

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 21st JANUARY 2014**

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[10:30]

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

## **COMMUNICATIONS BY THE PRESIDING OFFICER**

### **1. The Deputy Bailiff:**

I would like to welcome Members back for the beginning of the New Year and as you will have seen from the public gallery, it is a very popular place to be this morning. Year 8 of the Jersey College for Girls has descended upon on us or ascended upon us, as the case may be, and there will be a further group this afternoon. So welcome to them. **[Approbation]** That was to say it was good to see you.

## **APPOINTMENT OF MINISTERS, COMMITTEES AND PANELS**

### **2. Nomination of the Deputy of St. Mary as a member of the Environment Scrutiny Panel**

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

I note the nomination of the Deputy of St. Mary as a member of the Environment Scrutiny Panel.

#### **2.1 Deputy J.H. Young of St. Brelade:**

May I rise today to have great pleasure in asking the Assembly to approve the nomination of the Deputy of St. Mary to join the Environment Scrutiny Panel. At the moment we are 3 members: myself, the Deputy of St. Martin and the Constable of St. John. Our workload is such that we would certainly benefit from the additional member and we are delighted to welcome, if the House approves, the Deputy of St. Mary to our team. Of course it will bring the number of our panel to 4 members.

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

Are there any other nominations? Very well, I declare that the Deputy of St. Mary has been appointed as a member of the Environment Scrutiny Panel. **[Approbation]**

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 THE CONNÉTABLE OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE COMPLETION OF MANPOWER RETURNS:**

##### **Question**

Would the Chief Minister confirm that manpower returns must now only be completed in an electronic format and, if so, can members be told whether the Population Office consulted industry/employers and for how long a period before this decision was made? If no consultation took place will this now be addressed?

What, if any, alternative arrangements are available for companies or employers who do not use or have electronic systems?

Are companies still able to use hard copy in the interim and, if not, why not?

##### **Answer**



The manpower return process has moved online. However, the Population Office will help businesses without internet access to complete their returns.

There was no advance consultation on this change, as it was thought reasonable to move online so long as businesses without internet access were supported.

Moving to an online system will save businesses and government from having to re-input data every six months, as data from each return is maintained and only needs to be updated, where necessary, every six months.

The new process also improves our ability to identify non-compliance, as it requires details on every employee.

We will continue to improve the online process, while providing an alternative for those businesses that need it.

### **3.2 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE CHIEF MINISTER REGARDING LEGAL CHALLENGES TO THE BLACKLISTING OF JERSEY BY FRANCE:**

#### **Question**

Did the Minister intend to challenge the French government had the blacklisting sanctions been applied from 1st January 2014 and, if so, would he advise from which budget such action was to be funded and under what authority?

Would he further advise what contingency existed should any legal action have run into millions of pounds?

#### **Answer**

There was no determination made to pursue a legal challenge, given our confidence that the action taken to meet the concerns of the French government would be sufficient to demonstrate that Jersey is a cooperative jurisdiction, rendering the application of the proposed sanctions unjustified.

### **3.3 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE REGISTRATION OF A USED VEHICLE:**

#### **Question**

Does a Jersey driving licence have to be produced to the Driver and Vehicle Standards Department when registering a used vehicle and, if not, how does the Minister justify maintaining Article 5(b)(iv) of the Motor Vehicle Registration (General Provisions) (Jersey) Order 1993, which requires a person seeking to register a new or imported vehicle to do so?

#### **Answer**

Verifying that the person registering a vehicle in Jersey for the first time is who they say they are, the address the vehicle is registered to is a legitimate address, insurance is in place and all due taxes are charged/paid by the appropriate person to the relevant authority, is all part of the registration process. In addition to the requirements set out in our legislation, there is an obligation on Jersey to meet the requirements set out in international treaties so that Jersey vehicles and drivers can circulate in Europe. It is also the case that at the outset, the enforcement authorities can be confident the vehicle owner can be identified and the vehicle is insured for use on our roads.

The vast majority of registrations are made by licence holders and the most straightforward document that can confirm a person's identity in the registration process is the driving licence, which provides a picture of the person, his/her date of birth and a sample of his/her signature. Prior to introduction of the photocard licence in 2007, the person's address was also on the driving licence. In the new driving licence system, while the address is not on the licence, it is held in the computerised driving licence system and so it is reasonably straightforward for staff at DVS to confirm the person's address.

Should it be the case that a local resident does not or cannot drive and so does not hold a driving licence but wishes to buy a vehicle for his/her use in Jersey, other evidence of identity and residence such as a the person's passport, which contains photograph and signature, and a utility bill, providing confirmation of address, would be accepted.

Once a vehicle is registered, there are requirements set out in the legislation should the owner change name or address, transfer or otherwise dispose of the vehicle. To date, we rely on owners to comply with the law. There is evidence that some owners do not comply with their obligations but with around 40,000 transfers and other registration transactions taking place each year, it is not feasible with the current resources to validate each transaction. By linking the registration and driving licence computer systems, it would be possible for suspect transactions to be highlighted and addressed. This is already being done in Guernsey, the UK and elsewhere in Europe, Jersey plans to do the same within the next system upgrade.

### **3.4 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE DIFFERENCES BETWEEN EMPLOYMENT LEGISLATION IN JERSEY AND GUERNSEY:**

#### **Question**

Will the Minister explain what the differences are between the Guernsey and Jersey Employment Laws to which he referred in his response on 2nd December 2013 concerning the use of zero hours contracts in the two islands, and why he considers moving to the Guernsey model would be "going backwards not forwards" and, in doing so, could he indicate whether he has now taken advice from H.M. Attorney General to confirm that his information on the differences between Jersey and Guernsey legislation is correct?

#### **Answer**

Deputy Southern asks the Minister to explain the differences between the employment legislation in Jersey and Guernsey concerning the use of zero hour contracts. Having consulted colleagues in Guernsey, the Minister is satisfied that the Island's employment laws are the same in this respect. As in the UK, the employment legislation does not define or restrict the use of zero hour contracts.

Guernsey's employment legislation was raised in a supplementary question on 2 December 2013 when Senator Ferguson commented that "*Guernsey has virtually no zero-hours contracts, whatever the industry, and it appears to be a difference in the way the employment law is formulated.*"

The difference that Senator Ferguson was referring to relates to the Employment Protection (Guernsey) Law 1998, as amended. It provides that, where a person is employed under a **fixed term contract of one year or more**, they can be required by their employer to 'contract out' of the right to claim unfair dismissal. This means that where an employee is dismissed on the expiry of their fixed term contract, they do not have the right to claim unfair dismissal.

The UK previously had an equivalent provision to Guernsey, in which an employee could be required to 'contract out' of their right to claim unfair dismissal and statutory redundancy pay. This was removed in 2002 as a result of the Fixed Term Employees (Prevention Of Less Favourable Treatment) Regulations 2002, which had been prompted by an EU Directive. Guernsey's 1998 law pre-dates the change in the UK. Jersey's Employment (Jersey) Law 2003, however, was introduced after the change in the UK and so did not include such a provision. This is the Minister's reason for believing that such a change to Jersey's legislation would be "going backwards not forwards".

Whilst the EU Directive does not apply to Jersey, the resurrection of a 12 year old loophole is unlikely to be internationally acceptable. The practical result would most likely be an increase in the use (and possibly misuse) of fixed-term contracts of one year or more, rather than providing a solution to concerns about the misuse of zero hour contracts.

The Minister is not aware of any figures to demonstrate the extent of the use of zero hour contracts in Guernsey. Guernsey colleagues advise that zero hour contracts do exist, but no issues have been formally raised with the Commerce and Employment Department, as yet, in regard to the inappropriate use of such contracts in Guernsey.

The Minister has not requested the Advice of the Attorney General and does not intend to consider introducing an equivalent provision relating to fixed-term contracts into the Employment (Jersey) Law 2003.

### **3.5 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING AN INVESTIGATION INTO THE CIRCUMVENTION OF THE CONTRACTUAL REQUIREMENTS UNDER EMPLOYMENT LEGISLATION BY LOCAL EMPLOYERS:**

#### **Question**

Will the Minister inform members what action, if any, he has taken to investigate, through his compliance officers or otherwise, the alleged use of employment agency workers by RBS to avoid the issue of proper accurate employment contracts to permanent full-time staff, as required by the Employment Law and if none, will he explain why he has neglected or refused to take such action and indicate whether the Jersey Advisory and Conciliation Service or the Employment Tribunal have greater powers than he has in this connection with reference to Third Party complaints?

#### **Answer**

If the Social Security Department receives a complaint about the employment practices of a particular business, officers will consider whether to undertake an inspection. The Minister cannot report to the States Assembly as to whether any particular business has been inspected.

If any States Member has specific evidence upon which they wish to make a complaint, the Minister would encourage them to either contact the Department, or encourage the employee(s) in question to contact the Jersey Advisory and Conciliation Service (JACS).

It would be inappropriate for the Jersey Employment Tribunal or JACS to be given inspection and enforcement powers in respect of third party complaints.

### **3.6 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING P.P.I. POLICIES:**

#### **Question**

What progress, if any, has the Minister made, in the absence of a financial ombudsman, in persuading locally based financial service providers, whether subsidiaries or branches of UK institutions, to agree to accept claims locally for the mis-selling of Payment Protection Insurance (PPI) policies, and if none, what steps will he take to ensure the establishment of a mechanism by which such claims can be pursued?

Is the Minister aware of any successful claims having been pursued locally and, if so, is he in a position to release details?

#### **Answer**

The Financial Services Ombudsman (Jersey) Law 201- will be lodged later this week. The introduction of the Ombudsman is, outside of the Royal Court, the most effective means of redress for an individual who remains dissatisfied at the response to a complaint from their financial services provider.

I am aware of a small number of successful claims against local providers of financial services. I am unable to release details of specific cases. I am not aware there is a widespread problem as far as unresolved PPI claims are concerned but those individuals who remain unhappy will have recourse to the Ombudsman if adopted by the States Assembly in due course.

### **3.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING ZERO-HOUR CONTRACTS:**

#### **Question**

Notwithstanding the commitment of the Minister for Social Security to investigate the extent of use and abuse of zero-hours contracts by the island's employers and to report back to the States by the end of 2014, will the Chief Minister update the figures given to members in his response to question 6833 of May 2012 which showed some 1157 States employees on zero-hours contracts compared with 283 on fixed-term temporary contracts?

Can he confirm that the recently modernised and harmonised States employment policies resulting from extensive consultation do not apply to those on zero-hours contracts?

Will he further state for each category of employee given in answers to questions 6901 and 6902 by the Education, Sport and Culture and Health and Social Services Departments respectively, what number of these contracts actually applied to employees who worked regular full-time or part-time hours and/or were long-term employees for whom permanent, or fixed-term or minimum-hours contracts would be more appropriate?

In particular will he update members with progress on the promised review of the Highlands College lecturer contracts and explain the use of zero-hours contracts for classroom assistants and in catering for overtime for nurses and auxiliaries in the hospital?

### **Answer**

1 - Updated figures as at 31/12/2013 on those originally given to members in response to question 6833 are given below:-

### **Fixed Term Contracts**

At the end of December 2013 there was a total of 361 employees holding one or more fixed term contracts of employment within the States of Jersey. This represents an increase of 78 fixed term contract employees since March 2012.

<b>Departments</b>	<b>31.03.2012</b>	<b>31.12.2013</b>
Chief Minister's Department	18	27
Department of the Environment	1	9
Economic Development	1	1
Education, Sport & Culture	120	117
Health & Social Services	98	138
Home Affairs	7	8
Housing	3	0
Jersey Airport	4	4
Jersey Car Parks	2	1
Jersey Fleet Management	0	4

Jersey Harbours	3	3
Non Ministerial States Funded	12	8
Social Security	2	5
States Assembly	0	1
Transport and Technical Services	5	26
Treasury and Resources	7	9
<b>Total</b>	<b>283</b>	<b>361</b>

### Zero Hour Agreements

At the end of December 2013 a total of 1452 employees held zero hour agreements to work on an ad-hoc basis in a range of roles. (This does not include those employees who also held permanent or fixed term contracts). In March 2012 the Education Sport and Culture Department employed 582 zero hour workers and the Health and Social Services Department employed 545 zero hour workers.

The number of zero hour agreements in these departments has increased. However it should be noted that the nature of this work means that some zero hour workers work infrequently or very few hours, making comparisons between different periods difficult.

<b>Departments</b>	<b>31.12.13</b>
Chief Minister's Department-	2
Department of the Environment	2
Economic Development	1
Education, Sport & Culture	788
Health & Social Services	590
Home Affairs	32
Jersey Airport	24
Non Ministerial States Funded	9
Social Security	1
Transport and Technical Service	3
<b>Total</b>	<b>1452</b>

2 - The applicability of new public sector employment policies to zero hour workers varies dependant on the policy. For example, the revised Grievance Policy shortly to be implemented applies to zero hours workers. In contrast, as zero hours workers are paid for the hours actually worked, the Managing Attendance policy and the Special Leave Policy do not apply to these workers as they work the hours of their choice.

3 - Current States systems do not allow for easy analysis of individual zero hours agreements and can only provide the following additional information to that previously provided in response to questions 6901 and 6902:

<b>Departments</b>	
Department of the Environment	1
Education, Sport & Culture	533
Health & Social Services	733
Home Affairs	33
Jersey Airport	8
Non Ministerial States Funded	4
Transport and Technical Services	1
Treasury and Resources	1
<b>Total</b>	<b>1314</b>

Consistent with the answers given to questions 6901 and 6902, the table above sets out those individuals that were on both zero hours agreements and on regular full time or part time contracts of employment with the States.

Bank shifts are the standard and normal methodology for Nurses choosing to work additional hours in every NHS hospital and have been acknowledged by JACS as a normal and acceptable practice for the predominantly ex NHS nursing workforce in Jersey. Nurse Banks are crucial to the safe and effective provision of clinical services to patients.

Similarly, Supply Teaching roles are the standard and normal methodology to meet service needs within the Education service.

Appointments to States of Jersey roles are made using the appropriate contract.

4 - The review of Highlands College Lecturers was completed in December 2013. One of the outcomes resulted in an increase in the number of full time equivalent (FTE) employees and head count of 10.5 and 13 respectively as a specific number of worked hours were, after careful analysis, made permanent.

Consistent with the response given to question 6901, suitable and appropriately skilled Classroom Assistants on zero hours agreements are used to cover short term absences of regular staff and help provide continuity and the delivery of education in the classroom on a day to day basis. The zero hours arrangement allows for flexibility across educational requirements throughout the service.

Consistent with the response given to question 6902, the use of zero hours agreements for nursing and auxiliaries in the hospital helps to maintain the continuity of service, including cover for ad-hoc short term absence, and to meet other unforeseen demands.

Finally – as part of the review of terms and conditions of employment that is currently underway, a policy for the use of zero hours contracts is being developed.

### **3.8 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING TAMIFLU INJECTIONS:**

#### **Question**

Has the Minister studied the UK Select Committee's report on Tamiflu which states, in relation to drugs generally, that the full results of clinical trials are being routinely and legally withheld from doctors and researchers by the manufacturers of medicines and that only 50 per cent of completed drug trials are published and, if so, will she now agree to look more closely into drug efficacy and safety as stated in her answer to my question on 2nd December 2013?

#### **Answer**

The Health and Social Services Department is neither a regulatory, nor an investigatory body in the context of medicine data evaluation.

Research, which critically appraises the safety and efficacy of any drug, forms part of the UK Regulatory role – a function that falls to the independent UK Regulator, the Medicines and Healthcare Products Regulatory Agency (MHRA).

It is, therefore, entirely reasonable and appropriate that I, and my department, seek our expert guidance on approved medicines from the official, independent regulator, and not through the publication of official or unofficial reports, nor internet searches.

In reaching its approval decisions, and the scope (indications) for which any product is licensed for use, the MHRA takes account of all available published, peer-reviewed, validated research evidence.

Should the MHRA determine any changes to the licensed indications for a product – whether arising from the Agency's own deliberations on the content of a Select Committee Report, or from any other emerging, credible, scientific research evidence – these would be implemented in Jersey.

### **3.9 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING CONTINUING DISRUPTION TO TRAFFIC EAST OF ST. HELIER:**

#### **Question**



In relation to the continuing disruption to traffic east of St Helier, could the Minister advise -

- a) why the problem was not minimised by requesting the Jersey Electricity Company (JEC) to press on with its cable laying works towards Green Road during the low traffic flows of the Christmas period,
- b) why his Department did not decide to resurface areas other than Longueville Road, given that closure of this road diverts traffic towards Grève d'Azette which is also closed?
- c) when the Grève d'Azette road is likely to be opened again; and,
- d) whether any measures are in place to ensure that the JEC trench re-instatement will be of sufficient quality and, if not, why not?

**Answer**

- a) Why Transport and Technical Services (TTS) did not require the JEC to undertake Christmas working?

The JEC were not requested to work over the Christmas period as traditionally all contractors, subcontractors and suppliers shut down for a two week period. Even if the JEC's contractors would have been willing to work (which is most unlikely) there would have been no access to materials, for example hot asphalt to reinstate the road.

- b) Why did TTS continue its planned resurfacing of La Rue a Don?

While major projects of this sort are not normally programmed concurrently in this way, the failure of one of the JEC's two cable links to France has made early commissioning of a new cable critical to the Island and has led to this project being brought forward a year and overlapping with previously planned projects.

The current resurfacing of La Rue a Don between La Rue des Pres Trading Estate and Le Chemin du Radier is part of a significant programme to upgrade the 'A3 Route' which has taken in the order of two years of advance planning and notifications. When work such as the JEC's is brought forward, the Department can't just delay a project (and go and work somewhere else) without incurring significant re-notification periods and resultant project costs.

Notwithstanding this, the Department has carried out analysis of the potential delay of both projects running concurrently and has implemented all possible mitigations for minimising delay and disruption to road users.

- c) When will Greve d'Azette reopen?

The road closure will change to traffic signals in mid-March with the full road opening by mid-April.

- d) What quality measures are in place to ensure that the JEC's trench reinstatement will be of sufficient quality?

TTS has pre agreed the reinstatement specification that the JEC must follow and are undertaking periodic inspections of reinstatement works. The JEC have also agreed to fund full lane or road width resurfacing of Greve d'Azette, Havre des Pas and Mount Bingham (as far as South Hill). This resurfacing work will be carried out by TTS following a suitable trench settlement period (approximately 12 months to 2 years) and will ensure that the highway maintenance legacy of the JEC's trench works is kept to a minimum.

**3.10 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR SOCIAL SECURITY REGARDING FAIR RENT LEVELS FOR INCOME SUPPORT RECIPIENTS:**

**Question**

Could the Minister advise what the difference will be between the current fair rent levels his department currently uses for Income Support recipients and what these will be once the Housing Department's new rental policy comes into effect on 1st April 2014?

**Answer**

The revised Income Support Regulations lodged as P.1/2014 allow for the changes to the Income Support accommodation component that are required as part of the Housing Transformation Project. The need for these changes was approved by the States on 16th May 2013 as P.33/2013 "The Reform of Social Housing", and were set out in more detail in report R.15/2013: "States of Jersey Housing Transformation Programme: Full Business Case".

Specific detail about the proposed changes to Income Support is provided in the report that accompanies P.1/2014, which details in full the Department's proposed changes from the current "fair rent" levels. The report was lodged on 6th January 2014 and is available for download from the States Assembly website at the following address:

<http://www.statesassembly.gov.je/AssemblyPropositions/2014/P.001-2014.pdf>

**3.11 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR HOUSING REGARDING A SURVEY OF HOUSING STOCK:**

**Question**

Can the Minister confirm that the survey which was being undertaken to determine the market rate of all housing stock has now been completed and, if so, will he provide the estimated market rentals and, if not, will he advise when this data will be available to members?

**Answer**

I can confirm that the survey to determine the market rent of all Housing Department stock has been completed.

The process involved obtaining rental valuations from independent Estate Agents for a sample of 458 Housing Department properties. The properties selected represent one of every type and size of unit and in every location, and amount to approximately 10% of the Housing Department properties. The valuations received were cloned across the whole stock portfolio to provide a market rental value for each Housing Department property, which was reviewed in detail prior to being finalised.

The results are summarised in the table below.

	Average 100% market rent £pw	Average 90% market rent £pw	Lowest 90% market rent £pw	Highest 90% market rent £pw	Number of units
Bedsits	131.86	118.65	103.50	171.34	286
1 bed flats	190.84	171.78	90.00	239.88	1,682
2 bed flats	247.89	223.09	176.54	290.76	1,129
3 bed flats	254.98	229.46	207.68	297.00	91
1 bed houses	219.90	197.89	171.34	270.00	68
2 bed houses	287.94	259.14	181.73	319.84	389
3 bed houses	341.27	307.16	238.84	467.31	762
4 bed houses	359.24	323.33	262.74	382.66	119
5 bed houses	408.29	367.43	308.41	434.08	7
All Housing Department stock	241.50	217.35			4,533

80% of all property rents lie within 10% of the average.

On 6 January 2014, the Minister for Social Security lodged P.1/2014 “Income Support (amendment No. 10) (Jersey) Regulations 201-” which are due to be debated by the States Assembly on 18 February 2014. The regulations include provision for up to the full amount of rent charged on social housing properties to be provided by Income Support.

### **3.12 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING THE CHILDREN’S POLICY GROUP:**

#### **Question**

Could the Chief Minister advise whether clear procedures are in place which permit appropriate exchange of information between himself, the Minister for Health and Social Services and members of the Children’s Policy Group, and whether he has an obligation to ensure that his ministerial colleagues on that group are fully informed about cases under review, particularly where due process may not have been followed?

#### **Answer**

Information sharing protocols are in place between departments represented on the Children’s Policy Group. Those protocols allow for the exchange of information where appropriate.

The role of Children’s Policy Group is to deal with policy issues. It is not to investigate or review individual cases. Information about individual cases may be shared if it relates to a Serious Case Review or where a multi-agency response is required.

Each Minister retains his or her own statutory responsibilities as set out in law and there is no obligation to inform other members of the Children’s Policy Group about cases which pertain solely to an individual department.

### **3.13 SENATOR S.C. FERGUSON OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING DETAILS OF ALL FINANCIAL ARRANGEMENTS ENTERED INTO BY THE STATES:**

#### **Question**

Will the Minister supply a detailed list of all the loans, guarantees, indemnities and off balance sheet financial arrangements entered into by the States, including the duration of the transaction, interest rate and any conditions attached to the transaction and the counterparty?

## Answer

The States does not have off balance sheet financial arrangements.

The responses detail the arrangements current as at 31 December 2012 in line with the States 2012 published Financial Statements:-

### Loans

Loans are issued under the Public Finances Law (2005) and under the Separately Constituted Funds. Under the governing laws establishing and operating the Separately Constituted Funds, there are no requirements to publish details on the individual loans issued but instead to only publish the Fund accounts annually.

Borrowers' individual names are not included.

