even if some of that loan gets paid back and then the States in the future decides perhaps to give a donation because it is in the public interest to the National Trust of a sum that is part or all of that debt that remains, that would not necessarily be a bad thing but it would also be better than what is on the table. I say better in the sense for those who oppose the public purchase of the land because at the moment if the land is purchased by the public the taxpayer will foot all of that remaining bill, apart from the funds that are being put in by the National Trust. Of course, in saying these remarks I am keeping my powder dry for the main debate. For me it is quite simple: do we go for a system that allows the National Trust in this scenario 50 years to pay it back or do we allow them 10 years? I think it allows greater flexibility. It allows people like myself, who, hopefully, might be around a few years' longer to join the National Trust, which I will do in the next month, to give an additional donation, which I have already given a nominal amount. But I am sure there will be people in my position who would be quite happy to fund this and there will be legacies, *et cetera*. I am not saying that is the preferred route forward but 50 years would allow more people to contribute, people who have not even been born yet but potentially to buy in and get a much more consensual approach. I think that is the attraction of this and I think certainly while a 10-year loan would perhaps see the repayments very much quicker, I also think that is an unnecessary burden on the Trust. I think, purely in terms of the amendment, the 50 years has to be preferable and I think those considerations should be taken into account.

7.4.7 Connétable M.P.S. Le Troquer of St. Martin:

I am not a member of the National Trust, not yet. We have heard Deputy Southern's proposition and I know we are going to get back to it later. It is commendable and has merit, showing an air of caution trying to save the public purse totally. We now have been offered a further alternative to the proposition by Deputy Maçon.

[15:30]

However, I do not believe the National Trust, an organisation that works tirelessly to maintain the Island's natural beauty and many historic sites, despite all the other essential work and valuable record to the Island's heritage, the National Trust just cannot be expected to find all the money that is required to purchase and remember to clear the site. What private organisation can fund such works and service it to the Island in the way that they already do? We are lucky we have so many charitable organisations and all the work they do on the Island, saving this Island many millions of pounds every year, whether it is in health-related issues, support teams and organisations, groups

working with our young people at youth clubs, sporting groups and the arts and the like. There is only so much goodwill you can call upon. The area at Plémont is not something that would be nice for the National Trust members to have by a group of individuals belonging to a private organisation. I believe it wrong that we would be seeking even more funding from private individuals who have already given so generously by way of donation and pledges, one organisation funding the whole of the Plémont site. I have spoken to...

The Bailiff:

Connétable, just to be clear, at the moment we are on whether to extend the period to 50 years.

The Connétable of St. Martin:

I accept that.

The Bailiff:

Some of your remarks seem to me to be more apposite for Deputy Southern's amendment.

The Connétable of St. Martin:

I am sorry. What I can say, the National Trust have not sat back and demanded from Government and expected it, and we have got to give credit where it is due. I know the word "slick" was used this afternoon. I do not think it was slick. We have also heard they have raised another £500,000 on top of the £2 million and committed to the £1 million already. I think they should be congratulated. I am not sure that the National Trust has had the opportunity to discuss the amended amendment with Deputy Maçon that is being proposed. As to whether they would be prepared to have a long-term loan for the entire funding repayable over a 50-year period and whether an option could be put with an amendment to the States to write off any excess amount, as we have heard this afternoon, if the economic situation changes. I am comfortable with both propositions and Deputy Maçon's obviously comes into it at this point, that we are asking a private organisation to fund this land.

7.4.8 Senator P.F.C. Ozouf:

I am just going to speak once on the amendment to the amendment, and the amendment. I am afraid I have not had the chance to research all the practicalities of a loan. I am not even sure that the States would not have to authorise the loan. I think the restrictions that Deputy Martin was raising are about loans that the Minister for Treasury and Resources can make without reference to the Assembly, so I cannot say to the Assembly that a loan would not be required back, if the Solicitor General can assist me that is fine but I think almost that is a bit of a sideshow. I supported Deputy Maçon's right to have this debate, surely because I thought that we just need to dispatch of it quickly. It asks the Minister for Treasury and Resources to extend the period of the loan for up to 50 years but I think it puts the Minister for Treasury and Resources and the Trust in an impossible position, if I may say. This is really about the shifting of the risk in terms of the purchase of it. Am I to agree a loan? Am I to start negotiations with the Trust to have a loan about income, a repayment schedule, security? What am I to do about income? The asset that is being bought does not have any income. Am I to take security on Morel Farm, The Elms, 16 New Street, Moulin de Quétivel? This is, I think, a bit of a sideshow. I think the real debate is whether or not the States is going to underwrite the uplift of costs that is at risk in terms of the cost that is estimated in the Board of Arbitration if it goes to compulsory purchase in the event of not having a debate. I do not think this is a realistic debate and I do not think it is a debate, in the remotest way possible, to take forward if we could because I do not think it could be reached realistically.

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

Yes, obviously this is an amendment to an amendment to the proposition, so I will try and keep it contained on to that. As far as I am concerned, I am not entirely sure if I will be supporting Deputy Southern's amendment at this stage, however, I think Deputy Maçon's amendment is an improvement on that of Deputy Southern's. Therefore, on that basis I can support Deputy Maçon's amendment at this stage but I am reserving my position when we get to the next level of the debate. To be blunt, a lot of people said it is for 50 years. My understanding is the intention was to give the Minister for Treasury and Resources, subject to the caveats he has just made, the flexibility to decide a period to negotiate - that is with all the caveats we have heard - whether the National Trust will even go down that line, for a period of up to 50 years, so that could be 11 years. But I think probably Deputy Maçon's amendment gives flexibility compared to Deputy Southern's but I am not too sure where I am on Deputy Southern's amendment or not.

7.4.10 Deputy M.R. Higgins:

Just a few comments with regard to Deputy Maçon's proposition, first of all his motive. I was in the States Chamber yesterday with other States Members when we were discussing this whole issue. There is no doubt that this Plémont proposition is exceptionally divisive, not only divisive within the House but also within the Island. The States Members concerned were looking at ways we might be able to satisfy both camps in a sense. One, there is the desire to preserve Plémont; no one likes the idea of developers getting a piece of land and developing it and we would like to preserve it for the future but the other part of the argument is it is an awful lot of money. I know we are going to have debates later on today about how much money and nobody really knows is the answer because I am sure we are going to end up going down the compulsory purchase route and it could be any figure. Any States Member who votes for compulsory purchase has got to be prepared for even the highest possible figure. You all hope it is going to be the lowest figure but it may well be the highest figure and you have got to be prepared for that because once you have gone that way you have done it. Coming back to Deputy Maçon, the motivation here was Deputy Southern's amendment was a way of trying to get around this, but, by giving a loan to the National Trust, it enables the money to be repaid over time. The idea would be then, yes the States are funding it initially, but the money is coming back; money that we can then plough into the economy in the years going forward. Now, a number of Members were concerned that 10 years was too short. Personally, I thought 50 years was too long. Ten years, to my view, could be extended. There is no reason why the States, after 8 years, if the National Trust were having trouble, could not bring the matter back and then say they need additional time or even that they cannot meet the whole of it, can you reduce it slightly? It is for the States at that time to decide. But the point was that Plémont could be saved but the public purse was not dented permanently. So that is what the motivation was. Now, people were talking about 20 years, or whatever. As I say, I personally will not be supporting Deputy Maçon on this although I think his motivation was correct because States Members were trying to find a solution. What it does do though is kick the problem down the road, but 50 years down the road. In other words it is not making a real decision because they are hoping at some point that the value has been eroded or the States will change their mind or whatever later on. But the money has already been paid out. To my view, the reason why I would oppose 50 years is a lack of incentive. If you do not have to pay for 50 years, are you going to go out fundraising trying to encourage the people who would normally leave in their wills money to the National Trust or to have fundraising campaigns to raise some money? No you are not, because it is down the road. You have got to have some incentive to raise the money in a reasonable period of time. Now, they may not be able to do it in 10 years, but again, some States Member can come back at that time and give an extension if necessary. So what I am trying to say is I agree with the motivation behind this because it was an attempt to find a genuine solution to this problem, which, as I say, it has divided the Island. It has divided my family, I will say that much. We are split down the middle on it and I would rather try and find a solution to this but I will be making my

point clear where I stand on the issue later on, but the point is 50 years is too long. Ten years with an extension, I think will be fine.