#### Miscellaneous Loans - Consolidated Fund 2012 Statutory accounts reference: note 17 "Consolidated Fund" - page 134

Balances as at 31 December 2012	Current Loan Balance	Original Loan value	Duration of Loan	Issued	Interest Rate	Conditions
Les Vaux Housing Association	£ 700,000.00	£ 5,900,000.00	25 years	Dec-89	4%	Note the outstanding balances was repaid one year early in full in December 2013. This loan is now fully repaid.
Les Vaux Housing Association 3	£ 1,120,000.00	£ 2,500,000.00	26 years	Sep-91	4%	
Queens Road Landslip	£ 8,284.52	£ 8,284.52	open ended	Jul-95	4%	the person only has the ability to repay the interest on this small loan
JHT Augres Store	£ 165,000.00	£ 550,000.00	22 years	Jan-97	0%	
Parsh of St Brelade	£ 8,448.48	£ 425,000.00	15 years	Jun-98	4%	
Bosdet Foundation - Les Ormes Indoor Tennis Centre	£ 166,392.24	£ 450,000.00	20 years		4%	
Jersey Table Tennis Assoc	£ 100,000.00	£ 100,000.00	note	Jun-98	4%	Note the duration of the loan will be assessed during 2014 with a view to a possible re-extension. Currently interest is only repaid
Jersey Green Room Club	£ 85,552.50	£ 150,000.00	21 years	Dec-00	5%	
Parish of Trinity	£ 603,419.61	£ 900,000.00	25 years	Feb-02	4%	Please note this is not the Infrastructure Investment - it relates to Retirement Homes (Les Maisons Cabot)
Beauliea 6% Loan	£ 159,329.69	£ 500,000.00	7 years & 2 month	Nov-08	6%	discussions are underway about modifying the loan
D.R.M.	£ 33,881.80	£ 200,000.00	14 years	Aug-99	4%	
	<b>£ 3,150,308.84</b>					

**Miscellaneous Loans - Pilot Starter Home Deposit Loan Scheme**

There were no balances as at 31.12.12 as the scheme was launched late in July 2013

**Assisted House Purchase Scheme**

2012 Statutory accounts reference: note 17 "Assisted House Purchase" - page 134

Balances as at 31 December 2012

Reference Number	Current Loan Balance	Original Loan value	Duration of Loan to full repayment (years)	Issued	Interest Rate %
0500960001	£ 137,384.20	£ 210,000.00	28.0	Mar-99	1.75
0500970001	£ 133,356.00	£ 227,000.00	25.0	Apr-99	1.75
0501040001	£ 109,056.77	£ 287,374.15	18.1	Apr-00	1.5
0501080001	£ 221,355.95	£ 385,000.00	26.7	Sep-00	1.5
0501100001	£ 79,918.54	£ 500,000.00	19.0	Dec-00	1.5
0501130001	£ 104,452.50	£ 220,000.00	25.0	Jan-01	1.75
0501190001	£ 326,907.23	£ 468,000.00	29.2	Aug-01	1.5
0501210001	£ 177,145.63	£ 327,000.00	23.1	Sep-01	1.5
0501240001	£ 212,397.96	£ 370,000.00	21.0	Jan-02	1.5
0501270001	£ 163,088.34	£ 243,000.00	24.0	Apr-02	1.75
0501321001	£ 182,522.08	£ 288,000.00	22.0	Sep-02	1.5
0501370001	£ 307,552.47	£ 950,000.00	20.0	Mar-03	1.35
0501410001	£ 104,880.42	£ 565,000.00	28.0	Jul-03	1.5
0501430001	£ 228,470.26	£ 292,500.00	29.0	Jul-03	1.5
0501440001	£ 165,291.67	£ 240,000.00	23.0	Jul-03	1.5
	<b>£ 2,653,780.02</b>				

**99 year Leaseholders Fund**

2012 Statutory accounts reference: note 17 "99 Year Leaseholders Accounts" - page 134

Balances as at 31 December 2012

Reference Number	Current Loan Balance	Original Loan value	Duration of Loan to full repayment (years)	Issued	Actual Interest Rate charged %
123785002	£ 63,120.87	n/a	27.00	Apr-94	7.5
124997001	£ 57,593.94	n/a	33.00	Jun-95	7.5
115879001	£ 44,188.66	n/a	40.00	May-90	10
	<b>£ 164,903.47</b>				

Please note the original loan values are not reported on by our administrators

Interest rates are reviewed half yearly and revised by our administrators based under borrowers affordability in line with the terms of the scheme

**Dwelling Houses Loans Fund**

2012 Statutory accounts reference: note 17 "Dwelling Houses Loan Fund" - page 134

Balances as at 31 December 2012

Reference Number	Current Loan Balance	Original Loan value	Duration of Loan to full repayment (years)	Issued	Actual Interest Rate charged %
34788001	£ 265.82	n/a	39.0	Jan-75	10
41597001	£ 27,921.05	n/a	27.0	Jun-90	10
49111001	£ 653.86	n/a	35.0	Feb-80	10
49460001	£ 87.07	n/a	30.0	Dec-82	3
53825001	£ 2,564.53	n/a	38.0	Jun-78	10
57663001	£ 9.27	n/a	39.0	Dec-76	10
58643001	£ 516.75	n/a	40.0	Apr-73	8
59910001	£ 4,575.97	n/a	38.0	May-78	10
60385001	£ 251.50	n/a	40.0	Dec-73	8
61066001	-£ 13.00	n/a	34.0	Mar-82	10
61547001	£ 4,595.32	n/a	39.0	May-78	10
61688001	£ 2,666.21	n/a	38.0	Nov-77	10
62424001	-£ 191.57	n/a	40.0	Oct-74	10
63088001	£ 3,857.80	n/a	25.0	Dec-88	10
64147001	£ 2,462.85	n/a	35.0	Sep-78	10
64408001	£ 14,488.18	n/a	38.0	Nov-81	10
64745001	-£ 91.62	n/a	33.0	Jul-83	10

Reference Number	Current Loan Balance	Original Loan value	Duration of Loan to full repayment (years)	Issued	Actual Interest Rate charged %
65012001	£ 3,552.03	n/a	40.0	May-77	10
65335001	£ 5,638.26	n/a	40.0	Nov-78	10
65816001	£ 5,373.86	n/a	22.0	Dec-91	3
66195001	-£ 66.81	n/a	32.0	Dec-82	10
67539001	£ 16,729.71	n/a	38.0	Jul-82	10
69991001	£ 2,693.58	n/a	40.0	May-77	10
70237001	-£ 844.97	n/a	36.0	Apr-77	10
70392001	-£ 7,700.25	n/a	33.0	Dec-82	10
73291001	£ 8,832.00	n/a	34.0	Apr-82	10
74831001	£ 18,328.26	n/a	25.0	Dec-91	10
74910001	£ 9,289.18	n/a	36.0	Feb-82	10
75768001	£ 4,596.53	n/a	37.0	Nov-80	10
77132001	-£ 6,990.54	n/a	33.0	Oct-82	10
77209001	£ 73.55	n/a	35.0	Apr-82	10
77235001	-£ 1,317.08	n/a	35.0	Jun-82	10
77869001	£ 16,322.10	n/a	40.0	Oct-81	10
78435001	-£ 2,887.47	n/a	35.0	Dec-80	10
79013001	£ 5,032.46	n/a	40.0	Nov-77	10
79087001	-£ 91.89	n/a	38.0	Jan-83	10
79714001	£ 32,204.59	n/a	28.0	Dec-91	10
79726001	£ 5,626.95	n/a	35.0	Jul-80	10
81119001	-£ 5,065.63	n/a	37.0	Jul-82	10
81781001	£ 18,030.36	n/a	40.0	Mar-82	10
81860001	£ 12,370.50	n/a	40.0	Jan-81	10
81925001	£ 5,709.77	n/a	40.0	Oct-78	10
82589001	£ 54,143.24	n/a	30.1	Apr-92	10
83155001	-£ 11,971.13	n/a	34.0	Apr-82	10
83179001	£ 22,771.87	n/a	23.0	Jun-92	10
83337001	£ 16,192.90	n/a	30.0	May-88	10
85414001	£ 1,656.52	n/a	37.0	Jan-82	10
85775001	£ 18,248.49	n/a	40.0	Apr-82	10
86195001	£ 10,205.29	n/a	40.0	Jul-82	10
89824001	£ 2,447.95	n/a	30.0	Sep-83	10
89989001	£ 58,257.06	n/a	31.0	Jun-92	10
90823001	-£ 51.73	n/a	35.0	Mar-83	10
91152001	£ 41,843.55	n/a	27.0	Jun-92	10
92132001	£ 7,470.58	n/a	30.0	Jun-86	10
92390001	£ 16,586.51	n/a	29.0	Jan-91	10
92467001	£ 37,022.55	n/a	28.4	Dec-91	8
93368001	-£ 2,252.12	n/a	34.0	Jul-81	10
93954001	£ 1,456.81	n/a	30.0	May-83	10
94910001	-£ 11,438.56	n/a	35.0	Jun-82	10
95067001	£ 81.44	n/a	31.0	Jan-82	10
95287001	£ 2.07	n/a	29.0	Nov-85	10
96231001	£ 60,235.75	n/a	33.0	Apr-94	8
96982001	£ 538.90	n/a	33.0	May-85	10
98239001	£ 2,146.81	n/a	25.0	Mar-88	10
100874001	£ 7,684.24	n/a	32.0	Jun-84	10
102767001	£ 36,130.12	n/a	36.9	May-85	8
102767001	£ 118.56	n/a	32.0	May-85	10
103096001	£ 5,797.99	n/a	27.0	Mar-88	10
103694001	£ 13,601.01	n/a	19.1	Mar-93	8
103864001	£ 12,284.17	n/a	33.0	Aug-85	10
104155001	£ 1,398.99	n/a	27.0	Jul-86	7
104337001	£ 22,512.22	n/a	27.0	May-90	10
104650001	£ 11,146.16	n/a	32.0	Jun-87	10
104882001	£ 53,126.68	n/a	36.0	Apr-93	8
105654001	£ 22,406.99	n/a	35.0	Mar-91	10
105939001	£ 58,407.34	n/a	33.1	Mar-93	8
106737001	£ 71,968.01	n/a	38.7	Dec-91	8
106737001	-£ 318.32	n/a	39.0	Dec-91	10
107315001	£ 46,839.53	n/a	29.1	Nov-92	8
108876001	£ 41,342.08	n/a	34.0	Jul-91	10
108981001	£ 22,781.44	n/a	23.1	Mar-93	8

Reference Number	Current Loan Balance	Original Loan value	Duration of Loan to full repayment (years)	Issued	Actual Interest Rate charged %
109337001	£ 53,315.67	n/a	33.0	Dec-91	10
109636001	£ 48,790.16	n/a	38.0	Nov-90	10
110049002	£ 23,428.15	n/a	24.1	Sep-92	8
110245001	£ 55,472.22	n/a	30.1	Apr-93	8
110594001	£ 47,698.73	n/a	35.0	Aug-91	3
110685001	£ 66,319.74	n/a	35.1	Jul-92	10
110726001	£ 14,378.86	n/a	25.0	Apr-90	10
110843001	£ 53,523.47	n/a	30.1	Mar-94	8
110908001	£ 48,890.26	n/a	23.1	Jun-93	8
111108001	£ 49,453.66	n/a	32.3	Jan-92	10
111134001	-£ 26,515.56	n/a	28.9	Jul-94	8
111304001	£ 33,110.62	n/a	31.2	Jul-92	10
111500001	£ 715.27	n/a	18.1	Jan-95	8
111550001	£ 30,421.38	n/a	25.0	Sep-93	8
114849001	-£ 921.58	n/a	38.2	Jul-92	10
114849001	£ 94,874.12	n/a	37.5	Jul-92	8
115623001	£ 50,755.35	n/a	27.2	Apr-93	8
116354001	£ 54,114.09	n/a	30.1	Apr-94	8
116770001	£ 76,503.90	n/a	40.2	Jun-92	10
116988001	£ 31,058.25	n/a	27.2	Jun-92	10
117035001	£ 71,672.03	n/a	36.2	Jun-92	10
117932001	£ 3,584.79	n/a	21.1	Aug-92	10
118170001	£ 47,568.26	n/a	29.1	Feb-93	8
118261001	£ 37,852.58	n/a	33.0	Jun-91	10
118390001	£ 1,068.18	n/a	21.0	Jan-92	10
119760002	£ 55,326.79	n/a	30.0	Mar-94	8
120006001	£ 38,402.06	n/a	28.0	Dec-91	10
120367001	£ 26,774.74	n/a	25.5	Jan-92	10
120513001	£ 52,040.26	n/a	35.1	Mar-92	10
120616001	£ 12,696.99	n/a	23.1	Mar-92	10
120628001	£ 56,232.32	n/a	33.0	Mar-92	10
120654001	£ 55,067.67	n/a	32.2	Apr-92	10
120666001	£ 11,808.70	n/a	23.0	May-92	10
120692001	£ 49,550.19	n/a	30.1	Apr-92	10
120719001	£ 54,827.44	n/a	31.0	May-92	10
120721001	£ 456.98	n/a	21.1	Apr-92	10
120771001	£ 23,792.44	n/a	24.1	Apr-92	10
120886001	£ 20,454.27	n/a	24.1	Aug-92	10
121103001	£ 32,450.82	n/a	25.1	Aug-92	10
121206001	£ 28,048.75	n/a	24.1	Sep-92	10
121256001	£ 54,666.21	n/a	33.1	Sep-92	10
122470001	£ 63,922.25	n/a	33.1	Feb-93	8
122638001	£ 3,533.97	n/a	20.1	Apr-93	8
122779001	£ 9,865.11	n/a	21.1	Sep-93	8
123541001	£ 38,048.28	n/a	23.2	Jan-94	3
123606001	£ 62,274.05	n/a	33.2	Feb-94	8
123735001	£ 19,623.45	n/a	24.1	Apr-94	8
123883001	£ 96,626.70	n/a	31.1	Aug-01	8
124129001	£ 70,400.43	n/a	36.1	Sep-94	8
124258001	£ 67,731.86	n/a	34.2	Jan-96	8
124272001	£ 64,090.27	n/a	37.0	Nov-94	8
124492001	£ 33,208.45	n/a	23.1	Jan-95	8
124650001	£ 80,192.66	n/a	37.0	Mar-95	8
124791001	£ 56,688.57	n/a	28.1	Nov-95	8
125044001	£ 30,058.52	n/a	25.1	May-96	8
125161001	£ 50,814.13	n/a	28.1	Aug-95	8
125226001	£ 26,506.59	n/a	22.1	Sep-95	8
125288001	£ 57,596.78	n/a	31.1	Sep-95	8

Reference Number	Current Loan Balance	Original Loan value	Duration of Loan to full repayment (years)	Issued	Actual Interest Rate charged %
125587001	£ 69,117.58	n/a	34.0	Jan-96	8
125666001	£ 33,733.35	n/a	24.1	Jan-96	8
125692001	£ 61,752.54	n/a	30.1	Feb-96	8
125771001	£ 63,053.42	n/a	34.1	Sep-96	3
125939001	£ 33,453.11	n/a	22.1	May-96	8
126153001	£ 4,802.20	n/a	17.0	Dec-96	8
126256001	£ 45,407.83	n/a	26.1	Apr-97	8
126359001	£ 43,145.84	n/a	25.0	Oct-97	8
126646001	£ 6,752.27	n/a	15.1	Aug-98	8
126684001	£ 70,408.82	n/a	29.0	Oct-98	8
126713001	£ 90,805.01	n/a	30.0	Aug-98	3
126816001	£ 54,246.73	n/a	19.0	Oct-98	8
126933001	£ 51,395.74	n/a	26.0	Jun-99	8
126995002	£ 76,843.51	n/a	27.0	Jul-00	8
127030001	£ 63,183.95	n/a	26.0	Aug-01	8
127080001	£ 77,504.40	n/a	37.0	Jan-01	8
127092002	£ 96,088.26	n/a	24.0	May-01	8
127133001	£ 114,208.41	n/a	39.0	Apr-01	8
127157001	£ 79,437.42	n/a	32.0	Jun-01	8
127169001	£ 98,949.62	n/a	34.1	Jun-01	8
127298001	£ 121,185.81	n/a	40.8	Apr-10	8
	<b>£ 4,689,268.12</b>				

*Please note the original loan values are not reported on by our administrators*

*Credit balances relate to where the administrators record loans as being settled, but the interest rate subsidies are not cleared until the maturity date of the loan as defined in their procedures*

*Interest rates are reviewed half yearly and revised by our administrators based under borrowers affordability in line with the terms of the scheme*



**Agricultural Loans Fund**

2012 Statutory accounts reference: note 17 "Agricultural Loans Fund" - page 134

Source of this information: Agriculture

Reference Number	Current Loan Balance	Original Loan value	Duration of Loan to full repayment (years)	System recorded Open date	Interest Rate %
0400550001	£ 61,330.99	£ 160,800.00	30	Jul-86	6.5
0400550002	£ 15,294.61	£ 50,000.00	25	Oct-91	6.5
0400580001	£ 16,913.36	£ 55,440.00	20	Jan-97	6.5
0400580002	£ 74,003.61	£ 108,000.00	25	Dec-97	6.5
0400600001	£ 344.48	n/a	n/a	n/a	6.5
0400652001	£ 31,690.98	£ 139,500.00	25	Sep-90	6.5
0400990002	£ 553.93	n/a	n/a	n/a	6.5
0401502001	£ 1,849.22	£ 20,293.00	30	Feb-86	6.5
0401510008	£ 3,468.51	£ 31,100.00	20	May-96	6.5
0401710002	£ 13,922.83	£ 72,000.00	30	May-85	6.5
0402061001	£ 6,593.59	£ 41,103.00	30	Sep-84	6.5
0403070002	£ 11,748.01	£ 90,000.00	20	Mar-94	6.5
0403400001	£ 117,384.64	£ 201,300.00	30	Oct-93	6.5
0403640001	£ 20,102.07	£ 59,750.00	27	Nov-90	6.5
0403640002	£ 22,801.00	£ 95,000.00	28	Mar-90	6.5
0403960001	£ 1,976.74	£ 81,000.00	20	Sep-94	6.5
0404463001	£ 92,015.14	£ 165,004.00	22	Jan-00	6.5
0404561001	£ 2,038.53	£ 30,000.00	25	Dec-98	6.5
0404650004	£ 3,314.29	£ 6,750.00	31	Feb-90	6.5
0404650006	£ 52,817.95	£ 59,400.00	32	Feb-90	6.5
0404650008	£ 44,112.55	£ 32,374.00	30	Aug-90	6.5
0404650009	£ 100,058.25	£ 76,500.00	28	Jun-93	6.5
0404650010	£ 70,637.55	£ 49,500.00	23	Feb-97	6.5
0405100002	£ 24,066.35	£ 76,500.00	30	Nov-87	6.5
0405190001	£ 12,228.67	£ 34,500.00	31	Jun-87	6.5
0405521001	£ 29,743.74	£ 94,500.00	30	Feb-87	6.5
0405521002	£ 44,209.22	£ 106,400.00	25	Jul-94	6.5
0405740001	£ 137,129.51	£ 211,500.00	30	Apr-94	6.5
0406040004	£ 2,401.62	n/a	n/a	n/a	6.5

Reference Number	Current Loan Balance	Original Loan value	Duration of Loan to full repayment (years)	System recorded Open date	Interest Rate %
0406040005	£ 227.74	n/a	n/a	n/a	6.5
0406650004	£ 32,216.82	£ 48,000.00	30	Jan-93	6.5
0406941002	£ 35,766.62	£ 65,000.00	30	Feb-92	6.5
0407950002	£ 56,410.92	£ 108,000.00	16	Aug-00	6.5
0408070001	£ 6,968.02	£ 42,055.00	20	Dec-93	6.5
0408070002	£ 1,884.33	£ 11,376.00	20	Dec-93	6.5
0408290002	£ 4,082.61	£ 50,000.00	20	Aug-93	6.5
0409042001	£ 11,406.47	£ 72,000.00	20	Dec-94	6.5
	<b>£ 1,163,715.47</b>				

n/a - as at 30.09.13 these loans have now been repaid, therefore historic data is not easily extractable.

**Finance Leases**

These loans are disclosed under Finance Lease obligations. Details of the 3 loans reported in the States Balance Sheet as at 31 December 2012 are:-

Property	Current Loan Balance (£)	Original Loan value (£)	Duration of Loan (years)	Issued	Effective Interest Rate %

Morier House	4,938,996	7,360,738	23.0	1996	10.33
Maritime House	2,589,295	4,000,000	23.0	1998	5.64
Airport Alpha Taxiway	3,458,010	10,215,141	16.0	2001	2.1
	<b>10,986,301</b>				

*2012 Statutory accounts reference: note 26 "Finance Lease Obligations" - page 146*

### Guarantees

The following are disclosed in the accounts but not included in the States Balance Sheet as at 31 December 2012:-

#### Jersey New Waterworks Company (JNWWC)

The States provided a Guarantee to HSBC plc up to a maximum of £16.2m for amounts outstanding in respect of a loan to JNWWC. As at 31 December 2012 £14.9m was actually guaranteed. This guarantee was first provided in its current form in 1999.

*2012 Statutory accounts reference: note 36 "Contingent Assets" - pages 167*

#### Jersey Arts Trust

The States of Jersey has provided a guarantee to Barclays Bank Plc for £3.5 million for amounts outstanding in respect of a loan to the Jersey Arts Trust in connection with the renovation of the Opera House (as approved by P167/98).

In the same proposition the States increased the funding provided to the Trust to allow them to cover the loan repayments. Without this funding it is unlikely that the Trust could meet the repayments, and so the States would become liable under the guarantee.

*2012 Statutory accounts reference: note 36 "Contingent Assets" - pages 167*

### **Student Loan Guarantees**

The States of Jersey has given guarantees against these loans to the banks. As at the year end the value of the loans amounted to £1.9 million.

*2012 Statutory accounts reference: note 36 "Contingent Assets" - pages 167*

### **Small Firm loan Guarantee**

The Small Firms Loan Guarantee Scheme (SFLGS) commenced in January 2007. The Scheme

approves lending by the Economic Development Department (by way of loan guarantees of up to £2 million), consisting of four separate £500,000 agreements with four banks.

As at the year end the value of the total loans guaranteed amounted to £354,345

States has exposure to 75%, after deduction of the 2011 provision the remaining exposure was £78,259.

*2012 Statutory accounts reference: note 36 "Contingent Assets" - page 168*

### **Indemnities**

For Statutory accounts purposes they are not reported under the classification of indemnities, however we have extracted what we interpret would fall under this classification, as follows:-

### **Housing Trusts Letters of Comfort.**

*2012 Statutory accounts reference: note 18 "Housing Trust Letters of Comfort" - pages 148 and 149*

There are 33 letters of Comfort to Housing Trusts covering £125.4m as at 31 December 2012. These loans

do not constitute Guarantees but provide a cap on interest rates. Due to low interest rates, no subsidies have been paid since 2009. The letters cover a range of periods, with the last exposure currently expiring in 2034.

The exposure accrued under Derivative Financial Instruments was £4,000 for 2012.

### **Depositor Compensation Scheme**

*2012 Statutory accounts reference: Table 7 "Purpose of Special Funds" - page 30*

In the Strategic Reserve Fund, £100m is provided for funding of a Bank Depositors Compensation Scheme as a contingent liability.

### **3.14 THE DEPUTY OF ST. MARTIN OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING MEETINGS WITH DEVELOPERS SINCE AUGUST 2013:**

#### **Question**

Will the Minister list the dates of all the meetings he has held with developers since 1st August 2013? Will the Minister state what the subjects of those meetings were and whether officers were present or not?

#### **Answer**

The table below gives details of meetings the Minister for Planning and Environment has attended in relation to Development Control (Planning) matters since the 1st August 2013.

The term 'developer' has been taken to include site owners, agents and applicants.

<b>Meetings attended by the Minister for Planning &amp; Environment (since 1st August 2013)</b>				
<b>Date of Meeting</b>	<b>Company / Person met</b>	<b>Property / Scheme</b>	<b>Officer Present (Y/N)</b>	<b>Subject</b>
02/08/2013	Deputy Power, Owner and Agent	JSPCA	Y	to discuss parking layout
07/08/2013	Owner	Beach Hotel	Y	to discuss planning matters
07/08/2013	Agent	Land south of Panorama	Y	to discuss principle of eco house
14/08/2013	Owner	1 Hilgrove Terrace	Y	petrol pump
16/08/2013	Applicant and Agent	Weighbridge Café	Y	to discuss way forward on design of café
16/08/2013	Owner and Agent	Holme Grown	Y	reviewing outstanding matters

03/09/2013	Agent	Ann Court	Y	Percentage for Art
04/09/2013	Owners	McQuaigs Quarry	Y	to clarify Environmental Impact Assessment
04/09/2013	Owner and Agent	Land adjacent to Kaduna, La Rue du Moulin de Fliquet, Bellozanne	Y	discussed conversion of summer house
06/09/2013	Applicant	JCG	Y	progression up-date
19/09/2013	Agents	St James Centre	Y	to discuss contribution of an artistic element to extension
20/09/2013	Agent and Connétable St Ouen	F622, St Ouen - Parish housing scheme	Y	to discuss outcome of public inquiry.
01/10/2013	Applicant and Agent	Weighbridge Café	Y	to discuss design alternatives
03/10/2013	Agents	Ollivier's Farm	Y	to discuss the owner's intention for the site
10/10/2013	Agent	First Tower housing	Y	potential development opportunity
14/10/2013	Agent and Applicant	Hillside cottage, Grouville	Y	to discuss alternative schemes
18/10/2013	Agents	Ollivers Farm	Y	discuss aspirations of land owner
25/11/2013	Owner and Agent	De La Mare Nurseries	Y	to discuss the site
26/11/2013	Deputy Green and Applicant	La Collette Flats	Y	redevelopment potential
12/12/2013	Deputy Green / Constable Paddock	Field 622, St Ouen	Y	to discuss the site
08/01/2014	Owners	McQuaigs Quarry	Y	to discuss progress

In addition, the Minister attended the following meetings to discuss general development matters:

<b>Date of Meeting</b>	<b>Company / Person met</b>	<b>Property / Scheme</b>	<b>Officer Present</b>	<b>Subject</b>
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			(Y/N)		
TBC	Camerons Managing Director	–	Not Applicable	N	General discussion about modular homes
10/01/2014	Dandara Managing Director	–	Westmount development	N	Following an invitation by the Managing Director of Dandara, the Minister viewed the Westmount scheme show flat

**3.15 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING ENTITLEMENT TO THE INCOME SUPPORT IMPAIRMENT COMPONENT:**

**Question**

Following his response to my question of 10th December 2013 has the Minister discussed with his officers the possibility of advising the 403 recipients of Income Support impairment component level 3 of the potential for those responsible for their care to claim a carer's component of Income Support and, if so, what was the outcome?

**Answer**

In my response to the Deputy's supplementary question of 10th December 2013 I advised members that I would discuss this matter with officers.

I can report that information about caring duties is already requested on the Income Support application form, and that my officers monitor Income Support households to indicate where there is a potential claim for either the carer's component or the Home Carer's Allowance benefit.

Officers will consider this need whenever a household indicates that one or more members has a caring responsibility, or where a household member becomes eligible for level 3 of the Personal Care element, and will write to these households if we believe they may be eligible for the carer's component. We provide information to social workers, carer's associations and charities, and offer presentations to these groups as frequently as they require it. The carer's component is now indicated on every Income Support award letter, and we have also created a new page of the Income Support website which provides information for carers alongside people with long-term illnesses and disabilities.

I should also stress that the carer's component the Deputy refers to exists as a component of the means-tested Income Support benefit, and so there will be people in receipt of level 3 of the Personal Care element who are cared for by people who would not themselves qualify for Income Support. Some of the 403 people referred to will also use the extra payments from Income Support to buy in outside care assistance from professionals.

**3.16 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE CHIEF MINISTER REGARDING A MEETING WITH THE MINISTER FOR PLANNING AND ENVIRONMENT IN RELATION TO THE CHANNEL ISLANDS CO-OP'S PLANNING APPLICATION FOR CHARING CROSS:**

**Question**

Will the Chief Minister provide the following information in respect of his meeting of 21st December 2012 with the Minister for Planning and Environment in relation to the Channel Islands Co-op Planning Application (Charing Cross) which he has cited (P.2/2014) as sufficient grounds to dismiss the Minister:

- (a) the circumstances or complaint which led to this meeting being called in respect of a live planning application and whether it was called at the request of the applicant, another Minister, elected member or another person;
- (b) whether advance notice was given or an agenda issued to the Minister or Chief Officer;
- (c) the purpose or objectives of this meeting and whether the meeting was intended to influence the determination of this application;
- (d) who was present at this meeting;
- (e) whether minutes were taken and their contents agreed;
- (f) whether the chronology of the processing of the planning application was established from the application file, either before or after this meeting and before 10th September 2013; and,
- (g) whether it is the Chief Minister's or Council of Minister's policy to intervene in Planning applications and, if so, the protocols which have been agreed with the Minister?

**Answer**

- (a) The meeting was called at the behest of the Chief Minister only.
- (b) An agenda was not issued. The Minister was informed however, at the point at which the meeting was set up, that the purpose was to discuss various planning issues.
- (c) The purpose of the meeting was for the Chief Minister to discuss with the Planning and Environment Minister a number of planning issues about which he had concern. These issues included the Channel Islands Co-op Planning Application, H3 Island plan sites, the police station, asbestos facilities and the Le Masurier application.

The Chief Minister has never sought to influence the determination of any planning application. However, the Chief Minister, at all times, is concerned that planning decisions should be made in a timely fashion and that due process is followed.

- (d) The meeting was attended by the Chief Minister, the Planning and Environment Minister, the Chief Executive Officer of the States of Jersey, the Chief Officer for the Environment Department.

- (e) Formal minutes were not agreed but a record of the meeting was taken by the Chief Executive Officer of the States of Jersey.
- (f) The Chief Minister had been provided with information relating to key dates before the meeting on 21 December 2012, but a full chronology was not developed until after 10 September 2013.
- (g) The Chief Minister and Council of Ministers do not intervene in the determination of planning applications. The responsibility to determine an application falls solely to the Planning and Environment Minister, or to those with delegated authority.

This does not, however, preclude the Chief Minister or other members of Council from raising, via appropriate channels, legitimate questions or concerns about the conduct or performance of the Planning and Environment Minister or any official involved in the determination of applications.

### **3.17 DEPUTY J.H. YOUNG OF ST. BRELADE OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING PLANNING ENFORCEMENT MATTERS:**

#### **Question**

Will the Minister provide the Assembly with the following information in respect of planning enforcement matters of which he is aware, in particular -

- (a) those matters which are the subject of outstanding complaints including those under investigation by the States of Jersey Complaints Board;
- (b) those matters which were the subject of recent decisions of the Royal Court to allow appeals against enforcement action previously taken by his Department;
- (c) the action he has taken to ensure independent investigations are made into these matters and compliance with the protocol he introduced for his Department's enforcement procedures following the findings of previous inquiries (Reg's Skips);
- (d) the arrangements for reporting the findings of these investigations;
- (e) the actions available to him in the event of investigations finding non-compliance with those procedures; and,
- (f) his intentions to ensure that all enforcement actions meet best practice and accord with H.M. Attorney General's guidelines?

#### **Answer**



- (a) *those matters which are the subject of outstanding complaints including those under investigation by the States of Jersey Complaints Board;*

The department has one outstanding formal complaint relating to building control enforcement, received in January 2014. The complaint concerns a Data Protection matter which is being investigated by the department.

I am not aware of any outstanding complaints being investigated by the States of Jersey Complaints Board.

- (b) *those matters which were the subject of recent decisions of the Royal Court to allow appeals against enforcement action previously taken by his Department;*

Taking recently to mean the last 12 months, The Royal Court has not allowed any appeals made against the serving of Enforcement Notices.

- (c) *the action he has taken to ensure independent investigations are made into these matters and compliance with the protocol he introduced for his Department's enforcement procedures following the findings of previous inquiries (Reg's Skips);*

In seeking continuous improvements in my Department, I asked for a review of the enforcement function for Planning and Building Services and this review is almost complete. The review has been led by the Deputy Chief Officer of the department, who has the relevant experience and expertise in enforcement matters in a different context but is not involved in the Planning and Building operations of the department. I am confident the service we offer will benefit from this review.

- (d) *the arrangements for reporting the findings of these investigations;*

I expect to receive the review report with recommendations shortly and it is my intention to share this report with States members.

- (e) *the actions available to him in the event of investigations finding non-compliance with those procedures; and,*

I will review the report and findings with the Chief Officer of the department and we will take the necessary and appropriate action to implement the recommendations of the review report.

- (f) *his intentions to ensure that all enforcement actions meet best practice and accord with H.M. Attorney General's guidelines?*

I anticipate that the enforcement review report will highlight actions to be taken to improve the efficiency and effectiveness of the enforcement function and to meet best practice.

The H.M. Attorney General guidelines already form part of the enforcement function and are considered by my department and Crown Officers when dealing with enforcement matters.

**3.18 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE NUMBER OF COMPLAINTS ABOUT THE FAILURE OF THE STATES OF JERSEY POLICE TO ANSWER SUBJECT ACCESS REQUESTS:**

**Question**

Will the Chief Minister advise members how many complaints, if any, the Data Protection Commissioner has received from members of the public, including former police officers, about the failure of the States of Jersey Police to answer subject access requests fully and within the time-limits prescribed in the Data Protection (Jersey) Law 2005 (broken down into the total number received and number per year) and advise what steps, if any, the Commissioner has taken to ensure compliance by the States of Jersey Police, not least when they invoke provisions relating to anti-terrorism in situations where they do not apply to the circumstances of the case?

**Answer**

States of Jersey Police

2006 – 2010 no complaints received

2011 – 1 (concluded)

2012 – 1 (concluded)

2013 – 1 (concluded) 1 (current)

Police Association

2011 – 1 (concluded)

To put these figures into context, here are the annual figures for the number of individual Subject Access Requests received and completed by the States of Jersey Police since the introduction of the Data Protection (Jersey) Law, 2005.

<b>2006</b>	1029
<b>2007</b>	1541
<b>2008</b>	1314
<b>2009</b>	1219
<b>2010</b>	1329
<b>2011</b>	1170
<b>2012</b>	1149

**Total**                    **8751 requests**

These figures represent the full year totals since the introduction of the Law. The requests for December 2013 are still being processed so the 2013 total is not yet known.

All complaints are dealt with in accordance with the Data Protection (Jersey) Law 2005 and the complaints policy of the Office of the Data Protection Commissioner.

The States of Jersey Police receive a large number of subject access requests every year, many of which involve significant volumes of data and complex legal analysis.

The Office of the Data Protection Commissioner is aware of a number of cases where the States of Jersey Police have sought to provide more information to the applicant than was strictly required by law.

The Office of the Data Protection Commissioner is not aware of any provisions relating to anti-terrorism that have been invoked in respect of Article 7 of the Data Protection (Jersey) Law 2005.

**3.19 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING BREACHES OF THE DATA PROTECTION (JERSEY) LAW 2005 OVER THE LAST 5 YEARS BY OFFICERS AND CIVILIAN STAFF:**

**Question**

Will the Minister provide details of breaches of the Data Protection (Jersey) Law 2000 since 2008 on a year by year basis indicating the number of breaches, the nature of each breach and the penalties imposed on all States of Jersey Police officers and civilian staff and are any complaints pending at present?

**Answer**

The details provided below are the breaches of the Data Protection (Jersey) Law 2000, since 2008, which have been identified and investigated by the States of Jersey Police. They do not include any matters dealt with by the Data Protection Commissioner.

**2008** – Nil

**2009** – Nil

**2010** – One:

1) Viewed personal data relating to a domestic matter. Criminally convicted and officer required to resign at subsequent disciplinary hearing.

**2011** – Two:

1) Viewed personal data relating to a domestic matter. On advice from the Law Officers' Department, not criminally prosecuted. Officer reprimanded at disciplinary hearing.

2) Viewed and acted upon personal data relating to a domestic matter. Officer resigned whilst under investigation. Subsequently, the Law Officers' Department decided no criminal prosecution.

**2012 – Four:**

- 1) Pending conclusion.
- 2) Viewed and acted upon personal data relating to a domestic matter. Criminally convicted and officer subsequently dismissed at disciplinary hearing.
- 3) Inappropriate level of interest in the personal data of an individual and also viewed data relating to a domestic matter. On advice from the Law Officers' Department, not criminally prosecuted. Officer dismissed at disciplinary hearing.
- 4) Civilian employee viewed and acted upon personal data relating to a domestic matter. On advice from the Law Officers' Department not criminally prosecuted, subsequently dismissed at disciplinary hearing.

**2013 - Nil**

**3.20 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE NUMBER OF APPLICATIONS FOR REGISTRATION CARDS UNDER THE NEW CONTROL OF HOUSING AND WORK LEGISLATION:**

**Question**

Will the Chief Minister set out for members the number of people who have applied for registration cards under the new Control of Housing and Work (Jersey) Law 2012, breaking down the numbers into the nationality and country of origin of all those who have applied during the period 12th October 2013 to 31st December 2013?

**Answer**

The numbers of individuals who have applied for registration cards under the new Control of Housing and Work (Jersey) Law 2012 for the period from Monday 14th October 2013 to Tuesday 31st December 2013 inclusive, reported by nationality are as follows:-

<b>Nationality</b>	<b>Total</b>
British (includes 1,884 Jersey-born)	3,474
Portuguese	613
Polish	260
Romanian	90
Irish	87
French	30
South African	19

Filipino	19
Thai	19
Italian	16
Indian	15
Latvian	15
Spanish	15
Bulgarian	12
Canadian	12
Hungarian	10
American	10
German	9
Dutch	9
Czech Republic	8
Kenyan	8
Cypriot	7
New Zealander	7
Pakistani	5
Zimbabwean	6
Swedish	6
Australian	6
Bangladeshi	5
Slovak	4
Russian	4
Ugandan	3
Brazilian	3
Turkish	3

Venezuelan	3
Belgian	2
Lithuanian	2
Malaysian	2
Sri Lankan	2
Danish	2
Greek	2
Maltese	2
Chinese	1
Finnish	1
Norwegian	1
Sao Tomese	1
Tunisian	1
Jamaican	1
Malawian	1
Albanian	1
Barbadian	1
Zambian	1
Croatian	1
Estonian	1
Egyptian	1
Mauritius	1
Jordanian	1
Singaporean	1
Swiss	1
Gambian	1

Iranian	1
Argentine	1
TOTAL	4,846

These figures show all those people needing registration cards. This does not mean they are all new to the Island. People need registration cards when they move house or change jobs, or if they have moved to the Island for more than 3 months after 1st July, 2013.

When issuing cards we ask for an applicant's nationality, not country of origin.

### **3.21 DEPUTY M.R. HIGGINS OF ST. HELIER OF H.M. ATTORNEY GENERAL REGARDING THE DIFFERENCE BETWEEN REGULATORY AND CRIMINAL BREACHES OF THE DATA PROTECTION (JERSEY) LAW 2005:**

#### **Question**

- (a) Would H.M. Attorney General clarify for members and the public at large the difference between a regulatory and a criminal breach of the Data Protection (Jersey) Law 2000?
- (b) With regard to accessing sensitive personal information, could H.M. Attorney General advise whether a person who obtains such information by claiming to have the consent of the party whose information they are seeking to access through a third party, when they do not in fact have such consent, is committing a regulatory or criminal offence?
- (c) Could H.M. Attorney General explain to members the interaction between the Data Protection Commissioner and the Law Officers' Department in the determination of criminal or regulatory breaches and the extent to which the Data Protection Commissioner has unfettered discretion to determine these issues?

#### **Answer**

- (a) The Data Protection (Jersey) Law 2005 ("the 2005 Law") contains provisions where a regulatory breach (for example, a breach of one or more of the eight data protection principles) may result in the issue of an enforcement notice by the Office of the Data Protection Commissioner ("the ODPC"). It also contains provisions (for example, a failure of a data controller to register/notify (Articles 17 and 21) or the unlawful obtaining etc of personal data (Article 55)) where the act or omission in question may constitute a criminal offence. It is possible for an act or omission to constitute a regulatory breach, an offence or both.
- (b) I make no comment in relation to any specific complaint each of which will depend on its own facts. However, the activity which has been described in outline has the potential – theoretically but subject to the specific facts of the matter - to result in enforcement action by the ODPC and/or a prosecution under Article 55 of the 2005 Law.

### (c) **Regulatory breach**

The ODPC is both structurally and functionally independent of the Law Officers' Department ("LOD"). The ODPC is accordingly free to deal with any regulatory matter that falls within the ODPC's responsibilities under the Law. The ODPC may (but is not obliged to) seek legal advice from the LOD.

#### **Potential Criminal Offence(s)**

In the event of the ODPC identifying acts or omissions which indicate that an offence may have been committed, the ODPC will:

- pursue an investigation (as appropriate). There are occasions when the ODPC and the States of Jersey Police will consult with each other as to which of the two will take the lead in conducting an investigation and collating the evidence for referral to the LOD in respect of a decision to prosecute; and
- liaise with the LOD and the States of Jersey Police (as appropriate).

Any person with evidence that an offence may have been committed should refer the matter to the ODPC, and remains free to refer the matter to any other appropriate authority.

### **3.22 DEPUTY M.R. HIGGINS OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING THE ASSISTANCE AVAILABLE TO CARERS AND FAMILIES OF CHILDREN WITH MEDICAL CONDITIONS:**

#### **Question**

Will the Minister advise members what assistance, if any, is available to carers and families of children who have medical conditions such as cystic fibrosis which do not always manifest themselves externally and which do not meet the normal criteria for financial assistance used by the Department?

#### **Answer**

Financial assistance is available to low-income families through the Income Support benefit, including three levels of the component for personal care needs. Income Support also has a separate amount for carers, known as the carer's component, and people who give up work to become a full-time carer may also qualify for a separate contributory benefit called Home Carer's Allowance.

The Income Support components are not tied to specific conditions, but are awarded on criteria that are based on the extent to which an illness or disability creates the need for assistance with personal care, mobility or additional GP visits. Each of these three areas attracts a separate element of the payments, and people can qualify for one or more of them. The need for care may be caused by physical, sensory or mental illnesses and disabilities. In the case of children under the age of 12 there are also eligibility criteria where a child will miss certain developmental milestones, or where



they need supervision or assistance with medical care. As an example, this might include supervision with physiotherapy for a child, which I understand is more common for children with cystic fibrosis.

I am aware that the care needs of patients with cystic fibrosis are diverse, and that some people with the condition will manage independent living unassisted, whereas others will require a higher level of assistance with care and mobility. However, the assessment criteria are designed to cover all areas of everyday living where care assistance would be required, and I am confident that people who require specific assistance due to the effects of cystic fibrosis will satisfy the criteria for these elements of the Income Support benefit.

In 2014 I have requested that officers investigate options to further support families where children have very high personal care needs, but who would not qualify for Income Support due to household income.

#### **4. Oral Questions**

##### **4.1 Connétable A.S. Crowcroft of St. Helier of the Minister for Economic Development regarding the feasibility of developing a deep water terminal to allow cruise ships to visit Jersey:**

Would the Minister advise what investigations, if any, have been made into the feasibility of developing a deep water terminal to allow cruise ships to visit Jersey and whether he supports the development of such facilities?

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

Good morning and a Happy New Year. I am fully supportive of developing our cruise business further and Economic Development, the Ports of Jersey and Jersey Tourism have undertaken a number of studies over the years in that regard.

[10:45]

The most recent one was during 2012 when a local student studying ship and port management at Southampton Solent University produced a very thorough 77-page report after extensive interviews both in Jersey and, indeed, across the cruise industry. The Ports of Jersey are not only members of Cruise Britain but have a seat on the 8-person board where they are well placed to maintain strong relationships with cruise liners and keep abreast of industry developments. We typically host 8 to 12 cruise ships each year and now generally from the high end of the market, that is 4 and 5 star. Last year 24 cruise ships were booked to visit but unfortunately 16 cancelled mainly due to weather, 3 in fact in one day. We have a number of potential locations for a deep water cruise terminal in Jersey. Given the significant capital investment required to realise the deep water berth, recent economic conditions have presented a difficult environment to raise capital to further that option. However, with an improvement in prevailing conditions and hopefully the ideal vehicle of an incorporated Ports of Jersey pursuing a growth agenda, more can be done in the future.

##### **4.1.1 The Connétable of St. Helier**

I am grateful to the Minister. St. Helier's twin town of Funchal receives around 300 cruise ship visits a year, 630,000 extra tourists. Would the Minister agree to ask his officers to contact their counterparts in Madeira to pick their brains, as it were, as to the economic benefits of developing this part of our industry?

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

Fairly extensive work has been done, as I have alluded to, with regard to developing the cruise market for the Island. The fact is that many places other than Madeira also invest heavily; Southampton recently has invested £300 million. For Jersey to develop a cruise, and certainly a deep water cruise berth, it is estimated between £70 and £100 million, so it is the economics more so than the data to justify the development in the future.

**4.1.2 Senator S.C. Ferguson:**

Would the Minister give the Assembly the cost benefit figures? It is my understanding that visitors visiting the Island, coming ashore from these cruise ships, spend very little money in the places where they stop. Will the Minister give the figures to the Assembly so that we can look at the proper cost benefit of this venture?

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

Yes, in 2015 it is intended to do a detailed feasibility study on the benefits of a cruise market. I can certainly fire off some figures for the Senator if she would find it useful. Average stay in port is 12 hours. The average spend is £53 per head. Crews spend on average £21 per head. The types of ships that we typically attract are roundabout 700. I am sure she can work out the maths from there. But a detailed feasibility study is going to be undertaken in 2015 to build a business case to see if justification exists for the type of capital investment that I have alluded to, which would likely be £70 to £100 million.

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

Would the Minister agree with me that as this question is about deep water terminals, and the south coast of Jersey is probably too shallow in most areas for cruise ships, has his department looked at the feasibility of the north of the Island where there is deeper water? I am thinking of places like Bouley Bay where it would be a lot easier to create a berth where ships could dock.

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

A good question from the Deputy. In fact, as part of the work already undertaken, other potential sites have been evaluated, including Bouley Bay and indeed St. Catherine's. I do not want to upset the Connétable of St. Helier, clearly his question is to develop further business for St. Helier and I am sure he would be very keen for that to be the preferred location. I can perhaps reassure him by saying working with the cruise liner industry, who have also been to evaluate some of these potential sites, St. Helier does appear to be the most preferred location. One of the advantages of the cruise liner industry is bringing passengers ashore to take advantage of excursions. Jersey has an excellent range of excursions but to access those the easiest way to do it is from St. Helier, notwithstanding of course the benefits to the retail environment as well.

**4.1.4 Deputy R.G. Le Hérissier of St. Saviour:**

The Minister threw into the pot the figure of £70 to £100 million and he must know that in the current economic circumstances he could be laughed out of court. What other more pragmatic solutions has he got to get the industry moving?

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

Very perceptive of the Deputy. That is why of course we have not brought forward a proposal at this stage. There are very many other more pressing areas of capital expenditure. What we have concentrated on doing is trying to develop the market by moving more to the higher end, as I have alluded to. We now have visiting cruise liners in the 4 and 5-star bracket. We have brand names like P.&O., which is something the Island can be proud of and the relationship that we can further develop. The limitations that we suffer from here in Jersey are of course weather. As I have mentioned, quite a number of cancellations last year - about 16 - and also the prevailing issues

about getting close in. In other words, in Jersey these large ships are about a 20-minute tender ride to get passengers ashore and the cruise industry, as a whole, does not like that. That is why unfortunately Guernsey currently do better than we do. They get something like, on average, about 60 or 70 cruise visits a year, but the transfer time is only about 5 to 7 minutes.

#### **4.1.5 Connétable P.J. Rondel of St. John:**

Given that the Island have 3 recognised ports, Gorey, St. Helier, and one in St. John for bringing in aggregates, the deep water on the north coast is there but will the Minister agree with me that considerably more work needs to be done on looking at the north coast? I know in 2004 work was put in place under the Policy and Resources Committee of the day and Harbours and Airport Committee of the day, and will he look at the work that was done in 2004-5 and report back?

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

The Connétable was not clear whether he is referring to the cruise industry or he mentioned ... he was, okay. Work has been already undertaken but clearly a lot more needs to be done. I have already mentioned that a feasibility study is going to be undertaken so further evaluation, although from all the work undertaken to date, St. Helier is the preferred option, although I accept the point of the Connétable that Bouley Bay, from a deep water perspective, is the ideal location. The road infrastructure and other matters make it more of a limitation.