7.4.11 Deputy J.H. Young:

I certainly was party to conversations with Deputy Maçon and I encouraged him very much in coming forward with this proposition and I think it is very disappointing that the Minister for Treasury and Resources has said that he sees this as a side show and Deputy Higgins that it is kicking the can down the road. I do not think it is. I came into politics knowing, believing, that this Island works as consensual politics. What we have seen in recent weeks is a hugely divisive debate which has split our community. Now I certainly look for solutions and, at the end of the day, those solutions have got to be equitable for all parties. Members know how I feel. I feel that the housing development on Plémont is absolutely the wrong place and we have got to get really passionate at finding alternatives to it. I think there is no question to me, I sort of asked myself looking at Deputy Southern's proposition: "Does this help us?" and I think the problem is, one has to view it with treating the National Trust with respect. A tremendous organisation, 70-plus years in this Island, not a penny of public subsidy, caring for open spaces all over the Island and obviously they have raised phenomenal amounts of money. Now, I think there must be an opportunity if the community has responded so positively so far that they would respond to further requirements but they need time to do it. I was thinking if I was a trustee of the National Trust, what would enable me to come up with a way of finding a commitment one could go forward with and I think that is why the proposition leaves it for the Minister for Treasury and Resources. It does not say it will be 50 years. It says: "For it to be agreed between the National Trust and the Minister for Treasury and Resources and include the rate of interest." So Deputy Higgins says: "Well, there is no incentive." Well, there is an incentive because there is the interest element in there and so I think it is a formula for providing certainty. If all of us are confident about the compulsory purchase figures, then we try to apply those to the potential annual costs. If it is 10 years, it commits to the National Trust to £250,000 thereabouts per year. That is a lot of money for an organisation and I think therefore, Deputy Maçon, moving away from that figure, leading us to a more negotiable position is a good thing. Now, I certainly did speak to National Trust representatives this morning about it. They were not aware of the proposition and they can be forgiven because it was not published. They looked for it on the States website, it was not there, so they cannot be criticised for that. We do not have any comments from the Minister for Treasury and Resources on Deputy Southern's amendment so what are we supposed to do? So I think we should not dismiss Deputy Maçon's proposition lightly. The formula is there. I think if I read the amendment correctly it would result in that there would be no transfer of the land once the States acquired it to the National Trust until that agreement had reached. That strikes me as being a measured process of discussion and agreement between the Trust. Now, in an ideal world, we would not have got where we are now. This should have been a negotiation, there should have been discussions but it has not happened. So I think this proposition, this amendment, does allow us a way of preserving the principles of sound public finance, that we are saying it is a loan. It is not saying you are never going to pay it back, that is nonsense, because there is an interest commitment in there. There might even be people around who would like to have their names on the new fabulous headland at Plémont by bequest and whatever. Who knows? So there are potential opportunities there and I would really very much like to see the door opened to those possibilities and not be closed by the loss of this amendment, so I support this amendment.

Deputy G.P. Southern:

Can I ask the Chair on a matter of procedure, Sir? This is an amendment to my amendment. If it is amended, as Deputy Maçon suggests, which I consider makes it unrecognisable as my amendment, am I then free to withdraw it?

The Bailiff:

No, you would have to get leave of the Assembly to withdraw it, which I presume you might not get if they have carried the amendment to the amendment.

7.4.12 The Connétable of Grouville:

I am following on really on what the Minister for Treasury and Resources said. When you are dealing with loans and loans on property, there are 4 elements that come into it. First of all is the capital involved; that is very, very important. Then the interest rate you are going to have to pay and then the term you are paying it over. In addition to that, there is a security involved. Now, in this particular case, I do not see how the National Trust can react to us even if we pass this because they have no idea what the capital is going to be. Since we have no idea what the capital is going to be or what the interest is going to be, it is a meaningless debate at the moment. We are not going to get anywhere until we get the result, if we go that far, of the compulsory purchase amount, then there is absolutely no point talking about this. It is not going to happen.

7.4.13 Senator I.J. Gorst:

Perhaps I should start with a little bit of the history of the National Trust proposing that they would raise £2 million and therefore pay £2 million for the site.

[15:45]

We have got to remember at that point they came to that decision based on what was perceived to be a pound for pound matching based upon the valuation that they had. So a number of Members have said that they feel that the balance of a loan of 10 years or 50 years is not appropriate. But I think that it is appropriate and I think that the more recent valuation, which has been acquired after planning permission has been granted, shows that that is an appropriate amount. I should also say of course that Senator Bailhache and I had further conversations with the National Trust to see whether they were able to increase the amount that they could raise or pay for the site and Senator Bailhache has made comment about the potential for extra money in his opening speech on the proposition this afternoon. So I think that we can satisfy ourselves that the National Trust are playing their part and that part is a very full part when it comes to returning the Plémont headland back to nature. I think that Deputy Baudains made a very pertinent point in his comments that if we were to ask the National Trust to pay for the full amount of a loan, be it 10 years, or in the case of this amendment, 50 years, while they might have found it relatively easy, and it may appear that way although I know that it is never easy to raise the sums of money or the commitments and pledges that they have raised. While it might appear that that is the case, once our debate is over and the derelict building has been removed, I think it is fair to say that it would generally go from the public's consciousness and it would be far more difficult to raise money in the future, be it 10 or 50 years down the line. Not to mention all of the concerns that the Minister for Treasury and Resources rightly outlined about the security that he would have over such a loan. So I think that timing is a very important point. It seems to me that this argument has started to take place in the realms of the National Trust's wish to buy this land and therefore we should make them a loan for 50 years in order to allow them to buy the land. While the National Trust has been very vocal in saying that the land should be protected for future generations and, while I support that, the reason that the negotiations took place with the National Trust and the reasons that we are proposing to sell it to the National Trust is simply because we believe that they are the best custodians for the future of this site. Therefore, I do not think it is fair to frame the argument in the way that it has been framed with regard to a 50-year loan. They are the best custodians for the future of this site and therefore I think we should be grateful to the National Trust for the pledges that they have received, the money they have already garnered towards the cost because it means that the taxpayer, should we approve this proposition today, will have a lesser liability than they would have done under

other circumstances. So I do not believe that a 50-year loan is appropriate and I ask that Members do not support it.