#### **The Connétable of St. John:**

Correction, if I may. I was not referring to Bouley Bay. It is up further along on the north coast.

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

Would the Minister given an undertaking not to spend any more taxpayers' money on a feasibility study at St. Catherine's breakwater?

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

The Minister did not spend any taxpayers' money. The Ports of Jersey from revenues that it derives spent some money evaluating quite reasonably the options for developing the cruise liner market. Certainly St. Catherine's is one option that was considered. Not a great deal of money was spent on that particular element of the overall package of developing or assessing the cruise industry development in Jersey.

#### **4.1.7 The Connétable of St. Helier:**

I would like to thank the Minister for being so well briefed and so positive. Would he agree with me that it is good to have the first oral question of this particular meeting about tourism, which is extremely important to the Island?

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

Absolutely. I thoroughly agree and clearly a key import, it is not only tourism but the economy as a whole for 2014, so I am pleased we have had an opportunity to get off, hopefully, to a flying start. Now we just have to deliver.

#### **4.2 Deputy J.H. Young of the Minister for Health and Social Services regarding the waiting times for G.P. patient referrals to hospital consultants:**

Will the Minister inform the Assembly whether all G.P. (General Practitioner) patient referrals to hospital consultants are treated within the National Health Service's maximum referral to treatment waiting time of 18 weeks and, if not, would she advise the proportion of referred patients who have

not received treatment within this timeframe, the average delay, the specialisms most affected and what action she has taken to ensure patients receive prompt treatment?

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

I hope this positivity continues. In Jersey, we measure and manage our waiting times in a different way to the N.H.S. (National Health Service). We do not use the 18-week target. All our new referrals are measured in terms of 'time to appointment' and then 'time to procedure' once it is deemed that a procedure is necessary. We aim to keep our 'time to appointment' within 12 weeks, and our 'time to procedure' within 12 weeks, although this is not always possible and the situation is not ideal. Over the last 6 months we have received 1,000 more referrals from G.P.s than in the previous 6 months. The receiving consultants assess each referral and triage them into clinical categories based on urgency. All clinical urgent referrals are seen rapidly, within 4 weeks, and most often less. Currently 65 per cent of patients are seen within 12 weeks; 75 per cent within 16 weeks of their referral; and 76 per cent of patients have their procedure within 12 weeks of being seen and 86 within 16 weeks. The average wait for referral to treatment is not calculated in Jersey. Such a measure would however be meaningless as the wait within the different specialisms vary so dramatically. Specialisms most affected by delays are orthopaedics, dentistry, dermatology, gastroenterology and pain management. Each of these has a plan of action, which may include additional clinics, additional theatre sessions or additional staff, all of which require additional funds and/or facilities.

**4.2.1 Deputy J.H. Young:**

I am grateful for the Minister for her very comprehensive answer. Would the Minister agree that looking back through the record the Minister explained in her written answer on 5th April 2011 what the rules were, as it were, and a number of those specialities she has mentioned were not meeting her targets on that occasion and here we are? Can the Minister tell us please what she considers is the solution? Is this a matter of resources or is there some other issue that is preventing us from meeting these targets some 2 years later after questions?

**The Deputy of Trinity:**

There is not one size that will solve the problem overnight. In the N.H.S. they have had a massive investment into waiting list targets and still it has not been that successful. Over here, our numbers are increasing because we are an ageing population. As I said, there are over 1,000 - compared to the same time last year - extra referrals. We are doing a lot of work within the clinic time of seeing how we can streamline our waiting lists better, by saying that the patients who want an X-ray, go and have an X-ray first rather than seeing the consultant; by enhancing physiotherapy services so it might be appropriate to have physiotherapy first before seeing consultants; and also by putting on extra clinics and extra theatre space over the weekends.

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

Does the Minister acknowledge that for certain types of operations such as hip and knee replacements, the waiting lists can be up to a year from the time of the doctor's appointment and that if we also consider that, particularly the elderly may not visit the G.P. immediately when they need assistance, they could be waiting a very long time, does the Minister acknowledge that this is not an acceptable period of time to be waiting for people who are in extreme discomfort and what action will she take to ensure that these kind of operations are not having to be waited for so long?

**The Deputy of Trinity:**

Yes, I totally agree. It is unacceptable and that is why a lot of time and effort is being done to try and solve the problem, especially with orthopaedics because we are an ageing society and that age group - me included - will need some hip replacements and knee replacements, which are very

important to keep their mobility going. We have appointed an arthroplasty nurse to free-up some doctor time, enhanced physio, as I said, to free-up some beds because some of those procedures will go on to needing operations but as you know we put in an application for some extra theatres. The theatre space is full at the moment and orthopaedics take well over 30 per cent of the theatre space as it is.

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

Does the Minister consider that it may be worth reviewing the split between private and public work that consultants do in order to make sure that waiting times can be reduced?

#### **The Deputy of Trinity:**

I have answered many questions on public and private split. All our surgeons undertake the full contract of 40 hours in the public sector. After that is what they can do privately.

[11:00]

But that will not reduce the waiting list time because, as I say, with an ageing population more people are coming through to our outpatients' appointments. We have approximately 200,000 outpatients' appointments a year.

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

Can the Minister confirm that the figures she gave show that one quarter of referrals are waiting more than 16 weeks?

#### **The Deputy of Trinity:**

Yes, the figures are what they are and I have never hidden any figures. It is difficult and we are trying desperately hard to improve the waiting times by putting in different initiatives.

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

Can she further confirm that the extra 1,000 referrals she refers to are solely due to the ageing population?

#### **The Deputy of Trinity:**

That I cannot do because I have not got a breakdown of what that 1,000 was, but we have 1,000 more referrals. I think just under 500 of those are purely for orthopaedics.

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

Will the Minister find those figures?

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

The department is applying Lean at the moment. Has the department applied Lean to the consultant's waiting lists yet and, if not, why not?

#### **The Deputy of Trinity:**

I am a full supporter of Lean because it has shown within Health and Social Services how effective it can be. If it is not going to be applied it is about due to be applied within waiting list times.

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

Why has it taken so long? Has the Minister discussed the Stroke Department at Plymouth Hospital and the improvements resulting from Lean with her managing director of the hospital?

#### **The Deputy of Trinity:**

Yes, a long time ago. I know the Senator has done the same, I am sure.

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

My understanding is that a fourth orthopaedic consultant was employed last year to address the issue of lengthy waiting lists. We were told at a recent Scrutiny hearing that in fact the waiting list had not reduced because of the number of additional referrals. Can the Minister tell Members what consideration has been given in light of the ageing population and in light of these increasing figures to employing additional orthopaedic consultants?

#### **The Deputy of Trinity:**

Employing additional orthopaedic consultants is not the answer because it is a whole range of different issues, which I have explained before, especially in orthopaedics, about having an arthroplasty nurse who can free-up some of that doctor's time and having more enhanced physio care pathway once someone has had an operation to be able to get them out of hospital that much earlier to enable someone else to get into that bed. So it is a knock-on effect. Also, if you have not got the theatre space you are not able to operate. With the new theatre modules it will improve but not for a certain while because once the theatre module space is in place we need to update the existing theatres.

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

Could the Minister advise me whether my constituent, who has waited 7 months for an appointment and then been told a hip replacement is urgently required, which will not be available to her for another 5 months, almost a year, why she would not be in ... if she was living in the U.K. (United Kingdom) she would be entitled to refer to an alternative hospital because of the failure to meet waiting times? Could the Minister tell us why she is not considering what options are available to people who are suffering, like my constituent, and why those options are not being considered?

#### **The Deputy of Trinity:**

If the Deputy wants to speak to me about his constituent I am happy to look into it. This is where we are here in Jersey. We do not refer, unless it is an operation that we cannot do here, to other hospitals in the U.K. for many reasons; really being away from the family and also the cost.

#### **4.3 Deputy M.R. Higgins of St. Helier of the Minister for Home Affairs regarding the police investigation of 'Operation Vessel':**

Would the Minister explain to Members why the police investigation of 'Operation Vessel' in which suspected sex abusers who were allegedly grooming young girls were identified, was kept secret since June 2012 and how this benefited the investigation and the people of Jersey?

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

This investigation took place in summer 2013, not in June 2012. The States Police do not normally make details of criminal investigations public unless there is a good reason so to do, and a decision as to whether and when to make information public is made on an individual basis. This was a live covert investigation and the reason for that was that was the best way of maximising opportunities for securing evidence and also for safeguarding the children victims involved. The operation took place with the support from other key agencies and victims were supported by specially trained staff. I was aware of the existence of this investigation and as this was a multi-agency investigation so were all the relevant agencies and, where appropriate, parents or guardians.

#### **4.3.1 Deputy M.R. Higgins**

I find it amazing that we find out about this investigation through the *Jersey Evening Post*. What concerns me is surely if this grooming was going on, and the investigation appears to be at an end

because no convictions were brought, why was it not put out into the media so other families, one could be aware of what was going on, and secondly, if there were other victims who could come forward... or was this just a case of again keeping quiet about child abuse in this Island because of fears for the reputation of the Island and not looking after children in the Island?

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

No, the last insinuations of the Deputy are utterly ridiculous. The police are very well committed to dealing with matters of investigation [**Approbation**] and it is quite outrageous that that implication should be put forward. These matters have to be decided on an individual basis. Here, the primary concern was to protect the children involved. This was a highly successful matter. I am sorry that the Deputy does not seem to be able to recognise a successful matter because here we had detecting that something was happening at an early stage. We had intervention to stop it happening. We had potential offenders being arrested and questioned and so on. But there was not anything to be gained at the early stages of the investigation in going public. In fact very much the reverse. You cannot go public with details of the victims' names for instance. You cannot go public with details of the alleged perpetrators' names, particularly as in this case it did not end up... so I am quite satisfied this was most properly handled.

**4.3.2 Deputy R.G. Le Hérissier:**

Would the Minister not acknowledge that as exemplified most dramatically in the Savile case, publicity was indeed the way forward and the issue is not either accusing people unfairly or massively embarrassing victims by putting their names in? The issue is surely to put in the public domain the fact that an investigation is proceeding so that if other people have data and that was, as I said, exemplified in the Savile case, then they can feel that much more confident in coming forward with possibly related allegations. That was the issue. Will he tell us therefore (a) does he agree with my statement and (b) under what circumstances would he want to handle these or would he want the police handle to these investigations in a more open fashion?

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

I do not agree with the statement in this particular case for the reasons I have already said, because you could not go public with details of the names of the alleged victims, nor could you go public with details of the alleged perpetrators. You simply could not do that in either case. You create witch hunt territory and all that kind of thing. There is an appropriate occasion to warn the public, and indeed that happened eventually via the *J.E.P. (Jersey Evening Post)* article, it is appropriate there is an issue generally. But frankly, you may call me a cynic if you like, but the issue of young men trying to ply young women with drink in order to get their - if I can go Victorian now - wicked way with them is not a new issue. This is a permanent risk, a permanent danger and that is a fact. What has been happening, on the positive side, is some excellent work has been done by the safeguarding board in training work in relation to the whole area of sexual exploitation of young people. I myself attended a half-day conference on this so the agencies are in a better place to recognise the issues when things are going wrong. But this was a massive success story and that I hold to.

**Deputy R.G. Le Hérissier:**

I wonder if the Minister could answer the question under what circumstances would he seek to have much more open investigation.

**The Deputy Bailiff:**

I think, Deputy Le Hérissier, he has already answered. He said it depends on the facts of each case.

**4.3.3 Deputy M. Tadier:**

I do not call the Minister a cynic, I call him blatantly complacent. The only reason we are aware of this episode is purely by chance that a request was made, and I think possibly some investigative journalism for a change has uncovered this. For the Minister to stand up and say that everything is dandy simply beggars belief. Does the Minister acknowledge the fact that the only reason prosecutions were not brought was because the individuals who were very young were unwilling to testify and that were they willing to testify these individuals would probably be locked up at La Moye or certainly on some kind of suspended sentences?

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

In relation to the second point: yes, that is correct. This is unusual investigation because there was no evidence coming from the victims themselves. It was, in fact, coming from other sources, and without a complainant who would give evidence: it is quite impossible to bring a criminal prosecution. I am not in the least complacent in this area. There has been excellent work to improve the system. We are still working on improving the system and awareness so that information is shared. We have brought in the M.A.S.H. (Multi-Agency Safeguarding Hubs) system within the last few months, which is a data-sharing information system. The fact is if information has to be obtained, it has to go to the right agencies and then they have to take appropriate action.

**4.3.4 Deputy M. Tadier:**

Does the Minister not acknowledge there is a problem if the only reason that people who would otherwise be convicted have not been convicted because the very vulnerable people that they were abusing, attempting to rape - because sleeping with a person under 16 is statutory rape - these individuals are still at large and that it should be possible for prosecutions to be brought in a case when these individuals, for whatever reason, do not wish to testify if there is other compelling evidence which is there. Does the Minister not agree, and if there needs to be a change a law will he bring that?

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

You could bring a prosecution if you had other evidence. But the key evidence in such cases is the evidence of the victims themselves. Clearly, without evidence from victims, there was no possibility of a successful prosecution. We have a criminal law in which the test is beyond reasonable doubt. That is a high test. So the police did their very best and by doing this in a covert way, which part of the reason for that was to try to ensure they got the best evidence possible in relation to the matter. But at the end of the day they cannot always succeed.

**4.3.5 Deputy J.A. Hilton:**

Is the Minister able to tell Members whether the alleged victims were in care, being looked after by a government department, or whether they were in the care and control of their parents?

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

I do not know the answer to that question. I could find out if the Deputy wants me to but I do not know the answer.

**Deputy J.A. Hilton:**

Thank you, I would appreciate if the Minister could do that for me.

**Deputy R.G. Le Hérisier:**

I thank the Minister but it was a point of clarification from the Attorney General, if he could advise us on circumstances where it is possible to proceed.

**The Deputy Bailiff:**



I am sorry, this is question time, not question time to the Attorney General unless you have put a question to him.

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

I will go further than Deputy Hilton's request to the Minister. I would also like to know if any of the perpetrators were in care as well. In other words, we are looking not only at victims but perpetrators, and I would also like to say that the Minister ... alleged, yes I accept that. The Minister is also trying to, in a sense, downplay this by saying, for example, it is not right to publish the names of the victims or the offenders. No one was asking for that. What we wanted to do was know that this type of activity was going on, it was in the investigation. If anybody had any information why not come forward and give the information to the police, and maybe some of these people would have been convicted. Does the Minister believe that the police should be far more transparent in these type of cases, without giving the names of victims and so on, but bringing it to the attention, not only as a warning but also to gather evidence?

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

I believe the police have to make difficult decisions in these cases on an individual basis, as I said before. The police have to consider on the one hand issues like obtaining additional evidence, but they did not think that was very likely in this particular case, but they also have to consider on the other hand, causing unnecessary alarm to the general public.

[11:15]

That is also a factor that has to be considered in balancing any individual decision.

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

If there are 12 people who are alleged victims surely that is not causing alarm, it is informing the public what is going on.

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

What I am talking about would be if they put out a general and alarming statement to the effect of parents be very careful about your girls because there are people around who are trying to do these sort of things. You have to keep these things in balance. It is quite a difficult decision, which they have to make in each individual case.

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

It is a very good opportunity to say from the Chair to those in the public gallery that you will have heard questions and answers and you can form your own views about it, but do not ever think that States Members do not care about what happens with you. **[Approbation]**

### **4.4 The Connétable of St. John of the Chief Minister regarding Jersey's relationship with the European Union:**

Following the Chief Minister's recent trip to Brussels, could he inform the Assembly if he had a chance to discuss a possible renegotiation of Jersey's relationship with the European Union, particularly the freedom of movement of E.U. (European Union) citizens to the Island?

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

My visit to Brussels, together with the Chief Minister of Guernsey, contributed to the promotion and protection of Channel Islands' interests and raised awareness of our positive contribution to the E.U. economy. I made clear that while we wished to be prepared for any eventuality in the event of a change in the U.K.'s relationship with the E.U. we are not actively seeking to change our

constitutional trading relationship with the U.K. or the E.U. It is those relationships that enable Jersey to determine its own population policies suited to the needs of the Island.

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

Having read the Chief Minister's press release re his visit and I quote: "There are opportunities for the Island business to benefit from and contribute to the European economy. It is through direct engagement in Brussels that we have the best chance of ensuring that both Channel Islands and Europe can continue to benefit from this relationship." Could the Chief Minister please confirm that it is in the best interest of the Jersey public that he should be acting on and not those of the European economy?

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

Yes, I am slightly confused by the question. I always act in the best interests of the Jersey economy and promoting Jersey around the world and promoting Jersey and informing important decision makers in Europe that Jersey is co-operative meeting relevant international standards, *et cetera*, and has an interest in many dossiers coming out of Europe is promoting Jersey. If we are not there promoting Jersey and asking the E.U. to consider how it deals with third countries then we will be overlooked and our interests will not be taken into account.

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

On the subject of representing Jersey's interests, did the Minister raise with Europe those Jersey citizens who do not have free right to move throughout Europe because of the fact they were born in the Island and had no relatives who were from the United Kingdom or else.... In other words, there can be free movement of people into the Island throughout Europe but we have these restrictions for Jersey people into Europe and working in Europe. Was it raised and did he fight the corner?

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

That is a matter that comes with regard to Protocol 3, which is to do with the U.K.'s ascension into the E.U. As the Deputy will know, the reason that this free movement in Jersey is because we are part of the common travel area with the U.K. and Ireland. That is an historic issue that those certain individuals have those requirements placed upon them but it is my understanding that most individuals can, if they wish to, move and work in the European Union, get the relevant legal documentation to allow them to do so. If we wish to renegotiate that then we would have to renegotiate our relationship and our ascension through Protocol 3.

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

Is it not true that the reason why you will not negotiate or try to negotiate this is the fact that when Protocol 3 was signed Jersey was largely an agricultural-based economy and tourism as opposed to finance and you are afraid of the impact it will have on the finance industry, so therefore you are sacrificing these citizens?

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

I am not afraid of anything. The Deputy is right to say that our economy has changed considerably since the 1970s when that particular agreement was negotiated, and it is because of that change in our economy that the major part of our economy now that may wish to market and promote into Europe for those areas were treated as a third country, and therefore it is extremely important that we promote ourselves and what we have got to offer and the benefit to the E.U. economy as a whole, it is important that we do that promotion.

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

The Minister did not answer the question. The question was whether ...

**The Deputy Bailiff:**

Deputy, I am sorry, I was talking to you. I understood the question has been answered but you started talking over me and you think it has not been so please say why you think it was not.

**4.4.4 Deputy M.R. Higgins:**

Apologies for talking over you. I asked the Minister quite specifically: is it the fact that to address this issue would mean renegotiating Protocol 3 and the reason why the Minister is not prepared to do that is because it will have implications on the finance industry?

**Senator I.J. Gorst:**

Renegotiation of Protocol 3 will have implications right across our community and that is not something that we should simply change lightly. The Deputy is aware that the United Kingdom is going to have a referendum on its membership of the E.U: we watch that carefully. We have a number of streams of work to consider how that might relate to us in due course. The Deputy should always be aware that other small micro states are considering their relationship with the E.U. and we watch those developments closely as well.

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

Could the Chief Minister confirm whether it is a case of renegotiating Protocol 3, or in fact renegotiating the common travel area in order to deal with the Constable of St. John's question with the free movement of E.U. citizens to the Island?

**Senator I.J. Gorst:**

The Deputy makes a very good point. In relation to the free movement of goods, it would be a renegotiation of the common travel area.

**4.4.6 The Connétable of St. John:**

Does the Chief Minister believe that in the continued interest of the Island to sustain economic immigration into the Island competing for on-skill jobs at a time of record unemployment?

**Senator I.J. Gorst:**

I do not see how that question is related to the original question. The Connétable should be fully aware of the millions of pounds that Social Security is putting into getting people into work. The work that the Housing and Work - I forget its full name, what used to be the Migration Advisory Panel - is doing to limit the issuance of non-local licences within our community, while at the same time accepting those of high economic value and bringing their business and jobs also into our community. They are not related.

**4.4.7 The Connétable of St. John:**

Given the Minister's reply, he did not think it should have been brought up in that particular way, will he please therefore explain how come the U.K. Government require certain Eastern European countries to have work permits to go into their country and blue cards, and yet we allow free movement into Jersey?

**The Deputy Bailiff:**

The Chief Minister has a wide range of responsibilities, Connétable, but even he is not responsible for the U.K. Government.

**The Connétable of St. John:**

But he is the man ...

**The Deputy Bailiff:**

He has answered the underlying question.

**4.5 Deputy G.P. Southern of Minister for Social Services regarding his response to a Complaints Board finding published on 18th December 2013:**

What a joy it is to be back. Will the Minister inform Members why he maintains that the application of income support guidelines to support a decision that a payment received by a claimant was to be regarded as income and not capital was just, despite a Complaints Board finding published on 18th December 2013 that it was not?

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

My response to the Complaints Board findings has already been published in our R.156/2013. Income support provides financial help to local residents in need through a system which I believe is accessible, fair and effective. The income support guidelines require a household's total income to be taken into account when considering a claim for income support benefit. Article 7 of the Income Support (Jersey) Law allows for certain payments to be disregarded or treated differently. A redundancy payment, being compensation for years of service following the loss of employment, is treated as capital not income. In the case of this particular complaint, the claimant received a £6,000 final payment from his employer. The claimant was not made redundant. In this example, if the final salary payment had not been treated as income the claimant would have received approximately £2,960 of income support while retaining £6,000 of earnings. In effect, for this period, the claimant would have been better off being out of work than in work, something which I do not believe is right. This is why I am satisfied the income support guidelines are fair in assessing the situation, something which I am sure taxpayers and most States Members would agree with. To clarify: in their findings the Complaints Board did not state that the income support guidelines were unjust. The Complaints Board felt that it was the department's decision to classify the claimant's lump sum as earnings without further investigation that was unjust. In response to the Complaint Board's comments the department has sought and received written confirmation from the employer that the claimant was not made redundant.

**4.5.1 Deputy G.P. Southern:**

Supplementary, if I may. Will the Minister explain why he has paid no attention to the further recommendation of the Complaints Board which stated: "It further recommended that the guidance notes in respect of the classification of sums paid on the termination of employment [not only redundancy but on the termination of employment] should be revised." Has he paid any attention to revising those guidelines?

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

The income support guidelines are currently and have been - for a number of months, if not a year or so - in the process of revision and the findings of the Complaints Board are being taken into consideration by the department.

**4.5.2 Deputy G.P. Southern:**

Is it the case, in the Minister's opinion, that not only do the guidelines need to be revised but that the regulations, which concern payments for termination of employment, should in fact be expanded to take into account what is becoming increasingly prevalent the use of severance payments to get around the Employment Law?

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

I take a different view from the Deputy on this particular issue. The income support benefit system is designed to assist people in need. I do not accept that people are in need when they receive large payments for leaving their employment. Only in a situation, and this is the same with tax and also social security contributions... only when the job is no longer available ... perhaps I could define “redundancy” for the benefit of the Deputy. Redundancy according to the J.A.C.S. (Jersey Advisory and Conciliation Service) website: “The whole business closes down or is expected to close down, the business closes down in a particular place or is expected to close down, the requirements of the business for employees to carry out work of a particular kind cease or diminish because the business diminishes, productivity increases, the work is done in a different way.” That is the only situation where I accept, and we already have in the guidelines, that the redundancy resulting from the loss of that particular job in the workplace should be treated as capital.

**4.5.3 Deputy J.H. Young:**

Notwithstanding the particulars of the case, would the Minister not accept that the Complaints Board is the only procedure that we have in the States for individual members of the public to bring forward their grievances and have them listened to objectively, and that if we have a situation where Ministers disregard unreasonably those findings would he not accept this completely undermines the confidence of members of the public and the ability of Members of this House to have these proper matters, questions investigated?

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

I would dispute what the Deputy has alluded to there, that we disregarded the findings. The fact is... and I have answered in great detail. In this particular case there was no question of redundancy. Whether Members feel that in future any large payment from an employer should be treated as capital, that is for Members to decide but, as far as this Minister is concerned, I do not accept that and severance payments will not be classified as capital.

[11:30]

**4.5.4 Deputy J.H. Young:**

My question was in the general, rather. I accepted notwithstanding a preamble to my question by saying: “Notwithstanding the particulars of the case, will the Minister not accept that it is a point of principle in the way Ministers respond to the Complaints Board findings?” This is proper process.

**The Deputy Bailiff:**

I understood the Minister to say that they had considered it.

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

We respect the role that the Complaints Board provides in our system of government but it has to be the case that the final decision on whether a recommendation is accepted rests with the Minister where any particular complaint has been raised. Clearly, the Minister has to be absolutely satisfied that he is making the right decision when he perhaps does not agree with the Complaints Panel.

**4.5.5 Deputy G.P. Southern:**

Will the Minister confirm that, even though it sounds like a great deal of money, £6,000 is well below the savings limit to apply for income support? Further, will he state when he is going to come and produce these revised guidance notes for the application of income support?

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

The Deputy is correct; the sum of £6,000 is less than the savings limits. I do not quite see the relevance of that. The point with regard to the policy guidelines, I do and hopefully can assure Members that they will have these in their hands, should they wish them, before the next Assembly.

#### **4.6 Deputy G.C.L. Baudains of the Chief Minister regarding discussions with Israeli politicians:**

Could the Minister advise whether the issue of Israel's stance in relation to a number of United Nations resolutions made against it has been raised when he or other Ministers have met with Israeli politicians and, if not, why not?

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

I understand concerns regarding Israel's stance in relation to a number of United Nations resolutions and can confirm that Jersey's external relations policies align with overall British foreign policy in respect of Israel. This approach seeks constructive engagement in order to promote security, prosperity and peace in the region through partnership with Israel. My visit focusing on developing economic ties with Israel was supportive of the overall British foreign policy approach towards Israel.

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

The Chief Minister occasionally brings propositions to this Assembly to impose sanctions on countries who have upset the international community and, as we know that Israel has flouted I think it is over 70 U.N. (United Nations) resolutions; in fact, there have been more resolutions brought against Israel than all other countries combined. Does the Chief Minister not think that doing business with such a country could be seen as supporting their position?

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

As I said, our external relations policy is aligned with British foreign policy. The Deputy is right, something like 77 U.N. resolutions have been issued since 1953, mainly with regard to deportations and confiscation of Palestinian land. The Deputy also raised the question of sanctions, and we do give effect to sanctions. I have got to say that, because of our economic makeup, they are mostly in relation to the financial services sector and individuals' relations with that sector.

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

Given that Israel's occupation of East Jerusalem is considered illegal under international law and is universally condemned by the United Nations, why did one of the Chief Minister's Ministers see fit to meet with the Deputy Mayor of Jerusalem last year, given that the Deputy Mayor of Jerusalem is an illegitimate role and one which helps facilitate the illegal occupation of East Jerusalem, which is an obstacle to peace?

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

That is the Deputy's opinion. As I said in my opening answer, my visit was around focusing and developing economic ties with Israel as a whole and it is through developing those economic ties that we can be in support of the U.K.'s approach to Israel. I also met the President, and he is well-known for supporting a 2-state approach and for negotiating peace, but that negotiation is for those parties themselves to enter into.

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

We are pleased to have J.C.G. (Jersey College for Girls) in the gallery today because this is a prime example of how Ministers and the Chief Minister do not answer the question; sometimes quite adeptly, but as a Back-Bencher you realise very quickly when an answer has not been given. The

Chief Minister stated that is my opinion; what exactly is he saying is my opinion? Incidentally, this is also a way that we have to use up our second supplementary questions ...

**The Deputy Bailiff:**

This is not a time for speeches, Deputy. The question is for the Chief Minister, please.

**Deputy M. Tadier:**

I thought it was an interesting didactic lesson for our pupils, Sir.

**The Deputy Bailiff:**

It is still a Parliamentary Assembly; it is a lesson for Members too.

**Deputy M. Tadier:**

Is the Minister saying that it is my opinion or the opinion of the United Nations that the occupation under international law is illegal? Because he is saying that this is my opinion, but it is not my opinion, it is simply a fact that the United Nations considers Palestine to be illegally occupied. If so, why are we dealing with positions which have no legitimate function, if we are to be seen as a legitimate state ourselves?

**Senator I.J. Gorst:**

As far as I am aware, the Deputy Mayor of Jerusalem is legitimately and democratically elected.

**4.6.4 Senator S.C. Ferguson:**

Given that Israel is arguably the main democratic country in the Middle East, is it not perhaps appropriate that we should, as a democracy, set up commercial links with them?

**Senator I.J. Gorst:**

As I said, I was in Israel and had a particular focus on developing economic ties with Israel in the digital sector. There are 2, I suppose, countries or areas that are at the forefront of this entrepreneurial digital development, that is, California - and well-known to be so - and also Israel. If we are serious about developing a digital sector, and that being part of Jersey's diversified economic future, then we must engage.

**4.7 Senator S.C. Ferguson of the Chief Minister regarding the revalidation and update of the Trowers and Hamlins' report on the Esplanade development:**

Given the speculation in the public arena about the Esplanade development, will the Chief Minister advise whether he has asked Trowers and Hamlins to revalidate and update their report, with particular emphasis on the update of the King Sturge section and, if not, why not? I perhaps should say that I am putting this question to the Chief Minister because I know that he has read the King Sturge report, so has he decided to revalidate and update it and, if not, why not?

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

The law firm, Trowers and Hamlins, was appointed to review the draft development agreement and lease between the then Waterfront Enterprise Board Limited and Harcourt Developments Limited. That was to provide protection for the public as at that point a third-party developer was responsible for lowering La Route de la Liberation, one of the main routes linking east and west of the Island. There is now no third-party involvement in the development of the Esplanade Quarter and phase 1 does not include the lowering of that road, therefore, it is not necessary to commission an update of that report.

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

However, the masterplan has not been changed with regard to lowering the road and, given that it is 6 years since the original report was prepared, and given the public interest and changes in the economic position, why does the Minister not think it should be updated?

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

I think I answered that in my opening answer: at that point, that report was commissioned because there were concerns about whether a third-party developer would be able to deliver the masterplan; that is no longer the case, there is not a third-party developer in place and the lowering of the road, as it commonly referred to, is not included in this phase.

#### **4.7.2 Deputy J.G. Reed of St. Ouen:**

I believe the Chief Minister earlier said that no third party was involved. Could he reassure the House, or confirm, shall I say, that the situation regarding Harcourt has now been resolved and that, indeed, there is no third party involved in the Esplanade Quarter development?

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

As far as I am aware, it has not been resolved in that it is still the subject of legal proceedings.

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

Could the Chief Minister give us any idea of when the matter will be resolved so that we will be able to confidently progress with the planned development of the site?

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

As far as I am aware, we are confidently progressing with the planned development of the site and phases 1 and 2 planning applications have been submitted and approved, one subject to a planning obligation agreement, and I expect that work will begin shortly. With regard to the other matter, as I said, it is still the subject of legal proceedings and I do not know when it will reach a conclusion.

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

I think it is the right development. Can the Chief Minister assure us that the principle that was very loudly proclaimed that development would only move ahead with tenants having signed-up in advance, that that is securely in place? Secondly, will he confirm that the underground car parking will indeed be paid for by private money, given that the whole project again was loudly proclaimed as self-financing?

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

As far as I am aware, Senator Ferguson made the decision to ask me because I had seen a copy of the original report, not because I am responsible or deal with the relationship with the States of Jersey Development Company. As far as I am aware, they are still working to that model of securing pre-let buy to the building, and that the money, which, as I understand it, has been used for a cash flow purpose to develop the car parking, will be repaid.

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

I am sure the Minister would agree with me that we should not enter into piecemeal development. What is the difference between the cost model of a third-party developer and the cost model of S.o.J.D.C. (States of Jersey Development Company)? Surely a project, particularly the masterplan and the outcome of the King Sturge report which has previously been noted in this Assembly, was that the whole project was going to lose £50 million. Firstly, the King Sturge report was promised to be released to States Members at some point, so will the Chief Minister direct the Minister for Treasury and Resources to release that report to Members? Secondly, surely out of prudence one



should have confidence that if that report was correct and noted a £50 million loss on that large scheme, surely we should have updated figures before we go into the next development?

**Senator I.J. Gorst:**

As I said, this phase of the development does not cover the lowering of the road; it is well underway due to applications, as I have said, being approved and work will shortly begin. It may be that in due course one may want to review the figures under phase 2, but we are not at that point.

**4.7.6 Deputy J.H. Young:**

The Chief Minister told us that there is no need any more to check-out the effective financial viability of lowering a road because there is not a third-party developer. Should we conclude from that that we should not be concerned about the ability of our developer - the body that the Minister just needed reminding of, the States of Jersey Development Company - to meet the masterplan requirements to bury that road? Is he saying that we should not be bothered about that and it does not matter if that does not happen?

**Senator I.J. Gorst:**

What I am saying is that it is being done in stages and the lowering of the road is not in this stage. I understand that the Minister for Planning and Environment has taken advice that it is appropriate to approve the individual block applications and that does not impinge upon the masterplan as a whole.

[11:45]

**4.7.7 The Connétable of St. John:**

Back in 2009, a proposition was heard in this Chamber about delaying anything happening within that particular Esplanade Quarter and it also asked, if I recall correctly, that it would be brought back to the House before anything happened. Is the entire project going to be brought back to the House for debate or is it just going ahead?

**Senator I.J. Gorst:**

As I suspected when the question was asked, it is straying into areas which are not directly under my department. The development is going ahead, as the Connétable knows, because applications have been made, as I say, to build those 2 buildings and in due course a third will go ahead. I do not recall exactly the wording of the proposition in 2009.

**The Connétable of St. John:**

So the Minister is saying it is not coming back to the House, that is clear.

**Senator I.J. Gorst:**

The States approved the masterplan, applications have gone into the planning authority. If I might say, I think that it is long overdue. There is a need for first class office space in our community and it is important that we get on because it is going to secure our future economic success. There are issues about redevelopment around the rest of St. Helier and what happens to secondary and tertiary office space and how we might be able to develop those into residential. They are also important issues and it is important that the office development on the Esplanade goes ahead and funds can then in due course be released and part of their application can be for the redevelopment of St. Helier. It is important, I believe, for our economic future.

**4.7.8 Senator S.C. Ferguson:**

I should perhaps remind Members that money is not part of planning decisions and we are at the moment talking money. As we know, the masterplan has not been changed and needs to come back

to the Assembly if we change it. We have also been told from Deputy Le Fondré that the original calculations were that the scheme, including burying the road, will make a £50 million loss. If you include the fact that on 2nd July 2008 the then Minister for Treasury and Resources, Senator Le Sueur, said that the Treasury will commission an independent valuer to give a view of the contract... He also said that he would make that advice available to States Members. Given everything that the Chief Minister has said this morning, does he not think that it is time that that advice should be made available to the Assembly and, if not, why not?

**Senator I.J. Gorst:**

I personally received a copy of that report because I was invited by the then Minister for Treasury and Resources - if I seem to recall I think it was Senator Ferguson, but I might be mistaken - to take part in that particular review. I was given it under a confidential basis, I signed a confidentiality agreement and I do not recall that the then Minister said that that information would be made public. I will have to go and review that commitment.

**Senator S.C. Ferguson:**

The Minister for Treasury and Resources, Senator Le Sueur said it on 2nd July 2008 in Hansard.

**The Deputy Bailiff:**

That is very helpful.

**4.8 Deputy J.A. Hilton of the Minister for Health and Social Services regarding regulation of employees working in the care industry:**

What action, if any, has the Minister taken to stop any individual convicted of fraud against an elderly vulnerable person from working in the care industry?

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

I currently have no legal powers to regulate the parts of the care industry that fall outside the existing Nursing Residential Law. However, Members will be aware that a new comprehensive legislation is being drafted; the instructions are with the Law Drafting Officers and I am doing everything within my power to bring the new law before this Assembly for approval at the earliest opportunity. As the Minister for Health and Social Services, I have a responsibility for regulating independent registered care homes and licensed nursing agencies and the department has rigorous recruitment and inspection procedures in place to ensure that staff are appropriately vetted and the services are regularly inspected. All providers of these services are required to carry out robust and safe recruitment process before employing anybody who may have direct access to vulnerable people. If, however, the department becomes aware that an individual convicted of a serious offence, such as fraud, is working within a registered care home or licensed agency, an inspection will be carried out immediately.

**4.8.1 Deputy J.A. Hilton:**

Thank you to the Minister for her answer. The reason I have brought this matter to the Assembly is because it was reported that somebody had indeed been convicted of fraud against an 85 year-old, a lady who apparently had found alternative employment in the care industry. This has got to be a matter of grave concern for everyone. I have been in touch with the department to ask where this person has been employed, and my understanding is that there are unregistered agencies operating in the Island. I would ask that the Minister goes back to her department and uses the powers for the Social Security Department and the Population Office to look at their records and establish exactly who is employing this person. Because there are families in our community who will be unaware

that somebody has recently been convicted of this very serious crime who could, in fact, be caring for their elderly parent. Can the Minister ensure that she carries this out to establish exactly where this person is working?

**The Deputy of Trinity:**

I agree with what the Deputy said, it is very concerning, that is why the new law, coming hopefully by the end of session in July, is so important. Any concerns in any part of the care industry raised about harm or exploitation is dealt with under multi-agency adult safeguarding procedures, and we work very closely with the States of Jersey Police and we do share information between departments. As regarding Social Security, I understand as part of the multi-agency safeguarding response, the States of Jersey Police can request that information.

**The Deputy Bailiff:**

I think the question was whether you would go back to your department and ask whether they would make inquiries in relation to this particular matter.

**The Deputy of Trinity:**

Sorry, Sir, I got a little bit carried away. I can do that, but I know the questions have already been asked because I have asked those questions about safeguarding the multi-agency working together, but to get that information, I understand it is from the States of Jersey Police.

**4.8.2 Senator A. Breckon:**

Could the Minister confirm that under existing regulations it is only the principal of a care provider that needs to be demonstrably fit for purpose and not those employed by that person?

**The Deputy of Trinity:**

No. As I understand from the registered care homes and nursing homes, when an inspection is done, the regulator looks at all employees and all their history to make sure that the D.B.S. (Disclosure and Barring Service) check has been done, and employment history, and also to check that everything is in place.

**4.8.3 Deputy R.G. Le Hérissier:**

Could the Minister categorically confirm, therefore, that the conditions that apply within the public sector are mirrored in the private sector because they are written into the contracts that Health and Social Services has with private providers?

**The Deputy of Trinity:**

Yes. I am very pleased to confirm that any service level agreement that we have with any care provider, including the voluntary and community sector, does stipulate that they have to ensure that they go through proper safeguarding procedures and check the employment history and that the new staff have been D.B.S. checked, *et cetera*.

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

What action can the Minister take once an inspection has been carried out and an individual has been identified who has been convicted of a serious offence within a registered or licensed care environment?

**The Deputy of Trinity:**

If somebody in a regulated sector has been convicted of a serious offence, the regulator goes through set procedures to see what the agency or care home is doing, and there is enforcement power within the law and ultimately registration can be cancelled and the licence revoked.

#### **4.8.5 Senator A. Breckon:**

I wonder if I could rephrase my question. It refers really to agencies that provide care in people's own homes. Could the Minister confirm that it is the principal of those agencies that needs to be registered, as the law exists at the moment, and not the employees that need to satisfy a criminal check and the like?

#### **The Deputy of Trinity:**

Care agencies providing care for people in their own home, unless they come with a service level agreement from Health and Social Services, are not regulated, and that is the whole emphasis of bringing that Regulation of Care Law and that is why it is so important. If there is a service level agreement with a care provider providing care in somebody's own home and that service level agreement is with Health and Social Services, then part of that service level agreement is to make sure that all the staff are D.B.S. checked, good employment history, *et cetera*.

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

The Minister referred to a law which is coming in which should address some of these issues. Can the Minister tell us which law that is?

#### **The Deputy of Trinity:**

As I just said, it is the Regulation of Care Law and Members had sight of it, I think, back in last June/July-time.

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

Does the Minister accept that many care homes, obviously doing their very best, the staff and the conditions are often operated under duress and it is entirely possible - and I have seen it - where background checks have not been carried out or not been done properly. Can the Minister confirm that it is not simply a service level agreement requirement for that, it is a legal requirement that all these establishments do carry out thorough background checks on all their staff?

#### **The Deputy of Trinity:**

If I recall rightly, it is those that are registered under this present law, so that is why updating the new Registration of Care Law is so important. But with any good employee, the regulator does check to make sure - and it is important when the care provider does the interviews - to check the employment history of that person, and if there are any gaps, why were the gaps not taken up with written references, and obtaining the disclosure and barring certificate. It is also important to check qualifications, if they are employing a nurse, making sure that they are registered with the N.M.C. (Nursing and Midwifery Council).

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

I welcome the Minister agreeing to go back to the department to track down where this individual is working at the moment and for that issue to be addressed. If the recipient of the care of this individual is not aware of what has recently happened... that the authorities, whether that is through M.A.S.H. make the person who is receiving the care aware. I understand the Regulation of Care Law is coming to the Assembly, which I welcome. One thing that is bothering me is I would like assurances that within that law, C.R.B. (Criminal Records Bureau) checks are a requirement and that it will be within the law that certain offences would bar an individual from working in the care industry, regardless of whether the owner of the agency wanted to overlook that fact, because maybe there was pressure on not having enough employees.

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

The question was getting a little bit out of hand, Minister, but I think it was: “Will the new law make provision to ensure that somebody with a conviction of this kind cannot be employed in the care industry?”

**The Deputy of Trinity:**

I certainly hope so.

**4.9 Deputy J.A.N. Le Fondré of the Minister for Treasury and Resources regarding the provision of public support for projects competing against private sector schemes as part of the Esplanade development:**

Further to the Minister’s statement during the debate on P.175/2011 - St. Helier Waterfront: development - one of the important benefits to the Esplanade Quarter was that it did not require any public funding. Could he explain why the position has changed and why, in relation to the public funds of £13 million provided, he considers it appropriate to provide public support for projects competing against private sector schemes?

[12:00]

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

Since the debate on P.175/2011 the phasing of the delivery of the Esplanade Quarter is the thing that has changed. It has now been proposed to deliver the entire public parking provision, which was originally going to be delivered incrementally a part of the overall scheme, after the building of the first office building, if indeed that goes ahead. Previously it had been envisaged that the public car parking would be delivered in stages. I can confirm that there is no public funding in relation to the office development of Esplanade Square and that is the important issue which the Deputy, and perhaps others, understandably raise in relation to a level playing field with the private sector. A fully repayable investment of £30 million from the Currency Fund has been agreed by Ministerial decision. It has been provided to assist with the cash flow requirements for just over half the costs of the public underground car park. It is also worth informing Members that it was, in fact, the prospective tenants for Building Number 1, one of the Islands largest employers in financial services as part of the negotiations with S.o.J.D.C. for this site, that it requested that the underground car park and the new public underground car park be delivered at the same time as the building to ensure minimal disruption to business. This also will benefit car park users, of course, and will come ultimately at zero cost to the taxpayers. As the Chief Minister has said, this will be completely repaid. Concerning comparison with competing private office schemes, none are, of course, under the obligation to provide 520 public car parking spaces, and this investment in public infrastructure enables the first phase of the Esplanade masterplan to proceed, having been approved by this Assembly in June 2008.

**4.9.1 Deputy J.A.N. Le Fondré:**

Given the growing concerns that the planned development of the Esplanade Quarter will result in gross over-provision of office space and risk significant damage to the Island’s private development sector, why does the Minister persist in stating that the masterplan for the Esplanade Quarter will deliver significant financial benefit to the States and therefore the taxpayer?

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

I think it is fair to say that Deputy Le Fondré has never been keen on the Esplanade Square, and he is perfectly entitled to his opinion. He asks 2 questions: first of all, he asks why the Minister continues to persist in the support of Esplanade Square, because of gross oversupply of office accommodation. That is a matter for the private sector demanders and potential tenants of office

supply to decide. If the prospective tenants, and we should all be pleased that there are prospective tenants for significant commercial space in Jersey, if they decide to go to Esplanade Square as opposed to other private sites, that is a matter for them. Providing it is a level playing field, then that is appropriate.

**Deputy J.A.N. Le Fondré:**

Sir, there was a second point to that question.

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

Sorry, could he just remind me of the second question?

**Deputy J.A.N. Le Fondré:**

Why does he persist in stating that there is significant financial benefit to the States and for the taxpayer?

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

Because it is true.

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

In October 2010, I brought a proposition to the House, Esplanade Quarter: deferment of works and endorsement of development agreement. On part (c) of that, it states: "To request the Minister for Treasury and Resources to bring forward for approval any development agreement in respect of the Esplanade Quarter for endorsement by the States prior to commencement of any works on this site." Is it the intention of the Minister to comply with the wishes of the House of the day?

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

I do not have the recital of that proposition before me at the moment, but what I can say to the Deputy is that it is a matter, as far as I am concerned, for the Minister for Planning and Environment to opine, upon advice, in relation to planning applications. It is for the Treasury to oversee and to ensure that S.o.J.D.C. is operating on a level playing field, is operating in a way that is compliant with their business plan. If S.o.J.D.C. are able to secure one of those lucrative tenants that requires new space and if the Treasury oversight and scrutiny of that proposal, which I am happy is under confidential arrangements, because this clearly is a very fiercely-competed issue, if that fulfils all the criteria, then S.o.J.D.C. should be allowed to enter into those proposals.

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

My question was quite simple: is it the intention to comply with the instructions of this Chamber, as per proposition P.136/2010?

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

I do not have P.136/2010 before me, the question relates to P.175. I can pull it upon my iPad and look at it but, of course, if the Deputy can hand it to me, nothing the Treasury will ever do will go against an agreement by the States. I will look at this proposition and return perhaps in supplementaries to the other question that Deputy Le Fondré has made.

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

Can the Minister for Treasury and Resources confirm that the cost of the car park ultimately will be zero to the public and can he further outline what the actual terms are of repayment to go through with the initial building of this underground car park?

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

Yes. The arrangements are that because the public car park is being delivered - that is, of course, if the office development goes ahead, because S.o.J.D.C. can only proceed if they have got tenants for these 2 buildings, let us be clear about that - on the basis that that would happen, the public car park will be delivered straightaway with the first building. The Treasury has agreed to provide the £13 million cash flow to allow that to happen, and the current cash flow indicates that will be repaid after the second building, Building Number 4, has been completed. So that means that there is no subsidy but the significant advantage is, as I have said, the public car park is delivered earlier, at less disruption and it is better for the overall scheme. But it comes at no cost to the States, it is the cash flow that is being provided.

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

A point of order, I think, or clarification anyway. In response to Senator Ferguson in December, the Minister for Treasury and Resources stated it had been: "Approved on 30th October and effectively this will fund 50 per cent of the replacement car park with it being repaid if and when Building 1 at the Esplanade Square is pre-let and it is built." Does that mean the circumstances have changed or is that just an error?

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

As I understand it, the repayment of the car park will be after Buildings 1 and 4; some of it will be repaid after 1 and some of it will be repaid after Building 4. The difference is the delivery of the car park. I would have thought that was a sensible decision and Members of this Assembly would welcome the fact that a public car park, which is not, of course, an obligation under any of the private schemes, is being developed earlier. It is not a risk, and indeed Building 1 will lead to Building 4 happening and the redevelopment of the rest of the site.

#### **Deputy J.A.N. Le Fondré:**

To be clear, that is a difference, is it not, in policy?

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

I have 4 further Members wanting to ask questions. I have to say that the last several questions have not really arisen out of the original question, which is about public sector funding as opposed to public support for projects which compete against private sector schemes. This question alone has now gone on for 9 minutes and the Minister for Treasury and Resources has taken some time to answer the questions. No doubt he will remember the Standing Order which requires one to answer questions as succinctly as possible. I am now going to allow one further question from Senator Ferguson and then a final supplementary.