7.4.14 Deputy J.A. Martin:

I see we have the comments now, which again, I echo the comments of Deputy Young. Where have they been? I mean, we were told at the Town Hall not to support any of the amendments and this is a quite clear amendment. You have to read it all together. The 50 years, really the 10, but what it replaces is the original proposition as (a) and then you renumber all the others. So you have got a decision here whether or not we loan the money to the public, the National Trust, over 50 years. Now, I have just heard the most amazing comment that once the buildings are gone, the land at Plémont headland will be of no further interest to the public and you will not get any more money for it. Well this is not why you are standing here today because I am told that there are going to be busloads of us running up there. I am absolutely amazed. I do not think I am going to support this because 50 years... and I do recognise the National Trust are exactly what they are, and a lot of this money is that, you know, good pledges and I asked what a pledge was and they said it is a binding contract with someone who pledges money. Well, I could pledge as much as I like. Now whether or not I could pay up at the end of the day, no, I probably could not. So I pledge maybe £10 or whatever, if I wanted to. But I did not pledge anything because I would not pledge any money to buy this land. But I just want to also make the point about what are we buying? Because at the Town Hall - what is the National Trust doing at the Town Hall? - They started to talk about the lower Plémont headland, which is already in our ownership, so I get slightly confused. But there is an easy option here. What Deputy Southern was trying to do in his amendment was say: "Yes, this is a way we can do it. The taxpayer will not pay because..." We can believe who we like. We can believe the developer that it is going to cost £14 million. We are going to believe Senator Bailhache that it is no more than £4 million. Let us pick a number in between and say that that is what the public is going to pay. Now do we want the public to pay? Have I got a mandate to say: "Right, you said to me, over everything else, put my taxes in Plémont." No, I have not. This gives you an option of a loan. So you decide whether it is 50 years or up to 50 years. It is clearly up to 50 years and, you know, I think that is probably a bit too long. But you either agree that the public want you to spend their money with no comeback and you do not support this amendment and you do not support Deputy Southern's amendment, and that is clearly what the Chief Minister is saying and the Minister for Treasury and Resources is saying. They are making up excuses that a loan cannot be possible. What they mean is they do not want it. They want the public to pay. So do not support this. Even though it is only going to cost £4 million, when we get to Deputy Baudains debate, do not support that either because he has limited it to 8. So I am very sorry, to me it is quite straightforward. Who pays and over how many years? 50 or 10 or somewhere in between, to which Deputy Maçon does agree. I just do not want to get into this because I do hear the figures that they probably will not be able to pay and anybody who has dealt with any charity, who is backed by the States, who owes money to the States, comes back 4 or 5, 10 years, 15 years down the road and says: "Sorry, gov. I have not got the money", and we go: "Here, go write it off." So I need to be sure and I am sure that the public do not want me to spend this money and I am not sure the National Trust will have it over 50 years, 20, 30 or whatever. So I probably will not support this.

7.4.15 Deputy S. Power:

Just for the sake of clarification, I have been a member of the National Trust for 3 years, definitely maybe a fourth. This is the first time in this Chamber in 7 years that I am discussing something we do not know the figure and we are debating the term on that figure and I find myself wondering this afternoon whether I am in a parallel universe because there is no reality to this at the moment. Deputy Maçon's amendment to the amendment says in the bottom paragraph on page 3: "The

financial implications are such [we do not know them] that if the States are able to negotiate a repayment programme with the National Trust [and we have got no correspondence from the National Trust], they may find themselves in a better financial position, though there may be additional costs to what is stated in Deputy Southern's amendment." I take my hat off to Deputy Maçon; that is such a creative paragraph. It is unbelievable. You know, I did some figures here that if, for instance, excluding interest, it was £4 million over 50 years, that would be £80,000 a year. So excluding interest that would be £7,500 a month for 50 years plus interest. So we would be saying here today, were we to support this, that we would be committing the National Trust, without any information from them, for £7,500 a month. I do not know what their cash flow is like; I have no idea. The Constable of Grouville's speech was apt and to the point. We are dealing in amorphous, vaporised information here. The figures are not there and I am really praying and hoping that Senator Maclean says something about this, because he is the only resident expert in the House that may be able to throw some light on where we are going. So with all due respect to Deputy Maçon, I voted for him to be able to present this amendment to the amendment, but I cannot possibly support it.

7.4.16 Deputy A.K.F. Green:

This is a well-meaning amendment to the amendment, but it is fundamentally flawed because if you are going to commit an organisation to 50 years, 10 years, I will confess on 3rd December, I considered bringing a similar amendment and I wrote the amendment and I spoke to the Greffier and he would confirm that if you wish to ask him. But I did something unique. I spoke to the people it might affect as well and they advised me that while they accepted that my amendment to the amendment that I did not bring was well meaning, it would put a very difficult burden on them. You have only got to look at the accounts to see that currently they are running at a deficit. We know what we want to do with Plémont, what we do not know is what is around the corner in terms of other things that we might like or the Trust might like to get themselves involved, and we are going to tie them to this loan without discussing it with them, without asking them if that is what they want. Well, I have asked them. It is not what they want. Reject this amendment.

7.4.17 Senator F. du H. Le Gresley:

I would like to follow up on Deputy Green's very lucid comments there. I have got the accounts of the National Trust in my hands, which were available to States Members if they cared to download them, and in the introduction the President says, about the finances: "Last year's report highlighted the precariousness of the Trust's financial position and it is sad to report that nothing has changed in the year. The Trust continues to run at an annual deficit in excess of £250,000 and is considering the sale of a long lease on La Ronce in St. Ouen, which I believe is for sale at around about £700,000, in order to release much needed cash resources to address the repair backlog on its bequeathed and gifted property which are currently just under £3 million. I used to be a banker and if I was the banker for the National Trust for Jersey and I was to offer them a loan of £4 million or £5 million on this balance sheet, I would probably lose my job.

The Connétable of St. John:

Given the nature of the debate, Sir, can I propose we move on to the next item?

The Bailiff:

That will not work, Deputy. We are in the midst of an amendment.

The Connétable of St. John:

I am aware of that, Sir. That is why I am asking the question. I just had a quick look at the Standing Orders and it does not mention anything about the amendment. Could you just check the Standing Orders, please?

The Bailiff:

To move on to the next item of business, that would mean that we would go back to Deputy Southern's amendment without... well, we have had a few Members but we are about to come, I suspect... I do not see any other Member wishing to speak. Very well, so I call upon Deputy Maçon to reply.

The Connétable of St. John:

So officially that is no then, Sir? [Laughter]

The Bailiff:

That was a lawyer's way of saying no.

7.4.18 Deputy J.M. Maçon:

May I thank all Members who have contributed to this debate and I am certainly up against some tough opposition. I understand that but I want to re-emphasise the point where we started, which is, we have a responsibility to everyone in our community. We have to give representation to everyone within that spectrum and that is why I brought my amendment. Many Members have asked whether I have had the opportunity to speak to the National Trust about this. The honest answer is no, I have not been able to. That is obviously very clear, as I have had to put in my amendment very quickly. So there is that. Deputy Green commented that he did contact the National Trust to discuss a similar proposal and they replied that it put them in a very difficult situation, a very difficult burden. That is not necessarily though impossible, which is to be considered.

[16:00]

Again, I make the argument, we are in a recessionary time at the moment. Charities do struggle more often in recessionary times. It may be different when we have a more buoyant economy but we do not know when that might happen. I thank Members who have spoken in favour of my amendment. Again, to re-emphasise, some Members, such as Deputy Higgins and Deputy Martin have said: "We are very concerned because we feel that 50 years is too long." But as Deputy Tadier pointed out, this is permissive. It is finding a better mechanism in order to perhaps make this work. It does not necessarily have to be 50 years, it could be less than that, but it is finding something which might be workable, which might be 10 years, which might be the same as what Deputy Southern is asking. Senator Ozouf asked what method should be used and of course it is drafted that the Minister for Treasury and Resources go away and decide what best method to use, he is the Minister for Treasury and Resources; he has got all the officers at his disposal. I do not have that resource. I do not have that advice and therefore it is up to the Minister for Treasury and Resources to work that out and that is why it is worded as it is but at least it allows that flexibility. Deputy Higgins also made the point that if we agree to this, so far down the States might agree to wipe this out. If you go with the main proposition, unamended anyway, well that is going to happen and even if you were to go, say, with Deputy Southern's, there is always the possibility that any Member of the States in the future can bring a proposition to be asked for it to be wiped out. So that possibility remains. It is guaranteed if you go with an unamended version and it still remains whether you adopt my amendment or not. So that does not disappear, no matter what you do. I think Members have had plenty of time to consider this matter. I think that we need to find a compromised way in order to allow the community to get behind these proposals. The discussion

of what other funding mechanisms have been thought about, have been discussed are not there in the proposition. We are just left with what is here and, as I say in my amendment, had more Members discussed how this might go forward, perhaps we would not be presented with what we have and we might have something which more Members could sign up to. That is not a criticism of anyone, that is just where we find ourselves today. I just wanted to make this final point, and Deputy Martin made this point incredibly well, about why are we making all this noise about how important Plémont is and then all of a sudden people are suddenly going to walk away from it. I have had many emails from people who have said to me: “Please do not buy it, but I am more than happy to contribute in an ongoing way in order to allow the National Trust to buy this land.” So that is there and people are willing to make that commitment and I think it is an important point that Members do need to bear in mind. I thank very much Members for their patience and for their consideration. I maintain the amendment and ask for the appel, Sir.