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

In view of the answers to previous questions, it seems highly likely that the masterplan as envisaged will have a loss at least as high as £50 million. Would the Minister not consider it prudent to revalidate the King Sturge Report in order to give public confidence in the profitability of the project?

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

I think the Senator understands that the net return for the public of Jersey for the development of the Esplanade Square is very significant. Phase 1 produces a certain cash flow and phase 2 also, even having taken account of the sinking of the road, would be positive for States finances. I am more than happy to brief Members confidentially on these numbers but, as the Senator will be aware, there are competing private sector schemes which would like to know very much the basis on which the commercial terms which S.o.J.D.C. are negotiating with tenants. These issues would place S.o.J.D.C. and taxpayers in, effectively, an unfair position because their numbers would be

available to competing projects. I am happy to, of course, give an appropriate Scrutiny Panel information to ensure that Members understand that there is a net and a very positive net return available for taxpayers on this overall development. I do not think I can add in public further to that.

**The Deputy Bailiff:**

The question was whether you were going to ask them to revalidate the report. [Laughter]

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

There is a revalidation of the figures, which is constantly being undergone by S.o.J.D.C., and the situation has changed, it is now a phased development; that revalidation in terms is being carried out in perhaps a different way that reflects the changing structure of the delivery of the scheme.

**4.9.6 Deputy J.A.N. Le Fondré:**

I might need a little bit of advice here. I need to refer to a document that is in my possession, which I was going to circulate to Members, but I do not think it would be wise. The contents are in the public domain, they have been referred to a number of times, but I hope it is in order for me to refer to it as put in a supplementary.

**The Deputy Bailiff:**

If there is not a debate ...

**Deputy J.A.N. Le Fondré:**

No. It is relevant to the comments that the Minister has just made. The actual King Sturge Report, which is the page I am referring to, states that: "The effect of the changes from the previous proposal that had been done was to generate a result in a negative figure of minus £50 million today." That is a verbatim quote, I will not show the rest of the document, from that section. This is the section that was going to be sent around to Members. I do not want to take it out of context; there are all sorts of complexities around it. The point is, and also to assist Members, in a question to the Minister for Treasury and Resources in 2011, I specifically asked: "Is the Minister saying that there is not a loss and that was never reported and does not exist or is there a loss in the scheme that this Assembly has previously endorsed?" After a lot of prevarication I said: "Is that a yes or a no?" and the answer from Senator Ozouf was: "The answer is no." The question is, given my reference directly to comments that have been made in this Assembly before, which clearly states that: "The appraisal by King Sturge did result in a negative figure of £50,000, i.e. a £50 million loss on the Esplanade Quarter masterplan" I am not that interested in how you phase it now, what I am saying is that in the overall scheme, how do we have assurances that we are going to get significant financial return, which is the point the Senator made. Given the denial by the Minister in 2011, given the denial now, how do we have assurance that the figures that the Minister refers to are remotely accurate and, instead, that the actual impact of the Esplanade Quarter will not be a loss to the public, of substantial risk being borne by the public, loss of significant parts of the public realm, and the other non-financial benefits held out to States Members on the plan and referred to in various debates, including by the Minister, and including a devastating economic impact on St. Helier?

**The Deputy Bailiff:**

Minister, is possible to give a succinct answer as to why ...

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

Not really, when the Deputy is taking pockets and bits of information, completely unlinked, from years ago when he was discharging the functions of Assistant Minister for Treasury and Resources



or Chief Minister, which he was no longer then charged with doing. The situation has moved dramatically on. S.o.J.D.C. under my request has briefed Members on numerous occasions on the scheme. Trying to reinvent the current scenario of what will happen with the S.o.J.D.C. would be wrong. Members have been briefed. If the Deputy thinks that the Treasury supports a scheme that will bring a loss to taxpayers, then I do not think he understands how the Treasury operates. This scheme will benefit taxpayers if it goes ahead with S.o.J.D.C. getting suitable tenants. Nothing will shift me from that position because that is what I am advised by S.o.J.D.C., in which I have high confidence in the board that has been briefed by Members in relation to these matters.

**4.10 Deputy G.P. Southern of the Minister for Economic Development regarding the ability of local residents to pursue potential claims in respect of locally mis-sold Payment Protection Insurance:**

I will try and keep it a short question. Will the Minister update Members on the ability of local residents to pursue potential claims in respect of P.P.I. (Payment Protection Insurance), mis-sold on loans taken out through Island-based financial services companies?

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

The first step that any local resident should take is to pursue the complaints mechanism of their financial services provider.

[12:15]

This is the first requirement of any ombudsman scheme in any event. The overwhelming majority of complaints are resolved this way. Most of the Jersey-based financial services companies resolve complaints regarding allegations of mis-selling of P.P.I. locally using the same criteria employed in the United Kingdom. Yesterday, I lodged the Draft Financial Services Ombudsman (Jersey) Law which establishes an ombudsman scheme covering financial services in or from Jersey. Once operational this year, the ombudsman has the power to determine complaints against various providers of financial services that remain unresolved once the provider's complaints procedure has been exhausted. I would add that the lodging of the Financial Services Ombudsman Law is, in my view, a major step in enhancing consumer protection.

**4.10.1 Deputy G.P. Southern:**

Can the Minister firstly indicate to Members when he thinks the financial ombudsman will be in place and operating? How long will it take?

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

As I have mentioned to Members previously, the intention is for a Channel Islands ombudsman service. I am pleased to say, as Members probably are aware, that Guernsey approved the progress of that particular model, the Channel Islands ombudsman, in their Assembly in November of last year. The intention is that the Channel Islands ombudsman will be operational by the summer of this year.

**4.10.2 Senator S.C. Ferguson:**

Is the Minister aware that certain organisations have been sheltering behind the fact that they are subsidiaries and not branches of U.K. organisations and therefore the U.K. ruling on P.P.I. does not apply to them?

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

The Senator raises an interesting point. What I am not aware of, and what I do not have is any evidence of local companies, that may be branches or acting in whatever other capacity within

Jersey, not pursuing the role and determination process and criteria that is followed in the U.K. I have no evidence to that effect at all.

**4.10.3 Senator A. Breckon:**

Is the Minister aware that Jersey residents can use the services of the U.K. financial ombudsman service when such disputes occur and they are treated similarly by some organisations as if they were U.K. residents?

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

I do understand that is the case and has been done by a number of residents.

**4.10.4 Deputy G.P. Southern:**

The Minister in his written answer to question 6 says: "I am not aware that there is a widespread problem." Will the Minister investigate the size of the problem of claiming alleged P.P.I. mis-selling from local companies and will he return to the House informing Members what number of companies this affects and which are ducking their responsibilities, and how many cases there are so that we can be confident before the ombudsman arrives that the Minister knows the size of the problem?

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

No, I will not undertake that, or would not suggest it is prudent to do so. We will have an ombudsman in place this year, as I have already stated. The ombudsman is tooled-up and we are confident that where there are complaints and where there are complainants that have been waiting for some time for this ombudsman to be put in place, that is when we will find out the extent of the problem and the ombudsman has the capability to deal with it. It is at that point that we will be able to answer the Deputy's question rather than wasting money doing research that is difficult to determine beforehand. I have already answered questions in this area. We know, for example, Trading Standards in the last 5 years have had 20 complaints. The Jersey Financial Services Commission does not record the number of complaints, but they have described them as low. There is no other easy way to determine the level, apart from when the ombudsman is in place later in the year, then we will know the facts.

**4.10.5 Deputy G.P. Southern:**

Does the Minister not consider that he is abrogating his responsibility?

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

No, I do not, because as far as a complainant is concerned, once the ombudsman is operational, it can determine, and will determine, cases going back to 1st January 2010 and in some cases it will be prior to that, depending on the individual case.

**4.11 Deputy M.R. Higgins of the Minister for Health and Social Services regarding lessons learnt by the Children and Adult Mental Health Services following the handling of recent issues such as Haut de la Garenne and Family X:**

What lessons, if any, have been learnt by the Children and Adult Mental Health Services following the handling of recent issues such as Haut de la Garenne and Family X, and can she assure Members that they are not failing their clients, that is, the people who they are supposed to be assisting and protecting?

**Deputy J.A. Martin of St. Helier (Assistant Minister for Health and Social Services - rapporteur):**

In answering this question, I would like to assure the Deputy that I am trying to be helpful, but he does mention recent issues and the “Children and Adult Mental Services”, and it is the “Children and Adolescent Mental Services”. Haut de la Garenne shut in 1986 and while the victims were helped by psychiatrists and psychologists from the U.K., this has never ...

**The Deputy Bailiff:**

I am sorry. There is a buzz coming from the Senatorial benches, which I shall be grateful for ...

**Senator S.C. Ferguson:**

Sir, I was just proving to the Minister that there are cases of mis-selling.

**The Deputy Bailiff:**

Perhaps you might do so outside the Assembly, Senator.

**Deputy J.A. Martin:**

As I was saying, there was never a Child and Adolescent Mental Health Services in 1986 for the victims. Again, in the Family X case, this House decided that we did not have the expertise to deal with the children in this family and we decided to send them to the U.K. for specialist treatment. The other part of the question asks are we failing our clients. C.A.M.H.S. (Child and Adolescent Mental Health Service) has had a lot of investment over the last 3 to 4 years: 4 extra psychologists, a team manager and the budget has gone in 2009 from approximately £1.8 million to £2.4 million, but there is more investment needed. I hope that can help the Deputy.

**4.11.1 Deputy M.R. Higgins:**

The Assistant Minister is aware that a serious case review has been called into the handling of a case that led to the tragic death of one young person. She is also aware that the head of the Children’s Service is refusing to organise a meeting between a social worker and a vulnerable woman that she let down because the social worker is feeling stressed and harassed. He is putting his employee’s interests ahead of the woman and the family, who the department have let down for 20 years. Is she satisfied that the department has learnt any lessons from their treatment of people in the past? Family X, by the way, I am still not convinced, because there are other vulnerable families. Is she convinced that they are really genuinely dealing with these cases when they keep on putting up walls and walls and walls and doors to stop people getting the help they require?

**Deputy J.A. Martin:**

On the case of refusing to meet with the Deputy and one of his constituents, that is ongoing and I thought we had come to an agreement and we will have to discuss this individual case outside of the Chamber. Yes, we did learn lessons from the very first serious case review into Family X. There were 45 recommendations and actions to be done by all the departments involved. Early intervention, we do now have M.A.S.H., and I was then going to then say M.A.S.T. (Multi-agency Support Teams) in all our secondary schools. We do have early intervention as far as possible but the referrals to C.A.M.H.S. alone last year increased between 7 to 8 per cent on the year before. In just the cases of the prevalence and diagnosing autism and Asperger’s spectrum, they increased from 15 referrals in 2011 to 31 referrals in 2012. It is not like diagnosing somebody with a broken leg, it is a very complicated area for children and adolescents, and it is only going to grow. We know we need 14 more primary schools to service children born in the last few years, so this service will have to grow as well.

**4.11.2 Deputy M.R. Higgins:**

Is the Assistant Minister aware that Deputy Hilton’s review has already attracted over 20 people who have come forward with complaints or concerns about the Children’s Service and Adult

Mental Health? Would she agree with me that if we are really going to see if the department is doing its job then we should be appealing to the public who are not fully aware of the review to come forward and make submissions to us so we can investigate once and for all whether they are doing their job? Will she also join in the appeal for people to come forward?

**Deputy J.A. Martin:**

I am sure if the department can help in any way... I did not mention, it was in my notes, we do welcome the review from the Health, Housing and Social Security Panel and it will be concluded ... I do hear the call for evidence going out on most of the radio stations – 103 - but if Scrutiny feels that we can ask people to contribute, we will do so. We look forward to this review. It is an area that they feel needs to be looked into and I hope that it does stand up to Scrutiny, but we will always take on board Scrutiny's recommendations.

**4.12 Deputy J.A.N. Le Fondré of the Minister for Treasury and Resources regarding the repayment of public monies advanced in relation to the creation of underground parking in the Esplanade Quarter:**

To an extent, we have already had an answer, so I will read the question as lodged, but there has already been a change. The question lodged is: does the Minister still maintain that the public monies advanced in relation to the creation of underground parking in the Esplanade Quarter will be repaid on completion of Building 1 and, if not, why not? That was the original ...

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

I do not think I can add anything that I have not previously said. The £13 million investment from the Currency Fund will be repaid in full on the completion of the sales of Buildings 1 and 4.

**4.12.1 Deputy J.A.N. Le Fondré:**

As we have heard, the return will be made on the completion of the 2 buildings. If one applies a reasonably standard square footage and yield rates and things like that, that seems to indicate possible values of around £70 million for the 2 buildings. To put it backwards, that seems to indicate a return of north of 30 per cent in order to get the payments that the Minister for Treasury and Resources is requiring. Could he please explain simply how this financial miracle is to be achieved?

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

The Deputy is seeming to get a reputation for number obfuscation on a scale that I have never seen. The fact is that Buildings 1 and 4 will deliver the planning obligation to deliver a public car park and it will be repaid. I do not know what magiciary, or anything else, needs explaining. If I may follow up on the previous question that he made where I need to correct his statement that the scheme overall does not deliver benefit, I would refer him to the letter that has been sent by S.o.J.D.C. on 18th December to Planning, which sets out the financial arrangements for the scheme. It sets out very clearly those arrangements between 1 and 4, it explains quite clearly that the rest of the phased development of plots 7, 8, 9, 14 and 13 have an estimated value of £15 million for the taxpayers' purposes in relation to S.o.J.D.C. That will mean that there is a contribution to the road. The letter, which I will not go on and explain in absolute detail also says (and this is the important point): "It is envisaged that phase 2 will take 10 years to complete. On completion of phase 2, it is estimated that the financial quarter will deliver net receipts of £50 million to the States of Jersey based on today's costs and values, and that takes account of, indexed-up, the cost of the lowering of the road at £45 million", which was, of course, in 2007, and now £54 million. So I ask him to

withdraw his suggestion that the scheme will lose £50 million; in fact, it will make £50 million, and that has been set out in letters from S.o.J.D.C.

**4.12.2 Deputy J.A.N. Le Fondré:**

All I can say is what I have quoted is what the independent expert said, which included the cost of repairing the road at the time. So we obviously have a difference of opinion. The way to resolve that opinion is for some independent figures to be done to back up the figures that the Minister for Treasury and Resources has just produced. By “independent”, without casting aspersions on the directors of S.o.J.D.C. “independent” means external to that company. Sorry, that was the comment in response to the Minister’s questions. I was waiting for anybody else, if they have got any supplementaries, if not, I have ...

**The Deputy Bailiff:**

These exchanges really show that maybe one of the matters Members might consider is whether it is not an appropriate Scrutiny subject rather than questions to the Minister in the Assembly, because this is a very complicated subject and is not quite the sort of question ...

**Deputy J.A.N. Le Fondré:**

Sorry, Sir, I thought you were asking me to respond to the Minister’s comment.

**The Deputy Bailiff:**

I was not, no. Deputy Young?

**4.12.2 Deputy J.H. Young:**

Mine is a relatively simple question, I hope; since I was in the queue to get in a supplementary before, I will have another go. The Minister has told us that he is advancing £30 million from the Currency Fund for the car park which I do recall him saying at some stage was half the cost of the car park.

[12:30]

I think that was said in the Budget debate. Could he clarify for us what his financial plans are for the repayment of that cost? Does that involve, for example, transferring the car park to the T.T.S. (Transport and Technical Services) Car Park Trading account and will that mean that the entire cost will have to be paid for by public car park charges or what proportion of it by the yield from the development? So I would like that clarification and just to remind you, I think the financial plans are not part of the planning process. I just want the financial plan for the car park.

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

I do not know how many times I have to say this. The public car park is an obligation on S.o.J.D.C. which must be delivered and must be paid by the S.o.J.D.C. S.o.J.D.C. has to deliver a public car park of 520 spaces back as a result of the scheme and what they have currently said is that they will deliver that car park as a result of the development and the completion of Buildings 1 and 4 at zero cost to the taxpayer. All the Treasury is doing is providing the cash flow for that because it is suggested that the car park can be delivered earlier which was previously going to be over the whole of the development of the scheme and it has been brought forward. So the repayment will happen and the monies are being advanced with a return to the Currency Fund and will be repaid.

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

The Minister will remember that when the Esplanade Quarter scheme was sold to the States several years ago by a previous Minister for Planning and Environment, one of the criteria was that

approximately £70 million would be generated in receipts for urban regeneration. Could the Minister clarify that this is still his expectation and agree to look at the mechanism by which the receipts of development can be applied to urban regeneration in this way?

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

I welcome the Constable's question. Indeed, I do not recall what the original return for the scheme was. It may well have been £70 million. The figure that I have mentioned is now £50 million. I hope that S.o.J.D.C. over time, who are very prudent in their budgeting, would improve upon that and I look forward in the event of the Buildings 1 and 4 starting and the buildings commencing that we would enter constructive discussions with the Constable in order to see how we can use that very valuable contribution - I do not think it will be all of that money - for urban regeneration and the point that also is related to that is that the other opportunities that will be for St. Helier for vacated office space for urban regeneration, for making residential accommodation and other available opportunities, is also something that we must have dialogue with Planning and the Constable on.

**4.12.4 Deputy J.A.N. Le Fondré:**

The Minister has, in fact, referred to a level playing field. Obviously land has been transferred into the S.o.J.D.C. for zero value. The Minister is frowning. The land obviously that S.o.J.D.C. have and own is for free. They have never had to buy it. Has the States been required to provide any security or guarantees or any other support in respect of any loans of S.o.J.D.C. or in relation to this project? If so, how much? What assets are being used as security which obviously means they are at risk now, either within S.o.J.D.C. or within the wider state of the portfolio?

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

The Treasury is briefed regularly by S.o.J.D.C. on the arrangements that they are putting in place for letting buildings and pre-lets. The requirements of the Treasury are that development only goes ahead if there has been a majority of pre-lets for the buildings although there is an argument to be had in a growing market for there to be at least some speculative unlet space on a building and as far as my principles are concerned, S.o.J.D.C. has to operate as an arm's length entity and I repeat that no financial assistance has been given to the office part of the development which is an important issue of the level playing field argument. But I would ask the Deputy and others who are persistent detractors and opponents of the scheme to consider whether or not it is in taxpayers' interests, given the level playing field, that we somehow forego the valuable net contribution for taxpayers' land which they have invested in as opposed to others because that is what it appears to be happening. There is a suggestion that the States should not get a return, taxpayers should not get a return, for its land whereas private developers should be and I just wonder and I ask Members to consider that the persistent questions on this issue is that that is also a weighty consideration. Yes, level playing field but return for taxpayers on a fair and equal basis is what I think those Members of this Assembly should be asking for.

**Deputy J.A.N. Le Fondré:**

The Minister did not answer the question. For example, the question of security and whether his or the States have provided any security for S.o.J.D.C. was not answered.

**The Deputy Bailiff:**

I understood the Minister to say it.

**4.13 The Connétable of St. Helier of the Minister for Transport and Technical Services regarding strategies agreed as part of the Sustainable Transport Plan in 2010:**

Would the Minister advise when he will bring forward for debate by the Assembly the walking and cycling strategies and other agreed actions that were due to be taken following the approval of the Sustainable Transport Plan in 2010?

**Deputy K.C. Lewis of St. Saviour (The Minister for Transport and Technical Services):**

My Assistant Minister with responsibility for this area will answer this question.

**Deputy J.A.N. Le Fondré (Assistant Minister for Transport and Technical Services - rapporteur):**

There is no requirement to bring forward the walking and cycling strategies for debate by this Assembly. The strategies have been combined into what is called an active travel strategy. The most recent meeting on this was yesterday. I would note that there had been share deals well before the question was asked. Hopefully, following some minor tweaks, we are now at final draft which we will be taking back to stakeholders for comment and it will then be presented to the States which should be before the summer recess. That is as a report. In relation to other matters within the question, a draft road safety strategy is close to completion. It should be published for consultation before the summer and that will come to the States for debate and also, as requested, a review of the disabled parking and blue badge scheme is underway. As regards other actions, there are some 40 recommendations in the S.T.P. (Sustainable Transport Policy). I am not going to go through any more of them, and I refer the Connétable to the progress report published last year for all the details.

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

If I could pick up just one of the actions agreed which was in relation to Midvale Road, is the Assistant Minister aware that hundreds of commuters on foot, hundreds of school children following 'walk to school' advice, brave these inadequate pavements every day and that I raised the inadequacy of Midvale Road as a major transport route for walkers, probably nearly 10 years ago, and it is simply inadequate that the Minister has not even brought forward a feasibility study so that people's lives are imperilled every day in this way. How can the Assistant Minister explain this delay and will he agree to prioritise these matters in the current session?

**Deputy J.A.N. Le Fondré:**

At the moment, the Midvale Road improvement is programmed for 2015 although some initial design work has been carried out. In terms of other junctions, Gloucester Street, I think, was completed last year. The other 4 junctions which were in the S.T.P. are scheduled for this year although one may be marginally deferred according to resurfacing works. So it is a case if we bring Midvale Road forward - I would have to check with the officers - I would suspect that another junction would fall back in the programme. I am happy to liaise with the Constable if he wants to give that greater priority.

**4.13.2 Deputy M. Tadier:**

The Assistant Minister will probably be aware that A.N.P.R. (Automatic Number Plate Recognition) is due to be introduced by the States of Jersey Police. Is there any plan by the T.T.S. Department to use that facility to introduce or at least ascertain the possibility of congestion charging in St. Helier during peak times based on number plates?

**Deputy J.A.N. Le Fondré:**

Absolutely none that I am aware of.

**4.13.3 Deputy J.A. Hilton:**

Can the Assistant Minister confirm that the walking and cycling strategy will not result in the loss of parking spaces for the residents of St. Helier?

**Deputy J.A.N. Le Fondré:**

Again, to my knowledge, none. I will only caveat that if some extra bike racks appear in one place, whether you lose one or 2 spaces but to my knowledge none and, at worst, absolutely no significant impact.

**4.13.4 Deputy T.A. Vallois:**

Can I ask the Assistant Minister why it is that we have only had one progress report when we should be having annual progress reports on the Sustainable Transport Plan?

**Deputy J.A.N. Le Fondré:**

Absolutely correct. This particular report has taken a while to come together. Part of it has been trying to get the collection of data into a reasonable format and make it easy to collect and my understanding is that now that we have got one set-up, it should come out a lot more smoothly.

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

Would the Assistant Minister confirm that several of the points made in the transport plan back in 2010 were about increasing the number of parking spaces available in St. Helier for shoppers and residents and would he also agree with me that the Gloucester Street scheme, which was implemented last year against the recommendation of the St. Helier Roads Committee, was not one of the schemes adopted in 2010?

**Deputy J.A.N. Le Fondré:**

In terms of the amendments to the S.T.P., Gloucester Street appears on the schedule. It says junction of Gloucester Street and the Parade appears on the schedule. That, I believe, was an amendment to the S.T.P. I do not want to go through the odd ... I think there are 60-odd pages or whatever it is in the S.T.P. to find the amendment. I hope that answers the question. I have forgotten the other part of his query.

**The Deputy Bailiff:**

Deputy Baudains, you are withdrawing question 15, as I understand it?

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

Yes, there is no need for it to go forward as the matter has been resolved.

**The Deputy Bailiff:**

Thank you very much. Then we have 4½ minutes left to deal with the final question which Senator Ferguson will ask of the Minister for Treasury and Resources.

**4.14 Senator S.C. Ferguson of the Minister for Treasury and Resources regarding a new lease for the go-kart club in St. John:**

I was going to ask this question of Education as it is both sport and the Minister for Education, Sport and Culture is the Deputy for St. John and therefore he is in an ideal position to facilitate a solution. However, he decided not to deal with it so I am asking the Assistant Minister for Treasury and Resources what action, if any, is being taken to encourage and further the new lease for the go-kart club in St. John?