The Bailiff:

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

POUR: 11	CONTRE: 39	ABSTAIN: 0
Senator A. Breckon	Senator P.F. Routier	
Senator A.J.H. Maclean	Senator P.F.C. Ozouf	
Senator B.I. Le Marquand	Senator S.C. Ferguson	
Connétable of St. Saviour	Senator F. du H. Le Gresley	
Deputy of Grouville	Senator I.J. Gorst	
Deputy J.A. Hilton (H)	Senator L.J. Farnham	
Deputy J.A.N. Le Fondré (L)	Senator P.M. Bailhache	
Deputy M. Tadier (B)	Connétable of St. Helier	
Deputy J.M. Maçon (S)	Connétable of Trinity	
Deputy J.H. Young (B)	Connétable of Grouville	
Deputy R.J. Rondel (H)	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 Hérisssier (S)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy S. Pitman (H)	
	Deputy K.C. Lewis (S)	
	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 G.C.L. Baudains (C)	
	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		

7.5 Plémont Holiday Village - acquisition by the public and sale to the National Trust for Jersey (P.90/2012) - second amendment (P.90/2012 Amd.(2)) - resumption

The Bailiff:

Very well. So now we return to the debate on Deputy Southern's amendment. Does any Member wish to speak? Deputy Southern's amendment in its original form. Does any Member wish to speak? Yes, Senator Bailhache?

7.5.1 Senator P.M. Bailhache:

Like Deputy Green, in relation to the amendment of Deputy... sorry, mental blank.

Deputy J.M. Maçon:

It is Maçon, Sir.

Senator P.M. Bailhache:

Maçon, thank you. Sorry, Deputy. **[Laughter]** Like Deputy Green's comment in relation to the amendment of Deputy Maçon, I was at one stage tempted by Deputy Southern's amendment because it seems on the face of it to reach out in some way to a form of compromise and I was sympathetic to it. But I am afraid that it does not work and it does not work for much the same reasons as were given by Deputy Green and Senator Le Gresley and the Constable of Grouville, to a certain extent, in relation to the last amendment. The Chief Minister and I did discuss Deputy Southern's amendment with the representatives of the National Trust and as a result of that discussion, as I mentioned in my opening speech, the Council of the National Trust has met and has agreed that a further £500,000 could be forthcoming in certain circumstances. But what the National Trust cannot do is to take the risk of causing financial embarrassment at best or ruin at worst, to the National Trust, and breaking the trust of all those who have given property to the National Trust over the last 60 years and entrusted their property to them, the National Trust. I am sure that Members who are directors of boards of companies or involved as trustees or involved in the management committees of charitable organisations will appreciate that such organisations have to behave responsibly. The risk involved in this case, of agreeing to an uncertain obligation, is just too great for the National Trust. It is not too great for the States for reasons that I have tried to explain earlier, and will return to, but it is too great for a charitable body like the National Trust. If one looks at Deputy Southern's proposition, there is another reason why it really does not work and at first I read it, I think, like Deputy Green. I read the amendment as suggesting that the Chief Minister and the Minister for Treasury and Resources were being directed or instructed or requested to go off and talk to the National Trust and to seek to arrive at some agreement, and as a result of that agreement then the transaction could proceed. But right at the end of Deputy Southern's amendment are the words: "And to agree that notwithstanding any decision to purchase the land made as a result of this proposition no steps to initiate the acquisition process shall be taken by the public until an agreement with the National Trust on the terms above have been reached." The result is to put a brake on the process of proceeding to negotiate with the owner or to acquire the property. Now, that is just not fair on anybody. Where does it leave the owner? The Minister for Treasury and Resources and the Chief Minister negotiate with the National Trust and the owner does not know where he is, he does not know whether in fact there is going to be an

agreement so that the States can acquire the property or not. Well, that, I think, is just not fair. So I think that if Members are persuaded of the merits of saving Plémont for future generations, and I suspect and I hope that most Members are in principle, the question for this amendment is whether the arrangement with the National Trust is fair. I will say that it follows a number of previous precedents where pound for pound agreements have been struck between the public and charitable bodies. About 35 years ago, some Members may remember that there was a plan to restore the ruins of La Rocco Tower in St. Ouen's Bay. The tower had been severely damaged during the occupation and it was falling into the sea. A group of people wanted to restore it and the president of the Finance and Economics Committee of the day agreed that if the public could provide £17,500 towards the cost of restoration then the States would put in the remaining £17,500. So fundraising was begun, money was raised and La Rocco Tower has been restored to the state in which we now see it. Another example with which I was closely associated is the Arts Centre and when it was hoped to complete the work on what is now the Benjamin Meaker Theatre £500,000 was required. The Finance and Economics Committee of the day again agreed that if the Jersey Arts Council could raise £250,000 then the States would put in the balance and that seems to me to be a reasonable approach. Both those projects had considerable public interest but the Finance and Economics Committee took the view that those members of the public who were interested should put their money where their mouths were and if they did then the States would put in some public money. Plémont is slightly different, crucially different, because of course it has not been possible to agree a purchase price with the owner and it is necessary to contemplate compulsory purchase. The result of that is to create uncertainty, and as I have said, that uncertainty is death to the assumption by the National Trust for this kind of obligation as suggested by Deputy Southern. I would like to say that the work done by the National Trust for Jersey in raising money for the restoration of Plémont, as Deputy Southern rightly said, a figure now of £2.9 million, is a quite astonishing and outstanding achievement [**Approbation**] and I, like the Chief Minister, would like to express my gratitude to them for really getting to grips with this problem in a way in which the problem has not been grasped for a good many years and making it possible for the headland to be acquired and restored. In summary, Deputy Southern's amendment is not one that the National Trust for Jersey can accept. No responsible body could put in jeopardy its future existence and its trust with those members of the public who have contributed land to them over the past 60 years. I say that Deputy Southern has instigated a useful debate and the principles of some sort of compromise are principles that I would like to return to in the context of the main debate but for the present I ask Members to reject the amendment.

7.5.2 Deputy A.K.F. Green:

Really my words are very similar to the amendment to the amendment. Deputy Southern's amendment is, I have no doubt, well-meaning and is trying to find a way forward. But most Members will know I sit as the National Chairman of the Headway Charity and I have to say that if this came to my board, given the accounts described by Senator Le Gresley, I think if the trustees were doing their job in the preservation of the organisation they would have to reject this loan. So they would not be able to fulfil their desire to protect Plémont, the desire of a lot of people, maybe not all the Island but a lot of people. This is well meaning, this is looking for compromise but it will not work and I urge Members on that basis to reject it.

7.5.3 The Deputy of St. Ouen:

I have got a lot of sympathy with Deputy Southern's amendment because I firmly believe that one way or another we must secure Plémont and not allow further development to take place. However, there are some issues that I have with some of the comments that Deputy Southern makes. He says yes, that his amendment is a compromise but he also adds that Plémont is not a priority according to his views. He then went on to say: "Well, we should be prudent in spending."

Well, I am afraid that made me smile a little because over the last months I have heard on many occasions Deputy Southern encouraging increased spending for various reasons and for good motives. However, in this case obviously he feels this is not one that should be...

Deputy G.P. Southern:

Would the speaker give way shortly? I mention prudence and cutting back on spending quoting the Minister for Treasury and Resources. Most of my propositions have been soundly defeated.