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



The Assistant Minister is answering this question.

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

I would just like to clarify the matter with my own suggestion to the Senator and indeed to my Education, Sport and Culture colleagues that I answer this question as opposed to them because it does fall under Property Holdings in my remit. That being said, at present, the road that is known as the Ronez loop road in St. John is designated as a main road and is in public ownership. For a lease to be granted, the designation must be extinguished. Following consultation with the Parish, we commenced a process with colleagues at T.T.S. in the latter part of 2012. In January 2013, T.T.S. requested the Solicitor General to carry out the necessary steps to apply for a Royal Court order to extinguish the loop road. I am advised that this matter needs to be considered by the Superior Number and a court date has been set for 25th February to consider the extinguishment. If the extinguishment is granted, Property Holdings will prepare the necessary Ministerial decisions under Standing Order 168 to transfer the site to the Parish. On completion, the Parish will be in a position to enter into a lease with the kart club and the transfer of the road will be conditional on the Parish agreeing to go on to a lease to the kart club.

**4.14.1 Senator S.C. Ferguson:**

Is the Assistant Minister aware of the undertaking made by the States that when the Bellevue site was compulsorily purchased for housing in 1994 and the kart club thrown out, the States expressed a wish to find a suitable site for the kart club and the Planning Department endeavoured to assist the search and this previous support from the States for the planning application for the loop road is backed up by a high level of support for the planning application. So will the Assistant Minister explain to the Assembly what level of support is being given to the club, given that the discussions with Jersey Property Holdings have been ongoing since 2009, 5 years?

**Deputy E.J. Noel:**

Of course I am aware of previous commitments given by the States in this matter. We have agreed with the various parties concerned a way forward and we have been acting on that. To extinguish a road, which is what we need to do because the kart club want the certainty and flexibility of having a lease going forward because they want to make some investment on that particular site and to do so they need a lease to do so, means we need to extinguish the road and that takes time and that is going through the proper process through the Law Officers as we speak.

**The Connétable of St. John:**

I would like to make the questioner and Members aware that the Parish of St. John is interested in negotiating with Property Holdings or are negotiating with Property Holdings in that the Parish will take over the loop road if it is extinguished on the condition that a Parish Assembly is held and the Parishioners wish to do so. I am just informing the Assistant Minister and the Senator.

**4.14.2 Deputy M. Tadier:**

Is it anticipated that there will be any money transferring hands for the piece of land in question and if so, what will happen with that sum of money?

**Deputy E.J. Noel:**

No, there is no anticipation for a sum of money to be charged to the kart club or anybody else. There may be some court stamp duties to be paid because obviously the kart club require a long lease, some 15 years with a potential renewal for a further 15 years, and so if the stamp duty is not waived, there may be a requirement to pay the stamp duty.

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

The question was on the understanding that it was being transferred to the Parish not to the kart club and so will there be any cost implication for the Parish is what I am asking essentially and if so, what will happen to that money?

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

No, the land will be transferred from the States to the Parish at a nil cost on the condition that the Parish enter into a lease with the kart club to give them the security that they need to be able to operate their sporting activity.

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

All right. The time of 2 hours allowed for these questions is now up and therefore that brings that part of question time to an end. There is listed as paragraph (d) on the Order Paper under questions an urgent oral question from Deputy Baker to the Chief Minister. That question has been allowed as an urgent oral question following the criteria which the Bailiff's Office applies to oral questions at their request. It seems to me that given that the Chief Minister is answering questions without notice, it would be quite desirable to have the urgent oral question put first immediately after lunch before questions without notice so that other matters, no doubt, can be the subject of questions without notice.

#### **Deputy J.A.N. Le Fondré:**

Just to clarify, there will be 10 minutes allowed for that question?

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

Well, we have spent about 10 minutes on every other question so far so I am proposing to allow about 10 minutes.

### **LUNCHEON ADJOURNMENT PROPOSED**

The adjournment is proposed and the States now stand adjourned until 2.15 p.m.

[12:46]

### **LUNCHEON ADJOURNMENT**

[14:16]

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

Before we resume this afternoon, we just have the opportunity of welcoming His Excellency, the Lieutenant Governor [**Approbation**] and in case Members are wondering, we have a different crew from year 8 upstairs and they are also very welcome. [**Approbation**]

## **5. Urgent Oral Questions**

### **5.1 Deputy J.P.G. Baker of St. Helier of the Chief Minister regarding the withdrawal of P.2/2014 and his contentment with such a Minister working within the Council of Ministers:**

Could the Chief Minister confirm that by withdrawing P.2/2014, he is content to have a Minister who has failed to be honest, straightforward and open with fellow Ministers of the States working within the Council of Ministers?

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

I can confirm that I am content to work with any Minister who is prepared to enter into a constructive dialogue, who has apologised and who enters into a clear agreement over how to

proceed in future. The work of the Council of Ministers will, therefore, be focused on completing the actions we agreed in the Strategic Plan for the benefit of all Islanders.

#### **5.1.1 Deputy J.P.G. Baker:**

That therefore is a yes. I was wondering if the Chief Minister will be considering altering the Standing Orders or the Code of Conduct to make this sort of behaviour inappropriate.

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

It is quite clear in the statement and I have been quite clear in the reason I have brought the proposition in the first instance was because it is not appropriate but however it is appropriate that when Ministers apologise, when they are prepared to work constructively going forward, when procedures and policies will be reviewed and enhanced where necessary, it is appropriate that this Assembly accepts that apology and that we move forward. We must put behind personalities and political shades and act and do what we think is right in the best interests of our community.

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

In the Chief Minister's interview with Radio Jersey earlier this month, the Chief Minister said that patching up relations with the Minister for Planning and Environment would have been and I quote: "The easiest course of action for me but in my job I do not take the easiest course of action. I take the course of action that is in the best interests of good governance of Jersey." Can he confirm that the decision he has taken is not in his opinion one that is in the best interests of good governance of Jersey?

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

I am absolutely certain that both decisions were appropriate and were right. It cannot be acceptable - and the reason I brought forward the proposition in the first instance - for behaviour to go unchallenged. The process available to a Chief Minister is the one that I have followed and I stand by that comment that I made to the BBC. Of course it would again have been easier for me to not withdraw the proposition, to not accept the Minister's apology and to be personal and partisan and I am not prepared to do that. As I said yesterday, I always try to act in what I think is the most reasonable way and what is in the best interests of this Assembly and therefore this community.

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

It was obvious from the Chief Minister's email to States Members yesterday that he has had a number of meetings recently with the Minister for Planning and Environment. Can the Chief Minister inform the Assembly if at any time during those discussions the subject of asbestos was discussed?

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

I have the support of first-class ministerial and assistant ministerial colleagues and I am extremely grateful for that support. During the course of last week and intensely over the weekend, one of those colleagues communicated extensively with Deputy Duhamel and myself and we were able to reach agreement. I am not aware that the asbestos issue was covered.

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

This morning in the Chamber, the Chief Minister raised concerns about confidentiality on issues. In his report and proposition on removing the Minister for Planning and Environment, the Chief Minister had 3 letters that had been passed between himself and the Minister; 2 of them were addressed "private and confidential" and the other one just "confidential". That being the case, did the Chief Minister have the Minister for Planning and Environment's permission to have those letters put into the public domain as they have been within the proposition?

**Senator I.J. Gorst:**

The Minister for Planning and Environment gave no objection to those letters being attached to the report and proposition when it was discussed at the Council of Ministers. Had he felt it was inappropriate, I am sure that he would have raised that issue with me.

**5.1.5 The Connétable of St. John:**

Clarification. Did the Chief Minister ask the Minister for Planning and Environment whether or not he would object to those letters being put in the public domain?

**Senator I.J. Gorst:**

I have answered that question. The letters were quite clearly attached to the draft report and proposition which the Minister and the Council of Ministers considered extensively and therefore I did not see that it was necessary to directly ask because it was to be assumed that they were part of the proposition for public lodging.

**The Connétable of St. John:**

So the answer is no then, is it?

**The Deputy Bailiff:**

The answer was no, Connétable.

**5.1.6 Deputy J.A. Hilton:**

Will the Chief Minister tell the Assembly whether he was aware a private meeting had taken place between the Minister for Planning and Environment and the Managing Director of Dandara and, if he was informed of that, can he tell the Assembly when he was informed about that meeting?

**The Deputy Bailiff:**

Do you have a date for that meeting?

**Deputy J.A. Hilton:**

The date given in response to a written question from the Deputy of St. Martin, which was given this morning, was 10th January.

**Senator I.J. Gorst:**

I was aware of that and I believe the Deputy has openly answered that in his written answer this morning.

**5.1.7 Deputy J.A. Hilton:**

Supplementary. Does the Chief Minister believe in light of the questions that I asked in September 2013, with regard to the private meeting that took place between the Minister for Planning and Environment and Chief Executive Officer and management at the Co-op, does he believe in light of what transpired after that meeting that that was an unwise thing to do, for the Minister for Planning and Environment to repeat again on 10th January, to have a private meeting without officers being present?

**Senator I.J. Gorst:**

Part of the constructive dialogue over the course of the weekend was that the Minister has agreed and confirmed that the relevant protocols in this particular area will be followed strictly in future

regarding meetings with existing and potential planning applicants, which means that the Minister will in future attend such meetings together with an appropriate officer, which I believe is the appropriate course of action for a Minister and I am sure that the Deputy would support that.

**5.1.8 Deputy M. Tadier:**

The Chief Minister has said that it is good when Ministers apologise to each other and smooth things over. The Minister in the run-up to the dismissal proposition had alleged that the Minister for Planning and Environment had been dishonest and/or was incompetent. Clearly he is no longer incompetent otherwise he would not be in the job. Will the Chief Minister issue his own apology here and now to my colleague on the right to say that he was not dishonest and that the Chief Minister will now reciprocate the apology and the goodwill that has been offered by the current incumbent?

**Senator I.J. Gorst:**

The statement says that I have accepted the Minister's assurances and I have expressed my regret regarding the recent escalation of events.

**5.1.9 Deputy M. Tadier:**

That is right, and very cleverly worded "regret the escalation", which I am sure we all do but there is a difference between saying that and apologising directly to the Minister so will the Chief Minister lead by example perhaps and take this opportunity in front of a full gallery and a listening public to apologise to the Minister for Planning and Environment directly?

**Senator I.J. Gorst:**

I have just read out the statement and I stand by the statement and that was read out in the public domain. I do indeed, and I have been quite clear, regret that this incident escalated in the way that it did.

**Deputy M. Tadier:**

So that is a no then? Thank you.

**5.1.10 Deputy M.R. Higgins:**

Just following up on Deputy Hilton's question, is it not the case that the former Minister for Planning and Environment regularly had meetings with developers without officers present and on one occasion the Chief Minister was present at one of those meetings?

**Senator I.J. Gorst:**

I do not recall such a meeting. I think it is quite clear that the protocol was put in place to make sure that such meetings did not take place and the statement quite clearly says that the Minister will in future strictly follow that protocol.

**5.1.11 Deputy M.R. Higgins:**

Just one other question. Can the Chief Minister please help me with the timing? States Members were informed by email at, I think it was 10.39 a.m., on the Monday. I am not sure when other Members or the Council of Ministers or other people heard about it but certainly can the Chief Minister confirm that it was not given to the media before it was given to States Members?

**Senator I.J. Gorst:**

Unfortunately it was a very fast moving morning yesterday and Members of the Council of Ministers were aware of it earlier, at least an hour earlier, than Members of the States. The *J.E.P.* was aware of it at a similar point of time. I agreed that with the Minister for Planning and Environment, because of interviews that he had undertaken with that newspaper earlier or late last week and those Members who had initially lodged a vote of no confidence and signed that paper were also informed about the same time.

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

Is it the Chief Minister's intention to encourage all Ministers to adopt a similar protocol to that which the Minister for Planning and Environment of his own volition has introduced?

**Senator I.J. Gorst:**

Perhaps I should have said also in answer to Deputy Higgins, there is a great deal of difference between a Minister who is not performing the functions of determining planning applications meeting a developer and that is why this protocol is in place, because the Minister for Planning and Environment has to sit in a semi-judicial capacity and agree accepting or rejecting planning applications in line with the law that governs them and therefore it is a completely different thing for any other Minister to meet with a developer.

**Deputy M.R. Higgins:**

Can I just clarify something because the question I asked was - the meeting that I alluded to was with the former Minister for Planning and Environment who was meeting with developers without officers and he did it regularly?

**The Deputy Bailiff:**

The Chief Minister answered that.

**5.1.13 Connétable J.M. Refault of St. Peter:**

I am just reading from the original proposition which has now been withdrawn, just one very short paragraph: "Where the working relationship has irrevocably broken down because we no longer believe each other, then we cannot do the best for our Island." My question, Chief Minister, is a simple apology enough to restore the confidence of the people of Jersey in both the Minister for Planning and Environment and the Council of Ministers?

[14:30]

**Senator I.J. Gorst:**

I recognise that not everyone likes my style of leadership, which is to build consensus and to try to make rational informed decisions in what I believe is in the best interests of Jersey. I raised an issue which I think is extremely important in lodging the proposition. Over the course of the last week, as I have already said this afternoon, negotiations and consultation with the Minister for Planning and Environment led to the point where the Minister for Planning and Environment was prepared to offer an apology, to work strictly to the protocols in place and to work together to put in place a system which is appropriate and which will, I believe, lead to better government in Jersey. I believe that any reasonable States Member would have expected me then to respond to that in the way that I have and that is to withdraw the proposition and to move forward together, as I have said, in the best interests of this Assembly and in the best interests of this community. Be in no doubt, I am absolutely committed and believe that the process that we have got in place for dealing with the appointment or the dismissal of Ministers and not having collective responsibility means that we do not have the most effective and efficient government for this community. That is why I

am committed to seeing that change and I believe that this episode should reinforce in every States Member's mind that there is a need to change the system because we need to be providing effective efficient government for this community and with the current system, the flaws are all too apparent.

**5.1.14 The Connétable of St. Peter:**

If I may, I commend the Chief Minister for his comments and concur with most of them, but what he did not confirm or comment on is what the public view is likely to be that a simple apology was enough to heal an irreparably broken down relationship within the Council of Ministers.

**The Deputy Bailiff:**

I think the Chief Minister answered your question, Connétable. I said before lunch that I would allow 10 minutes or so for the question. We have been now the best part of 14 minutes on it. The second question period is for the Chief Minister on Questions without Notice. Those who have questions to come, and I have noticed their lights have been put on, have gone at the top of that list for Questions without Notice so you will have the opportunity of asking later on. Final supplementary from Deputy Baker?

**5.1.15 Deputy J.P.G. Baker:**

As a mere observer, it would seem that the Chief Minister is enjoying a modicum of egg on face at least. Should further evidence of failing to be honest and straightforward come to light, will the Chief Minister consider relodging P.2/2014?

**Senator I.J. Gorst:**

Should the evidence of any Minister come to light that has acted in that way, I will have to deal with it accordingly. I hope in the intervening period, we can get on and change the system so that we can govern well for this community.

**6. Questions to Ministers Without Notice - The Minister for External Relations**

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

Colleagues will be aware of the well documented removal of Jersey from the black list that the Government of France recently re-modified. Can the Minister for External Relations confirm to the Assembly whether the former Mayor of Cherbourg, Bernard Cazeneuve, who is now a *ministre adjoint*, I think, within the Department of Foreign Relations in Paris, had a say initially in the blocking of Jersey and latterly in the unblocking of Jersey?

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

Monsieur Bernard Cazeneuve is the Minister for the Budget in Paris and it is in the public domain that I met with him and with officials in early December at which time it was indicated that Jersey would be removed from the black list.

**6.2 Deputy M. Tadier:**

Will the Minister give an update of any progress that has been made and any involvement with regard to Romanian driving licences being accepted here in the Island to facilitate those who would benefit from it and similarly could he give an update, and would he share my opinion, that it is not particularly helpful when we have Eastern Europeans who are quite legally allowed to work in the

Island whose licences would be recognised in the U.K. and which can be exchanged in the U.K. but cannot be recognised in Jersey. Does he think that is a problem?

**Senator P.M. Bailhache:**

I agree with the Deputy entirely in relation to the issue of driving licences for Romanian members of the community. I took the opportunity of meeting with a number of representatives of that community not many days ago and it was one of the issues that was raised by them and my understanding from officials is that the negotiations which are required to put in place an appropriate agreement for the mutual recognition of driving licences is close to fruition.

**6.3 Senator S.C. Ferguson:**

Given that such areas such as fishing quotas are decided by the North East Atlantic Fisheries Commission, the United Nations Committee chaired by Norway and of which the E.U. is merely a member, and given that the Faroe Islands in a position not dissimilar to ourselves, a dependency of Denmark and they have an independent agreement with the Commission regarding fishing quotas, will the Minister explain what moves he will be making to improve the arrangements for local fishermen with regard to our relationship with the N.E.A.F.C. and fishing quotas?

**Senator P.M. Bailhache:**

The relationship between the Faroes and the European Union is very different from the relationship between Jersey and the European Union and it is not possible to have a read across in relation to fisheries arrangements as between Jersey and the Faroes. I agree with the Senator, as a matter of fact, that the constitutional relationship with the Faroes, both with Denmark and with the European Union, is of interest and my department will be carrying out inquiries to find out a little bit more about this to see whether things can be learned from that relationship.

**6.4 Deputy R.G. Le Hérisier:**

Would the Minister for External Affairs comment on the existence of Protocol 3 which, despite the heroic efforts of his population colleague, allows for mass immigration, mass immigration which can often depress labour rates to such an extent as to make it very difficult for local people seeking work? Does he preach a gospel of despair when it comes to trying to change Protocol 3 or has he got some innovative ideas?

**Senator P.M. Bailhache:**

The Minister for External Relations never preaches a gospel of despair. **[Aside] [Laughter]** He is one of life's optimists and is always looking to see whether there are better ways of doing things and introducing reform, as the Deputy will know. So far as the position of population is concerned, as I believe the Chief Minister answered in questions this morning, the provisions of Protocol 3 which defines what a Channel Islander is for the purposes of the protocol would be impossible to refine without having a substantial renegotiation of the terms of that protocol. It is open to us to seek such a renegotiation but it does not seem to me that that would be in the interests of the Island.

**6.5 Deputy M.R. Higgins:**

Going back to the French black list, will the Minister tell us the essential element as to why we were on that black list and will he also explain to Members what undertakings or changes we have had to make to get off it?

**Senator P.M. Bailhache:**

One of the first things that I did on learning that the Island had been placed on the black list by the Government of France was to commission a report from officials in the Treasury so as to



understand very clearly what had been taking place in the discussions between the competent authorities in Paris and in Jersey following the introduction of the Tax Information Exchange Agreement. A study of those papers made it clear that there was, what I think I can best be described as, a mismatch of expectation between the Jersey side and the French side and that mismatch of expectation had led to a belief on the part of the French that Jersey was not co-operative in terms of the exchange of tax information. That belief was misguided and it took a great deal of discussion and of hard work by officials not only in my department but also in the Treasury to persuade the French that they had misunderstood what was taking place. That work was completed and by the beginning of December, the advice to French Ministers was unequivocal in that Jersey was a co-operative jurisdiction doing its best to exchange information in accordance with the agreement and that was why the French Government, in accordance with its own law, took the decision to remove Jersey from the black list.

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

Can the Minister just confirm though that we had to make no further undertakings to them or make no changes to the procedures or anything else?

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

As the Deputy and Members of the Assembly will know, the law which implements the various tax information exchange agreements that the Island has entered into with foreign countries was amended to change the procedures in relation to requests for information and the most important change that was approved by this Assembly was the limitation of rights of appeal so as to achieve a better balance between the right of taxpayers to confidentiality of their information and the right of foreign countries to obtain information about their own taxpayers in accordance with agreements that had been entered with the Government of Jersey.

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

Back to the issue of the stamp in the passport, would the Minister agree that while it might not be feasible or even productive to revisit and renegotiate Protocol 3, that it might be feasible to establish a modest fund to assist any Islanders who may want to work abroad, work in Europe but who do not necessarily have the funds to travel to London, for example, to obtain Schengen visas and deal with other bureaucracy which entails from the stamp on the passport? Could that be one way forward?

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

It may be that assistance could be given by one department or another of the Island's Government to those who have difficulties in this respect. I must say that my understanding of the problem was that it was far more psychological than practical that people did not like to have a stamp in their passport which seemed to differentiate them from those who did not have a stamp. There are members of my family who have stamps in their passport. As a matter of fact, I do not but I understand those feelings but I have never learned that there had been any practical difficulties for those who are Channel Islanders in terms of the protocol in seeking a work permit from whichever European country in which they seek to work.

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

Will the Minister be pursuing the idea floated in the Justice Committee Report that we emulate the Isle of Man and that the Governor be the person who basically sanctions legislation once it has been passed by this House?

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

That is an interesting question and I read the report of the Justice Select Committee with the Chief Minister and others. Consideration will certainly be given to that possibility. It has a superficial attraction in the sense that one might think that the process of obtaining Royal Assent might be quicker if one were to submit the draft Bill to the Lieutenant Governor rather than sending it to the Privy Council but the reality is that the United Kingdom Government, acting on behalf of the Crown, has to approve any primary legislation passed by this Assembly and whether or not that approval is given to the Privy Council or to the Lieutenant Governor may not make a great deal of difference in terms of time. The concern about placing the Lieutenant Governor in the position of granting Royal Assent to certain categories of law to my mind, here I express a personal view, which I have not discussed with the Chief Minister, but my personal view is that one should be very careful not to compromise the independent position of Her Majesty's personal representative in the Island. The Lieutenant Governor is beholden to no one. He is not beholden to the United Kingdom Government. He is not beholden to the Government of Jersey and it would be a pity, I think, to place the Governor in the position when he was acting on the advice of the United Kingdom Government in giving assent to our legislation.

[14:45]

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

Would the Minister agree that since the advent of the ministerial system, that the close working relationship that had existed under the old committee system of government had fallen away and that ministerial systems have moved further north and deal with our French neighbours in general through a French Ambassador to the U.K. instead of, as historically happened, Jersey went directly and spoke to our colleagues in the Assembly in Paris or the Senate in Paris? That being the case, can the Minister tell us what he is putting in place to repair those bridges, given I know his great love of working with the French and if that is not possible, how will he deal with it in the future?

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

I am not sure that any bridges need to be restored in relation to the procedures that existed in the past for communications between Members of this Assembly and members of the regional government in Normandy or indeed the departmental government in La Manche. In fact, I was told not many days ago that plans are afoot for a visit by members of the Groupe d'étude composed of Members of the Assembly to the National Assembly in Paris in order to have general discussions on Jersey's constitutional position. I do not believe that the discussions which now take place between the Ministry of External Relations in Jersey and Ambassadors in London, in particular the French Ambassador, really detracts from the existing relationship but rather fortifies it.

## **7. Questions to Ministers Without Notice - The Chief Minister**

### **The Deputy Bailiff:**

Are there any further questions? Well, that brings questions without notice to the Minister for External Relations to an end and we start questions for the Chief Minister. Senator Ferguson.

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

Could I be next, Sir? You caught me unawares.

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

Could I just clarify something? You did not tell anybody in the House that the extension to this urgent question or statement would be taking the whole of the question time of the Chief Minister

yet you have added on the people [**Aside**] ... the Chair has advised after the questioning that there was still X amount of lights on and they would be first to ask. That is why Senator Ferguson has been taken unawares. My question to the Chair is, this has never happened before and I am not very happy because I could have had a different question for the Senator which I did not want to ask under the question and I will be put to the bottom of the list.

**The Deputy Bailiff:**

I certainly do not like you to be unhappy, Deputy, but all I was suggesting was that those Members who would have been unhappy that they did not get their questions in to the Chief Minister earlier will have the opportunity of doing so during Questions Without Notice. I am going to start Questions Without Notice now. Deputy Le Hérisssier.