[Laughter]

7.5.4 The Deputy of St. Ouen:

Indeed I did support one of his propositions that was defeated last week. But he also says people will find the money, and that is again where I have got a problem with Deputy Southern and his amendment because I know that we can be forgetful at times but I remember quite recently that there was a certain Deputy and others that came to this Assembly and said: "We have got to deliver the town park. I know it is going to cost a lot, I know that some people would like to have a compromise and build houses on part of the site but no, it must be the whole park or nothing." Did he come and say: "Oh, but it is all right, the public will pick up the cost" and indeed, did even the public come forward and offer to pledge money to deliver that town park? I am afraid they did not. The reality is though, with this proposition, with the effort that the National Trust have made, they have encouraged and allowed members of the public to come forward and show their generosity and their genuine desire to support the States in acquiring something that is precious, unique and will secure precious land for future generations to come. That is why, that as much as I would love to support Deputy Southern's amendment, I cannot because I think that we do have a responsibility. We spend a lot of time talking about supporting tourism and more importantly supporting the environment and the quality of life that people enjoy. Yet when it comes to it we have States Members coming and saying: "Well, no. Let the public find the money." The public are finding the money. The reality is it is just not all of it. Thank you.

7.5.5 Deputy J.A. Martin:

I am sorry but I have to follow the Deputy of St. Ouen and the town, after the whole of the park and the Deputy of St. Ouen is not asking for the whole of the Plémont site, is he, you know, and it will cost the public nothing if they go: "Do not buy it today with the taxpayers' money." I cannot support Deputy Southern because I cannot see the National Trust... the National Trust does do a good job. I listened to Senator Le Gresley and, in summary, they are running at a deficit of £250,000, they have a backlog of £3 million work, they are going to sell off an asset of £700,000 and they keep getting ceded land over the last 60 years from Senator Bailhache, and I am supposed to give a loan over 10 years. I am sorry, they have got too much work on their hands and they are not going to pay this money back. I am not going to support... you know, everyone knows I am not going to support the proposition but I cannot stand here as a representative of St. Helier who has been to Plémont by the way, very often, and I have had Senator Bailhache offer to take me there. **[Members: Oh!]** I am frightened to go up there now in case they push me off the cliff with a package. **[Laughter]** But no, this is not a joking matter. I really cannot stand here... we cannot support Deputy Southern because at the end of the day nobody is going to pay. You can read the accounts and Senator Le Gresley read them very well... over how many years, 50 years, it was not supported, they cannot do it in 10. The whole proposition, going back to the old proposition, throw it out. The public do not want to... for the Deputy of St. Ouen to say: "Have them put the money in." They have pledged £2 million and perhaps now they have found another £500,000. But at what cost? This is the National Trust of Jersey not the National Trust of Plémont. I cannot have this. I mean, to me what have they been doing all this time with the land that the public already own? Absolutely nothing. There is not one cat or rat preventative up there and that is including

me. I can go up there any time I like. I am very sorry, this amendment, we have had enough on it. Those for and those against should have convinced everyone. The National Trust cannot finance a loan over 50 years so they certainly cannot do it over 10. I urge everyone to knock out this amendment and also a vote against the proposition. Thank you.

7.5.6 Deputy M. Tadier:

I think, like many Members, this is a position that I have agonised on, partly because there are so many interlinked areas of policy, economics and the socioeconomics of it which all seem to congregate, and of course perhaps there are going to be unlikely bedfellows in this debate when the final vote comes on this amendment or on the proposition unamended. So let me start off by saying that I completely know why this amendment has been brought.

[16:15]

It is because there are 3 positions I can see that exist in the Island. Obviously 2 fundamental positions; one is that the headland at Plémont should be returned to nature, the other one that it should be allowed to be built on. But of course there are 2 sub-categories of those who want to return it to nature that say the taxpayer should pay for the remaining sum, notwithstanding the part that has already been raised by the good efforts of the National Trust, and those who say that it should be done in this format. The reason that I have sympathy for this position is because we have an inconsistent message coming out from a very neo-liberal growth hell-bent Council of Ministers who on the one hand say that they want to preserve the Island's beauty and open spaces for future generations but on the other hand currently pursue a policy of growth whereby, for example, certainly in terms of population and in terms of their classical economics, believe that we always have to have a permanent system of growing the economy, which necessarily involves more consumerism and more cheap labour, and more labour to come over which threatens all of the Island, not simply the headland but including our urban areas which will be the first ones to see the urban sprawls if the population is to increase. We have already had an allusion to the town park and I am glad we do have a town park and I look forward to much more green open spaces in our urban and suburban areas. We have seen a position from the Council of Ministers which says we have no money, we have to impose essentially wage cuts on our public employees on the basis that of course that is happening in the private sector. We do not hear about the massive bonuses being paid to those at the top who are getting wealthier. It is a commonly known fact both in our area of the world and throughout the globe that the gap between the rich and poor is getting bigger and the acceleration in the gap between the rich and poor is getting faster and faster. These are issues which our Council of Ministers with their moribund policies, up until now I hasten to add, have not chosen to depart with. I do hold some hope that there is now emerging some green policies from the Council of Ministers which I think need to be backed up, and I can also understand that because we have a regressive tax system, we do not have a progressive tax system. Remember only last week we would not even allow inflation for those most wealthy Islanders, which is standard for the rest of us, basic inflation not to mention the fact that they pay much lower rates of effective tax which they can negotiate and ordinary people in the Island who would have to foot this bill cannot do. I completely understand the position of Deputy Southern. But what is my ultimate position on this? I know Deputy Southern does not like people speaking for his amendment and then potentially voting against. I may be in that unfortunate position today because not only was I elected on a strong manifesto of standing up for what I think are social rights, if you like, and a socioeconomic platform, I also stood on a very clear green platform. I have come to the conclusion that 2 wrongs do not make a right. Just because the Council of Ministers have not been pursuing the policies which I think, and many others think, are ultimately detrimental to the Island, of course that is a matter for political conjecture and it depends which side of the fence you are on. I also have to acknowledge, first of all, the fact that the National Trust have raised a great deal of money.

They are a charitable organisation. They have put much hard work in with this campaign which I congratulated them on earlier and they are custodians of public land, which does not ultimately belong to them, but they are custodians of it, like I said, and it will be accessed by the public and I have seen their great portfolio of properties which they open up for the public use. Now, okay, I could support this amendment if we said: "Let the National Trust give them a loan, let them pay it back after 10 years. It is their land and only National Trust members can then access Plémont." Because why on earth would people who do not want to spend taxpayers' money want to go up to Plémont when it belongs to the National Trust? That would be an entirely consistent position to take. I think the other point to make is that the National Trust will be incurring a liability on themselves so if this was truly public owned land which was maintained by either T.T.S. (Transport and Technical Services) or the Department of the Environment over the next 50 to 100 years there would be a liability for the staff to go up there from T.T.S. to maintain that land which I think would be much more than what is being proposed here. So I think in the long term I have wrestled with this. We know that, for example, the Minister for Treasury and Resources has done a U-turn. I will probably prepare another speech later to give him a good kicking if my colleague Deputy Power does not do that. But this is politics and I think that ultimately we have to accept that there are differences of opinion and I will always vote on what the right thing to do is in front of us, appreciating that other people will not have the same opinion necessarily.

7.5.7 Deputy R.C. Duhamel:

One of the things I have found over my years in politics is that the world is not black and white as you think it is when you first get elected. What colour is it? Yes. I think it is one of the many shades of grey but I am not sure which one. **[Members: Oh!]** Careful. Right, the reason I am standing is to try and bring some balance back to this black and white debate as it is developing. Deputy Southern has quite reasonably in my view brought forward one of his better proposals which gives us an opportunity to find a middle position. Now, we are being told by one of the sides in terms of the valuation that the site is worth £4 million or thereabouts. We are also being told that the National Trust are pledged getting on for £4 million. Now, if that is the case that means that the National Trust can buy the whole of the site. But what if the valuation is higher? Well, if the valuation came out at £8 million they can buy half of it straight away. Now, what would that do? That would eliminate half of the buildings on the site. That has been one of the primary objections by the National Trust; there are too many buildings. But what would happen if there were only half as many buildings and the Trust were in a position to buy out half of that development? Or even worse, what if the valuation turned out to be £12 million and the Trust body and the people of Jersey decided that enough was enough and they only wished to raise £4 million. Well, we could still buy a third of the units. Now, which third of the units would you remove? If we look at the plans that were usefully sent to us by Senator Bailhache, one of the objections is the character of the land that he referred to as "a village green in between the 3 hamlets". Well, what would happen if one of those hamlets were removed? Then you would have the village green area as a contiguous area with the rest of the land, the two-thirds that has been given back to the Island for nothing as part of the deal, and that would put an entirely different complexion on the whole thing. I do not know which route would be the better route to take, whether it should be buying out a third or half or the whole of the development but what I am inclined to think at the moment is that Deputy Southern's proposition does afford the Chief Minister and the Minister for Treasury and Resources an opportunity to enter into negotiations with the National Trust and the owner of the land to negotiate a betterment of the deal that we have got on the table at the moment. That, to my mind, is entirely reasonable and gets us out of the unwelcome predicament, I think, of not having established where the funding was going to come from to pay for the whole of the project by not putting these monies when we discussed the M.T.F.P. As I say, it is an entirely reasonable approach. It should not be dismissed lightly. It is not black, it is not white, it is somewhere in the

middle and I think that contrary to being a shade of grey it is probably one of the greener shades of grey that we should be endorsing, and I certainly ask for the House to accept Deputy Southern's amendment because it does represent a sensible way forward that ticks many of the boxes.

7.5.8 The Connétable of St. Peter:

I am sure Members will be pleased to hear that my speech is going to be very much shorter than the previous 2. But I am going to agree with one point that Deputy Tadier said, and that is I am going to be an unlikely bedfellow and I am going to vote with Deputy Southern on his amendment. The principal reason for that is because I am an optimist and I think that if people see that we are trying to find a mechanism to help to fund the purchase of Plémont and not use public money they may well start contributing a little bit more to assist them in their aims. I certainly may be one of those that would be minded to do so. But if I vote against this opportunity, and it is an opportunity, for them to find a mechanism to come forward then I vote against the whole thing and I am not very comfortable in doing that. Therefore, I will on this occasion support Deputy Southern. It may be the only one he may well see for a very long time but I will support him on this one. Thank you.

7.5.9 The Deputy of St. Peter:

One of the great things about St. Peter at the moment is that the Constable and the Deputy generally work very well together but I am afraid I shall have to speak against the Constable this afternoon because I admire greatly the spirit of compromise brought to us by Deputies Southern and Maçon. But I have to say that my understanding of the argument from those who oppose the purchase of Plémont is that they are concerned about spending public money at this time of financial hardship, and unfortunately if we were to subsidise the payment by bringing it forward now and expecting the National Trust to pay us back at a later date, we would be spending public money now when it could be spent in other ways. So I have to say I could not support this amendment.

7.5.10 The Connétable of St. Mary:

Just very briefly because hearing the Constable of St. Peter speak before I thought I had misunderstood the amendment completely. When I heard Senator Bailhache speak, I was very glad to say that at least at one point during this whole debate we are, I think, singing from the same hymn sheet. We may well diverge later but, as far as I see it, the amendment says: "We are going to ask the National Trust to pay £2 million now at the time of the point of sale and the remainder will be a loan. But we are not going to start negotiating the purchase until they have agreed to that loan." So they cannot tell what the loan is at the time, you know, before we are agreeing to purchase. I can understand Deputy Southern is trying to make this something that we can sign up to but I just do not see how it will work. It is a snake swallowing its own tail and we are never going to get to the point where we can say: "This is the loan we are asking you to sign up to, now we are negotiating a price." I just do not see how it will work. I think ... we have talked about compromise and at the end of the day this is a really hard decision for States Members. It is a very, very big issue. But I think it is going to come down to States Members deciding whether the compromise is Plémont with houses or Plémont without. That is the real decision and no matter how we try to salve our consciences or make it easier to work out, that is the real decision and I just do not see how this makes that decision for me any easier, and, to be honest, I do not see how it makes it any easier for the National Trust to understand what they will be committed to. So, with regret, I will not be supporting this amendment.

7.5.11 Senator F. du H. Le Gresley:

I just wanted to reflect back on what Deputy Southern said when he made his opening speech, and I wrote down. He said: "In the light of the current recession one has to doubt that this was the appropriate time to bring forward an additional spend." That is how I wrote it down, he may

correct me if I got it wrong. There is no other time to bring this proposition. This site will not be available 6 months, 12 months down the line. The company has planning permission. We have seen historically when people get planning permission, we see bulldozers arrive and things start happening. So I think Deputy Southern is wrong if he thinks that nothing will happen because planning consent has been given. However, I really rose because I was absolutely astounded by the speech of the Minister for Planning and Environment. I thought he had lost the plot **[Laughter]** and probably “the plot” is the right word because he was suggesting that the Trust might like to buy one of the clusters to protect the headland. At least that is the impression I was getting, that if they can raise money, why not negotiate with the landowner to let them buy the most expensive cluster, presumably the one closest to the headland. I am just amazed that our Minister for Planning and Environment could come up with such a suggestion. I go back to what I said when I spoke when we were debating Deputy Maçon’s amendment. The National Trust’s balance sheet only has cash reserves of unrestricted funds of £5.5 million.

[16:30]

The assets, the land and the property, are not included in the balance sheet by arrangement with the accountants or auditors because there is an ongoing cost. They have to keep these properties in perpetuity and they have to be aware that they have to maintain these properties and the land. So if we were to lend the money to the National Trust, they would not suddenly have a £5 million increase or £4 million increase in their balance sheet, this land would be exactly the same as all their other assets, it would not appear in the balance sheet. So their unrestricted funds of about £5.5 million would be matched against a loan of £4 or £5 million. So really the National Trust would be down to about £1 million if they are lucky to run their organisation. That is absolutely ridiculous. We know they have massive running costs. They do a fantastic job and I think Deputy Southern’s proposition is completely wrong.

7.5.12 Deputy T.M. Pitman:

Just a few points really. Not a speech as I want to save that for if we get further on, if we do. I just find it disappointing when I hear the Deputy of St. Ouen’s speech trying to compare St. Helier whose population have been betrayed again and again by his type of political perspective, turning it into a concrete jungle, and we hear about a town park and yet we are trying to compare it with an area like Plémont. That does not make me anti-conservation, I voted for saving Plémont last time, a time when things were not as economically bad as they are now, whatever some people are going to try and mislead us, inadvertently of course. I think you have to look at this in the bigger picture. I am really surprised that the proposal of this particular amendment has not made more of what is surely his trump card, and that is if the valuation of £4 million that Senator Bailhache has told us about is true and correct, and I have confidence in that, then the burden on the National Trust, much as I support them, is nowhere near as big and unmanageable as is being made out. They have done wonderfully to raise the money that they have done. And we all know, though perhaps you would not imagine it if you sat through this debate last week when we saw that £3,000 for the wealthiest of the wealthy dismissed with the usual looks of horror and hand wringing from the Council of Ministers, that the richest people should never be treated as us mere mortals. The reality is there are people in this Island who could buy Plémont just like that. The current owner could give it away if he wanted. Now, should he? Well, whatever I feel about that, the fact is it is his land, he acquired it legally, I believe. You know, and I am really concerned that from what started out as a genuine debate about different views is now being pushed, I would say, from the Council of Ministers’ side with some of these speeches, as if those of us who have got reservations about committing this amount of taxpayers’ money somehow are anti-conservation. Nothing could be further from the truth. Deputy Southern certainly does not come from that perspective, he has tried to find us a compromise, and I think it is workable. It is not perfect. So, what it is going to come

down for me is, do I buy into something that I know with some input from some of our richest people, or companies, finance, could be achievable for the National Trust and we would get what we want: Plémont to be protected. Or do I believe figures that have been given to us by the Chief Minister and the rapporteur, which frankly I would not believe if they were written in my own blood. They are just laughable, those figures. I have spoken to a lot of people and while I take what the owner and his representative says of £14 million, I do not particularly buy into that. The figures we have been given of £4 million are frankly ridiculous, and I would only flag that up because all Members should be aware of what is being done here. We are being lured, lulled into this false sense of security that it will not cost us so much. This is a private individual's land. I cannot support compulsory purchase other than for something like a reservoir perhaps, something that the whole Island depends on. I have got huge reservations about, and I am trying not to stray too far, but I have got huge reservations about us committing to compulsory purchase when the test of whether it is even valid is very tenuous, it must be said, in the common interest. It has got to be dubious morally that we are going to do compulsory purchase to take something away from someone and then give it to a third party, incredibly valuable as that third party is. So I think, and I would say to Members, do not dismiss what Deputy Southern is offering us here. He is offering us one way where possibly we can get keeping Plémont but we can achieve that by getting people to vote for something here who are just not going to support compulsory purchase under any circumstance. Is it better to go down the Deputy Southern route and win and keep Plémont, or is it better to get on to the main part of the debate, the main proposition, and lose? Which is the greater evil for the National Trust, I would say? I think I will leave it...

Senator L.J. Farnham:

May I ask the speaker to give way so I can ask for some clarification?

Deputy T.M. Pitman:

Always.

Senator L.J. Farnham:

I am just trying to work out that he is minded to support Deputy Southern's amendment but yet he under no circumstances supports the principle of compulsory purchase. Could he just reconcile that, please, because if he is supporting Deputy Southern then surely he is minded to support a compulsory purchase of the land if the money is lent to the National Trust?

Deputy T.M. Pitman:

What I am getting at is the principle. If an offer cannot be agreed with that individual who owns it and legally owns it, then that is life. I do not believe in bullying. I do not believe in the interventionist Government, I suppose, of the far right, which has seemed quite happy with this taking people's property away. Now, as I say, the owner, we all know, could give it away if he wanted, it would pretty much be small change. Does that mean that I go along with something which I find morally wrong? No, I am not that sort of politician. I am not going to suspend my morality and my ethics, and until I get some actual figures from the main proposer that stand up to any kind of scrutiny then I have just got to go with my gut feelings. If it turns out we do not get what we want, well, so be it but let us not hear this them and us because it seems to creep in all the time as a sort of moral blackmail to people that they must go along with what the Council of Ministers want or else we are anti-Jersey. Next we will be hearing Deputy Southern is a wrecker.

7.5.13 Deputy J.H. Young:

The way the debate is heading is leading us to a... we are asked to take a position of saying: "Reject the amendments and take it or leave it." All or nothing decision on the main proposition.

That troubles me. Plémont must be saved, in my view, from development. I have represented that at the planning inquiry and I was very disappointed with the outcome. I would prefer to see no development or any... I think I might have lived with a smaller development inland and perhaps half the houses well away from the cliff edge but what we have finished up with is, in my view, very damaging. So, we have Deputy Southern giving us a proposal to amend the proposition which I think what it does, the effect of the amendment, is to add a pre-condition to the substantive decision. The substantive decision that we approve the acquisition of the site, we negotiate with the owners of the site, and if necessary compulsory purchase. But what Deputy Southern's proposition has the effect of doing, I think, is to add a third party to that discussion; the National Trust, and I think that is a very good thing. We have been told: "Well, the proposition does not work because there is no clarity, there is no certainty." It is true this is not an ideal proposition but I do think having a step in the process, a precondition, a pre-step before the approval allows the framework of discussions to go on between the parties, between the Minister for Treasury and Resources, the Chief Minister and the owner and the National Trust. I think it was rather unfair to criticise the Minister for Planning and Environment for his comments because I think basically he was making a helpful contribution towards those sorts of discussions. In a perfect world these discussions would have taken place in a lot more detail, a lot more information, before we got here. I am definitely supporting the principle because I think it allows an exploration of a compromise position. It gives time and it allows, if you like, for a rational process to take place for that to be done. If it does not work it does not do any damage because Deputy Southern's proposition, his paragraph says that: "This precondition will take place before any decision to implement the purchase of the land is made." That means if there was a compulsory purchase necessary it would not be used until that clause is agreed and it also means that no agreement with the owner will be struck until that 3 party agreement is in place. So I think it is worth exploring. So I support this amendment.

7.5.14 Deputy R.G. Le Hérissier:

I was going to stand up just before to agree with Deputy Young's previous speech but I am a little confused. I thought he made a very good call for consensus and I find one of the most frustrating things is, notwithstanding Deputy Southern's attempts to try and bring up what I, like Senator Bailhache, found to be a very seductive proposition. I find it very difficult with 51 people here trying to work on the nuances of various financial deals against a backcloth of an already highly ambiguous and uncertain outcome. And the notion that we are all trying to do it now and we are all annoying each other, it seems, in the process of doing so, I find very difficult to deal with. I do not want to call. I know there have been calls, and again I was wavering. There have been calls to defer this debate but I do not see how in a rational kind of way we can examine, for example, given the deep concerns that Senator Le Gresley has brought up, the notion that the National Trust is going to be the instrument by which we are going to do this. The evidence just does not stack up that they will be, for very solid reasons. Also, while we admire the Minister for Planning and Environment's creative way of thinking, the point remains, he did approve a 3-cluster development with a big village green, or whatever you care to call it, in the middle. The notion in the middle of a debate that we can remove one of the clusters and start a negotiation with the owner I find quite incredible. It is a good idea perhaps but to do so within this context I find quite incredible. So, I would like to support Deputy Southern's proposition, and I do not think I can. I would just like to say a final word. Deputy Martin gave us her usual swashbuckling contribution but I felt she was quite unfair on the Trust. She talked about: "What are they doing about the rats and the cats on the Plémont site?" Well, they are doing nothing because it is not their site. If there is a duty of care on the site, I would have thought it comes from the Minister for Planning and Environment because he has the, as I understand it, powers in law to say: "This is a derelict site it is falling down, there are dangers surrounding the site, *et cetera*, and I might have to intervene." Just to sort of press that point home, yes, I think it has been, as Deputy Tadier said much earlier in the debate, it has

probably been a very sharp learning curve for the Trust as their very fine altruistic motives collide with the somewhat murky and at times dirty world of politics. But the point remains that they are doing incredible work. Their lands are open to the public, they are criss-crossed by public paths except for the one that looks after the Isle of Man sheep where there have been obviously issues about roaming dogs and so forth. Their homes are open, not in the way that English homes are open, on a regular basis. Their homes are open so people can inspect them, and they run on an incredible shoestring budget. They have probably learnt that they have got to expand their urban portfolio, which they have done of course through New Street, and they may be doing, I am sure, in other ways. But the notion that they are doing nothing is quite incredible and quite untrue. Thank you.

7.5.15 The Deputy of Grouville:

Just briefly. I would like to think politics is the art of the possible and going back to Mr. Daniel Wimberley's letter in the paper which was a can do, I was quite depressed listening to the Minister for Treasury and Resources' speech on this issue because I thought it was very much cannot and will not do. Will not look at the alternatives. Deputy Southern has at least tried to put something on the table to look at the alternatives and I commend him for that. I also commend the National Trust who has in a relatively short time raised huge amounts of money for this campaign.

[16:45]

But at the same time, just to take up what the Constable of St. Mary was saying that we cannot ask them when we do not know the price tag but that is what we are being asked for here. I mean we have seen and watched and been part of, some of us, a campaign, a States campaign fronted by the National Trust, well, by the Jersey National Trust, that are asking us, the public, to buy something where we do not know the price. So we are all in it together. So, you know, to say: "Well, we cannot ask them" but we are being asked to do this. Many of us have received hundreds of emails, especially over the last week, for and against. Now, the way I see it is the States can do it. We have the money, we have it in our contingencies. This is not like the Opera House years ago and the restoration fund where they went out and got a loan from Barclays Bank. Well, that was the most disastrous thing that could have happened because, well, it was a very, very good deal for Barclays Bank; shall we just leave it there. But we are not in that position here. We have the money but the Trust is a charity and they are a campaigning arm. So between one leg having the money and the other being able to front campaigns, a 2 for one or one for one type of fundraising exercise. I am very, very disappointed that there has been no discussion with either Deputy Maçon, Deputy Southern and the Trust, and indeed the campaigners, as to how we can go about raising the money for this campaign. The Trust has the ability to front this. If the States go asking for money for this campaign, well, half the people will tell you where to get off as quite a few of the emails have done. I mean, people pay their taxes, that is what the taxes are for, to the State. We cannot raise... we cannot go fundraising, the Trust can, and you never know, for every door that slams in your face saying: "No, thank you" there will be another that gives you a couple of pounds. So I would really like to see this advance in some way. Like I say, we have the money in contingencies and we have an arm to this, a charitable arm, who can front any fundraising. I am going to support Deputy Southern just because I think he has looked for alternatives and I am sure there is scope somewhere in here to raise more money and continue the campaign. Thank you.

The Bailiff:

I have 2 more speakers still, I do invite them to try and confine their remarks to something which has not already been said during the debate because it has been very full.

7.5.16 The Connétable of St. Martin:

If I could follow on, please, and seek advice. I have listened to Deputy Young and to the Deputy of Grouville. Is there any way now that the Chief Minister can go back to members of the National Trust to discuss this afternoon's debate and seek their views? Despite what I said earlier on this afternoon as to putting the burden on to the National Trust as a third party to try to pay for everything. The Members will have heard the speaking today of... everyone who has spoken this afternoon but not been able to confer with the Chief Minister who I suppose is acting as their spokesman and speaking on their behalf. What I am very worried and what I have seen is the division of this Assembly and we are not having a further opportunity to discuss it. I do not want to delay the debate but I think there is an opportunity now that we could vote on that.

7.5.17 The Connétable of St. John:

I am concerned in what I have been hearing this afternoon because we have not got... a lot of this information is just coming out in the floor of the House today. When we had the accounts and we were told that £250,000 roughly annually is the loss of the Trust, and I immediately thought: "Well, if that is the case why do they want to buy yet more land or take on more land which is going to increase the debt because this has got to be maintained annually." Yes, it is revenue debt but it is still a debt. Why do you want to increase it? Should you not, in these times when we have all got to tighten our belt, be trying to lay off some of your debt? I also heard that earlier in the week it was mentioned that the States could sell some property to fund this, and I thought: "Well, yes, that is fine" but we also heard, and in fact I have just seen on this pad of my colleague's here, that I think there are 16 properties that the Trust own. Therefore, they could raise the funds themselves instead of the people of Jersey, plus they are the second biggest, or the biggest landowner other than the States of Jersey, which covers a colossal area. They could probably raise funds there. But obviously because it is a trust it is very difficult to sell something that has been given to you or to raise money against that.

Deputy R.G. Le Hérisier:

Can I raise a point here?

The Connétable of St. John:

No, I will not give way, thank you all the same. **[Laughter]** I think that was done deliberately so that you would throw me off my course and you have done a very good job of that. **[Laughter]** Given that I have been thrown off my course, I will now sit down. **[Laughter]**

Deputy R.G. Le Hérisier:

Could I make an inadvertent untruth by the Constable? The Trust, most of its properties are covenanted and cannot be sold.

Senator I.J. Gorst:

Sorry, in light of the number of interventions and particularly in light of the intervention by the Connétable of St. Martin, I am not sure whether it would be appropriate for me to call for the recess at this point so that I could have conversations with the National Trust. I think that Senator Bailhache has explained well their position and I hoped that I had in the amendment to the amendment but I certainly, in light of this afternoon's debate, would be prepared to have discussions with them if we were to break early and they then in due course obviously would wish to have discussions with their counsel.

The Bailiff:

Well, it is certainly possible to adjourn the debate if that is what you are proposing, Chief Minister.

Senator I.J. Gorst:

Just proposing that we rise early now, Sir.

The Bailiff:

Is that seconded? **[Seconded]**

The Connétable of St. John:

Can we not finish this particular debate?

The Bailiff:

Well, it is a matter for Members. The Chief Minister is suggesting that he consult with the National Trust again, I think, in order to see if they can assist in any way. If Members want to hear that then I would have thought they would agree to the Chief Minister's suggestion. If they do not and want to continue the debate then they will vote against it and we will carry on. It has been seconded.

[17:00]

Senator A.J.H. Maclean:

Sorry, Sir, just one point. I thought it was my understanding that the National Trust had made it clear that they do not support this particular proposal.

The Bailiff:

Well, that is certainly what Senator Bailhache said. The Chief Minister is indicating he might go and have further discussions with them.

Deputy G.P. Southern:

There are no comments produced by the proposer or the rapporteur or the Ministry for Treasury and Resources on this amendment, which is quite discourteous in any circumstances but there is no written documentation to support or not to support.

Deputy M. Tadier:

I was just going to add, following on from that, if we do decide to adjourn now can we have comments, please, in the morning following any discussions that take place with the National Trust then we will have something tangible in front of us to make a decision on.

Deputy R.G. Le Hérisier:

The key office holders of the Trust are here. Could the Chief Minister confirm whether or not they have said to Senator Bailhache that they are not in a position to do so? If they say that, the discussion is over very quickly and we can resume the main debate.

Senator I.J. Gorst:

Sir, if you want me to respond. Yes, Senator Bailhache and I thought that I had made the position quite clear but I sense the mood of the Assembly and one Member particularly asked me, and the sense that I get from the debate is that more work should be done in this regard. I was simply providing an opportunity for that to be done, and if not then of course we will move to the summing up.

The Connétable of St. John:

Could I just, on a point of order, say if the Members accept what has been proposed, does it allow Members to speak again once we have that information because if it does not we might as well go for the vote?

The Bailiff:

No, I am afraid not. Very well, so the proposition is to adjourn now in order that further discussions can take place with the office of the National Trust. If you think that should happen you vote pour, if you do not and you want to continue with the debate on Deputy Southern's amendment now, you vote contre and the Greffier will open the voting.

POUR: 33		CONTRE: 17		ABSTAIN: 0
Senator P.F. Routier		Senator S.C. Ferguson		
Senator P.F.C. Ozouf		Senator A.J.H. Maclean		
Senator A. Breckon		Connétable of Trinity		
Senator B.I. Le Marquand		Connétable of St. Mary		
Senator F. du H. Le Gresley		Connétable of St. John		
Senator I.J. Gorst		Connétable of St. Brelade		
Senator L.J. Farnham		Deputy R.C. Duhamel (S)		
Senator P.M. Bailhache		Deputy J.A. Martin (H)		
Connétable of St. Helier		Deputy S. Pitman (H)		
Connétable of Grouville		Deputy T.M. Pitman (H)		
Connétable of St. Clement		Deputy E.J. Noel (L)		
Connétable of St. Peter		Deputy T.A. Vallois (S)		
Connétable of St. Lawrence		Deputy of St. Mary		
Connétable of St. Ouen		Deputy of St. Martin		
Connétable of St. Martin		Deputy R.G. Bryans (H)		
Connétable of St. Saviour		Deputy of St. Peter		
Deputy R.G. Le Hérisier (S)		Deputy R.J. Rondel (H)		
Deputy G.P. Southern (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy 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 J.P.G. Baker (H)				
Deputy J.H. Young (B)				
Deputy S.J. Pinel (C)				

The Connétable of St. John:

Can I say, Sir, this is really making policy on the hoof, it is crazy.

The Bailiff:

Very well. Well, it is a matter for the Assembly, the Assembly has decided that so therefore the Assembly will now rise and reconvene at 9.30 a.m. tomorrow morning.

ADJOURNMENT

[17:03]