**7.1 Deputy R.G. Le Hérisssier:**

Apropos Planning, would the Chief Minister agree that it would be advisable that practically every application be referred to the Planning Applications Panel, thereby allowing the Minister to concentrate on strategic issues and deal only with the most exceptional of cases, as was the underlying reasoning behind the Code of Conduct?

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

Yes, I do agree with that. I am of the view that the Planning Applications Panel should make the first instance decision on planning applications and the Minister should be used in the appellant process.

**7.2 The Connétable of St. John:**

Given the total fiasco that we have had since November/December over the Minister for Planning and Environment and the way it has been dealt with, and which I believe the Chief Minister falls short of the position he holds, is the Chief Minister now considering resigning from this position or is he going to wait for a vote of no confidence to be brought in him?

**Senator I.J. Gorst:**

No I do not intend to resign. I have been quite clear that the process whereby the Chief Minister appoints and removes Ministers is not fit for purpose. It needs to change. The P.P.C. (Privileges and Procedures Committee) sub-committee for a number of months considered improvements to the Executive and to the Scrutiny function and I hope that we can get those improvements in place in short order. Of course, the Connétable did not even vote for me to take this office in the first instance.

**7.3 Deputy J.A. Hilton:**

During the past few weeks, I have written to the Chief Minister several times requesting a meeting between himself and a constituent of mine regarding a States Employment Board matter. Can the Chief Minister give me an assurance that he will respond to me and arrange that meeting within the next 5 working days?

**Senator I.J. Gorst:**

As I understood it, officers had asked for a meeting to be set up. If that is not the case, then I will make sure it is. In this particular case, of course, both myself and the Deputy Chair of the States Employment Board know the constituent and up until this point, we had always removed ourselves from any consideration of it but we are quite prepared, as we have said, to hold a meeting with the Deputy to go over what the issues are although we have not been involved in them personally at any stage up until now.

**7.4 Deputy M. Tadier:**

Following on from this whole episode of Duhamel-gate, will the Chief Minister agree that rather than making the case for giving more powers to the Chief Minister, this whole episode teaches us that we should be maintaining the status quo of the Assembly being able to hire and fire Ministers so at least the individuals, when their integrity is brought into question, can be done in the open rather than on the whim of a Minister, who we have seen did not necessarily have the facts to follow through on a dismissal?

**Senator I.J. Gorst:**

If we were to do that and we were to maintain the current position, then I fear we would find ourselves in exactly the same position that we have been in today and over the last fortnight and one thing, whether Members of this Assembly supported the dismissal or did not, it is quite clear that all Members that have approached me have said the system is terrible and it has got to be changed. Had we had a changed system where the Chief Minister could appoint and dismiss Ministers and importantly had we had collective responsibility around the Council of Ministers' table, I do not believe we would have been in the position that we are in today. The issues could have been dealt with in a much more productive way than we have had to.

**7.4.1 Deputy M. Tadier:**

The current Chief Minister is a self-confessed fan of consensus politics. There is no assurance that any future Chief Minister would operate in a consensual way and therefore there is nothing to ensure that a future Chief Minister would act in a fair and open way. Does the Chief Minister accept that it is a relevant safeguard in a non-Party context that the Assembly should be able to choose, hire and fire its Ministers and decide and put the people in place who can work together as a team and then fire and remove them if that is not being done?

**Senator I.J. Gorst:**

I thank the Deputy for his question. I was not sure whether it was praise or being critical in light of the phrase that he just used to describe the dismissal vote and its withdrawal. Building consensus is difficult. Taking disparate political views and trying to develop the way forward is difficult. The Chief Minister without the ability to hire and fire and without collective responsibility tries to achieve that with, in effect, one hand tied behind his back. It is far easier to build consensus and to develop a way forward in the best interests of Jersey when an appropriate structure is in place and appropriate power tempered by the Assembly is in place to allow the Minister to ensure that consensus is reached.

**7.5. Senator S.C. Ferguson:**

Following the question of the Deputy of St. Ouen this morning, is it not appropriate that any Minister who is involved with a financially sensitive operation of any sort should not meet with counterparties except with officers present and will the Chief Minister include that stipulation in a ministerial Code of Conduct and if not, why not?

**Senator I.J. Gorst:**

That code is being reviewed. It seems like a very sensible suggestion. Ministers should meet with officers. We are not individuals and members of our community sometimes see us as personalities. We are the officers. We are functioning as officeholders and therefore we should have appropriate support and advice with us.

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

Following the statement made by the Minister for Treasury and Resources last week regarding the saving of £75 million between now and 2010. Could the Chief Minister inform this Assembly what discussions have taken place at the Council of Ministers regarding the level of savings proposed

and whether or not the Council of Ministers support the view expressed by the Minister for Treasury and Resources?

**Senator I.J. Gorst:**

Those comments which were in the media at the end of last week arose, as I understand it, from a conversation about the Minister for Treasury and Resources' forward work programme during the course of this year. As Members of this Assembly would expect, Ministers are starting to think about the next Medium-Term Financial Plan, Treasury are doing income and expenditure projections for the medium term. We have not yet got to the stage where it has come to the Council of Ministers for consideration. But it is a piece of work that must be done as already departmental cost increases are likely and we need to make sure that they are managed.

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

What conversation does the Chief Minister plan to have with the unions who obviously are certainly concerned about the statement by the Minister for Treasury and Resources if, as the Chief Minister states, this has yet to be discussed by the Council of Ministers?

**Senator I.J. Gorst:**

The numbers are not firm at all. I have not seen those numbers. But the work needs to be undertaken. We said right at the start when we started talking about reform of the public service that one of the aims and reasons that we were doing it was to make sure that we did not continue to see the growth in expenditure that we have seen over a number of years. We need to do this carefully and in a considered way; and that is exactly what we are doing. That is why we are rolling out the Lean process to look at how we can deliver services more efficiently. That is why we are looking at terms and conditions and modernising the workforce structure, because we know that we have pressures in the Health Service that we are going to have to fund into the future; and therefore it has to be done in a joined-up and appropriate fashion. That is what this long-term income and expenditure projection will start to consider and will help Ministers and in due course will help Members of this Assembly to decide what sort of future we need.

**7.8 Connétable M.J. Paddock of St. Ouen:**

I wonder if the Minister could address the Assembly on a subject that I am sure is dear to many Islanders' hearts, to take the subject away from talking about ourselves, of how he feels the economy, the housing and the unemployment is of the Island. His personal view; how we are progressing with this.

**Senator I.J. Gorst:**

I thank the Connétable for that question because it is very, very important. If we look at the latest Business Tendency Survey then we start to see that certainly in the financial services sector it is the most optimistic about the future that they have been since 2009. We know that there is a lot of work being done by the Economic Development Department to continue to deliver economic growth. We have the new Innovation Fund; we have the new Skill Strategy which is a joined-up approach; Education and Social Security as well. We have the Enterprise Action plan trying to deliver jobs as well. We have Jersey Business working together with Locate Jersey trying to grow the economy, trying to stimulate the economy. We have the Town Team looking at retail and how that is developing, and with regard to getting unemployed Islanders back to work, the work that Social Security is doing is largely unacknowledged in this Assembly, but it is great work.

[15:00]

Over the course of last year 1,500 people were put into and found full-time jobs. That is more than the year before. We plan to continue to do that and to continue to invest in delivering jobs for

Islanders. The Connétable also knows that the work that the Minister for Housing is doing will start to see fruition. We are grateful for the Corporate Services Scrutiny Panel looking at the ability of the Minister for Treasury and Resources to loan money to the new Housing Corporation to start delivering ...

**7.9 Deputy M.R. Higgins:**

This is a speech, not an answer.

**Senator I.J. Gorst:**

The Minister for the Environment is bringing forward amendments.

**The Deputy Bailiff:**

Chief Minister, the answers are to be crisp and succinct.

**Senator I.J. Gorst:**

But it was a very important question - it does not have a brief answer, Sir. I shall finish on this. The Minister for the Environment is bringing forward changes to the Island Plan to help on the supply side of housing as well, which is also critically important. I see the Minister for Health and Social Services. I have to mention the work that she is doing in transforming the Health Service and bringing forward a new hospital to the benefit of all Islanders.

**Deputy M. Tadier:**

Could I ask for a copy of that speech to be circulated via e-mail?

**7.9.1 Deputy M.R. Higgins:**

The Chief Minister has made a great play about the importance of collective responsibility and Ministers working together. Yet he operates a Council of Ministers where all Ministers are not involved in all decisions. He has almost a kitchen cabinet of 2 or 3 Ministers who are consulted on other issues. Others are expected to vote for their policies but are not involved in the discussion. Does he not feel that before he gets the power to hire and fire Ministers he must include all his Ministers in the decision making so we get better government with more views being considered?

**Senator I.J. Gorst:**

Different Ministers are included in different decisions on a day-to-day basis as it involves their portfolio. All big decisions come to the Council of Ministers for decisions by the Council of Ministers because, as I have said before, we have something called the Financial Services and External Relations sub-group which gives political lead to matters around financial services and external relations and includes those Ministers that one would expect to be involved in those decisions.

**The Deputy Bailiff:**

Before I call on Members who have already asked questions, Deputy Martin, I understood you had a question to ask the Chief Minister. **[Laughter]**

**7.10 Deputy J.A. Martin:**

My point was I may have had a different issue and we have drifted into different issues, but I will go back now to the extension of the questions. Would the Chief Minister confirm that the original proposition brought by the Deputy of St. Martin and signed by 3 other Back-Benchers was not representative of rampant building in the Island? They had not met secretly or openly with developers and this was an absolute camouflage about 25-year old storage of asbestos to get the

Minister for Planning and Environment out for quicker rampant decisions to build, build, build and not good decisions that he always does.

**Senator I.J. Gorst:**

I do not for a minute believe that that was the purpose of the 4 individuals that brought forward the vote to dismiss the Minister. They outlined their decisions in their report. I have met with them privately and I know that they are disappointed that I have taken the action that I have. But I believe that the action I have taken is right and I do not believe that trying to attribute such motives to those gentlemen is fair or reflective of what their motives were.

**7.11 The Connétable of St. John:**

This morning I raised a question with the Minister for Treasury and Resources about 136 of 2010 where it clearly says: “To request the Minister for Treasury and Resources to bring forward for approval development agreements in respect of the Esplanade Quarter for endorsement by the States prior to any commencement of any works on that site.” That had been adopted. Will the Chief Minister make sure that does come to the House, anything with the Esplanade Quarter, prior to the work being commenced? Yes or no?

**Senator I.J. Gorst:**

I am sure the Minister for Treasury and Resources answered his question perfectly adequately and I have nothing to add to it. Here we have a perfect case in point of why the system needs to be reformed.

**The Connétable of St. John:**

The answer is “no” then.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**8. The Minister for Social Security - statement regarding amendments to the income support system in respect of the medium-term financial plan savings target**

**The Deputy Bailiff:**

That brings the question period without notice for the Chief Minister to an end. There is nothing under J. Under K, I understand the Minister for Social Security has a statement to make regarding amendments to the income support system.

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

Within the Medium-Term Financial Plan I committed to deliver £3 million of additional savings from tax-funded expenditure in 2014. I am pleased to advise Members today how the £3 million of savings will be achieved and also how I will further increase the incentive to work for those claiming income support. In delivering these savings I have applied the following principles. Income support claimants continue to afford adequate accommodation for themselves and their families. Those already in employment are further encouraged to sustain work and seek better employment prospects. Job seekers will always be better off in work and are further encouraged to take up employment. Child care cost is not a barrier to securing or sustaining employment. Those facing additional barriers to work will receive increases to their financial support. Pensioner income is protected and pensioners will receive at least the full benefit of their State pension increases. In 2013 I chose to freeze the rates of the majority of income support components. Only the accommodation component was increased in 2013 by 2.15 per cent in line with increases in

rents from the Housing Department. This has resulted in an ongoing saving of £2.2 million. I intend to again maintain the main income support components at the same level for 2014. Therefore the adult, child, one parent and household components will be unchanged for 2014. This will save at least an additional £1.6 million. The accommodation component will be increased in accordance with the Housing Transformation Programme and I have already lodged my proposals for further financial for private sector tenants on income support. I have continued to increase the pensions disregard so that income support pensioners are protected, and will do so again in 2014, so that they receive at least the full benefit of their States pension increases. I intend to propose that the remaining components being personal care, child care, carer, mobility and clinical costs will be increased by at least R.P.I. (Retail Price Index) and I will return to the Assembly with regulations so that these changes can take effect from October 2014. In line with the States Strategic Plan and our most urgent strategic policy to get people into work, I will be strengthening the financial incentive to work within the income support system by increasing the earned income disregard by 3 per cent, raising this from 20 per cent to 23 per cent. This will be raised from 1st April this year. The annual cost of this is £1.1 million. This improvement means that those finding work and those already in work and on income support will keep more of their earnings and reinforces the clear message that you are better off in work. I have also decided to utilise previous additional savings made by the department to help fund this increase in the earnings disregard. In 2011 the age at which income support could be claimed in their own right was increased to 19, an additional net savings of £0.3 million were created. I have invested these savings to help fund the increase in the earnings disregard. In 2012 the residency rules were tightened to claim income support. This has also produced additional savings of £100,000. As already agreed by the Assembly, in 2014 there will be a review of the living wage and minimum income standards. This work will help inform future changes to the levels and balance of income support components. So in summary, I will be delivering £3 million of ongoing savings by the end of 2014. The combination of maintaining income support rates and increasing the earnings disregard mean that the financial incentive to find and stay in work is at its strongest since the introduction of income support.

**The Deputy Bailiff:**

The Minister having made that statement we are open to questions.

**8.1.1 Deputy G.P. Southern:**

Does the Minister not accept that what he is doing in fact by this unnecessary cut is making the poor pay the price for the recession?

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

The Deputy refers to a cut. One of the things I was very careful to avoid in my proposals was to avoid cutting anybody's benefit rates and there are significant changes for people in work as a result of my proposals. The fact is that across the Island people in work have had their earnings reduced during the recession that we have been through and it seems that it is not unreasonable to expect people on income support to have some of their components frozen while we go through a recession.

**8.1.2 Deputy G.P. Southern:**

Notwithstanding his increase from 20 per cent to 23 per cent, does the Minister accept that someone in work is of the order of around £1 an hour better off than they would be if they gave up work and stayed home on benefits?

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

That is not my understanding. Basically working on a £300 a week wage, bearing in mind that we also disregard the social security contribution of 6 per cent, increasing the earnings as regard to 23



per cent means that a claimant would be better off with my proposals by £69 a week from the current figure of £60.

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

In light of increasing pressure on budgets, especially the Health budget, has the Minister for Social Security given any consideration to increasing from 5 years to 10 years the number of years an individual has to be resident in Jersey before they can claim benefit?

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

We considered a number of options when we were deciding how we could deal with the £3 million savings. Clearly to delay by a further one year the entitlement to income support would have produced significant savings for the Income Support Bill. I am not in favour of this move myself, but it may be something that future Ministers and future Council of Ministers and future States will have to consider in the light of the increasing population, because clearly delaying the entitlement to benefit would probably deter some people from making Jersey their home.

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

Notwithstanding some sensible reforms that the Minister has introduced, could he conceive the situation where he uses income support in order to encourage people to engage in further study which would in itself of course be of enormous use in dealing with the Island skill gap and go beyond the notion of just putting people into round holes in order that they be seen to be at work?

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

I am reminded of an image of Deputy Le Hérissier riding his favourite hobbyhorse. I am aware that he feels that we should be allowing more people to study who are on income support. I would stress as always that we do not discourage anybody from studying, but studying does not necessarily mean that people should not be looking for work at the same time. Basically we have carved out special rules for critical skills such as nursing and certainly going forward if the Skills Board provides me with evidence of further critical skills needed in the Island, we would consider those people who wish to study particular courses for eligibility for income support.

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

Can the Minister confirm that the components that he is freezing at the level of 2012, because they were already frozen in 2013, are the adult, child and one parent household which from my memory, and there are many more, include all the heat, food, clothing, doctors, fuel, electricity, dentists, *et cetera, et cetera* in those components and can he confirm any one of them that are still at the 2012 prices?

[15:15]

This is, as Deputy Southern has pointed out, keeping the poor very, very poor and scrimping for which will you do? Eat or heat, or will you go on the bus? It is ridiculous. You are making people poorer. 2012 prices do not work in 2014, unless the Minister knows something I do not. Can he confirm all these things are in the components that he has frozen since 2012?

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

I cannot dispute what the Deputy is saying that these components do include some of the items that she has listed. However the biggest item of cost to anybody in this Island is housing and what we have always done in income support is protected those who are paying rent in particular, both in the social housing sector and in the private sector. So for most people, what takes money out of their shopping basket is the rise in rents. I have to say that those people who are in receipt of income

support and who receive help with their rents are being protected and have been protected every year and we will be putting in another £750,000 this year to help people in the private sector; that is something like 2,000 tenants in the private sector on income support who will be receiving significant extra sums of money to help them with their housing costs and going forward another £1 million in 2015. So we have to accept that sometimes freezing is not always what we would like to do, but we have to. I was charged to deliver £3 million in savings and I believe I have found the best way forward.

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

I think the Minister used exactly the right word there: “freezing”. I know of a family in a 3-bedroom States accommodation, all working - well, the parents working - with 3 children. J.E.C. (Jersey Electricity Company) has put their standing order up from £110 to £193 a month. You tell me you are going to keep your heating on! People will be freezing under these mean freezes that the Minister is proposing. Does he not agree with this?

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

If all the adults in the house are working they are going to be at least £27 a week better off with my proposals. I have already pointed out that they are going to be at least £9 per person better off if they are earning £300 a week. So 3 9s are 27. I would also stress under special payments certain households qualify for cold weather payments. So there is further assistance with their fuel bills.

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

I am not clear on bullet point 5 which says: “Those facing additional barriers to work will receive increases to their financial support.” I would like the Minister to describe what he sees as being additional barriers to work which will lead to increases in income support or financial support.

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

I thank the Connétable for that question. In the people I am referring to, it is people under the age of 65 who are expected to look for work but perhaps have medical conditions that make it difficult for them to find perhaps a fulltime job. Maybe they have a part-time job; and also the people who although they are under the age of 65 have medical conditions that prevent them from working at all. What we will be doing, as I have already said, is increasing the components that relate to that group which would be the personal care components, child care, carer, mobility and clinical costs, all of which will be increased this year by at least the R.P.I. increase.

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

The Minister hit the nail on its head when he said that rental costs for accommodation are the big crippling factor, both for his department - I am using “crippling” obviously liberally - but in particular for those on income support. Yet I would ask the Minister what joined-up thinking is there going on between Ministers and departments? We talk about Ministers wanting to work together when we have a Housing Department who is deliberately setting forward a policy of increasing the cost for rental accommodations pitched at 90 per cent of private rates. Is there a case for rent control to be brought back, and will the Minister be supporting that as a way of giving a fairer deal both to his department and to those who use its services?

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

Minister, you have 15 seconds.

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

There is still a Rent Control Tribunal who can decide the level of grants. Unfortunately there has not been any call for them to sit. But I share the Deputy's concern about rents and it may be time for the Minister for Housing for the new Housing Regulator to look at Rent Control Tribunals and their function going forward.

## **PUBLIC BUSINESS**

### **9. Composition and election of the States Assembly: reform – proposal 1 (P.93/2013)**

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

Thank you very much. That brings the questions to an end in relation to the statement. We now turn to Public Business. The first item of Public Business is the Composition and election of the States Assembly: reform - Proposal 1, P.93/2013, lodged by Senator Ozouf and I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion (a) that the Assembly should be comprised of 44 Members, comprising 12 Connétables and 32 Deputies; (b) that the office of Senator should be abolished; (c) that the Deputies would, under the new structure, have a much more wide-ranging role than Deputies in the current Assembly; (d) that the proposed new 6 large areas will replace the current Schedule 1 to the States of Jersey Law 2005, as follows: Deputies' Constituencies: District 1: Vingtaine du Mont Cochon, Vingtaine du Mont à l'Abbé, Vingtaine de Haut du Mont au Prêtre and Vingtaine du Rouge Bouillon, in the Parish of St. Helier. Number of Deputies to be returned: 6. District 2: Cantons de Bas et de Haut de la Vingtaine de la Ville, and Vingtaine de Bas du Mont au Prêtre, in the Parish of St. Helier. Number of Deputies to be returned: 6. District 3: Parish of Grouville, Parish of St. Clement and Parish of St. Martin. Number of Deputies to be returned: 5. District 4: Parish of St. Saviour and Parish of Trinity. Number of Deputies to be returned: 5. District 5: Parish of St. John, Parish of St. Lawrence, Parish of St. Mary and Parish of St. Ouen. Number of Deputies to be returned: 5. District 6: Parish of St. Brelade and Parish of St. Peter. Number of Deputies to be returned: 5; (e) that the Connétables should be placed on the same legal basis as Deputies if they remain in a reformed Assembly; (f) that in an Assembly of 44 Members, the maximum number of Ministers and Assistant Ministers shall be 19; (g) to request the Privileges and Procedures Committee to bring forward for debate legislative changes to enable the foregoing in time for the 2014 elections with the new structure of 44 Members being effective from the date of the swearing-in of the new Members elected in these elections.

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

Every day that we sit in this Assembly, we do so at the service of the people that put us here and in the service of democracy. Some decisions that this Assembly takes are popular; others are not popular. But what is the guiding principle of every decision that we should be taking is that they should be designed to strengthen the reasons why we are here and to strengthen our democratic principles and arrangements. This is an important day for our democracy. It could be said, and history will judge us, that today is a turning point for our democracy. When I lodged this proposition in August it was after a debate brought forward by P.P.C. under the chairmanship of the Connétable of St. Helier. It was after the proposal had been defeated. It followed 15 years of other debates on reform of the States. I said then that this proposition could represent the Last Chance Saloon for reform. I said: "If all fails, this proposition could be the last one standing. The last chance to avoid the consequences of the piecemeal reforms of the past few years." I apologise that I have to stand here today. I am sorry that that situation has come to pass. I am sorry that no other proposal for reform has been accepted by this Assembly and this one is indeed the last one standing. There are things that are certain in life: taxes and in most democracies, including our own, the certainty of the end of a parliamentary session that results in an election. As night is

certain to follow day there will be an election in Jersey on Wednesday, 15th October 2014. As night follows day it will also be a certainty that there will be analysis, there will be questions about that election and how that election was carried out, while the actors in that election of course are yet to be determined. It will be for Islanders to determine the outcome of those elections but it is up to Members today to determine what the structure of those elections will be. Some Members are disappointed, and I share this disappointment, that this issue is being debated again and again. However, there are some reasons why this issue continues to come and has begun to dominate the discussions about democracy in Jersey. The basis of democracy are on a number of principles: elections should be free and fair. But there are other standards and principles of democracy: that there should be an equality of votes for every man and woman capable and entitled to vote. While it is possible to have regard to historical boundaries, the general principle of a general election should be that there is an equality, a fairness of each value of the seat that sits in an Assembly or Parliament. As much as we cherish the past and as much as that familiarity and the previous systems have worked, we today have to be realistic. We have to be honest and we have to say that the basis on which some of us are elected do not meet the tests of those democratic principles. That is why so many reform attempts have been tried. There is a consensus among all Islanders, I believe, that the current system is not fit for purpose. It is inevitable that even if this debate today does not succeed in some form that reform will come back and back until the basis and the basic principles of democracy and democratic principles are fixed. I believe we owe it to the people we serve to try and get those principles of democracy right. I have supported option B but I was acutely aware that as a result of the referendum, in looking at that result, that option A had been overwhelmingly supported in the Parish of St. Helier. I was aware, of course, as all Members, that the outcome of the referendum in this Assembly had failed to achieve a sufficient number of votes in order to bring it into force. My proposal was therefore designed to represent a solution to the problem of St. Helier and that is why a small change, a small compromise, has been proposed in adding an extra seat in the 2 more populous areas of St. Helier to represent the bigger mandate of the Constable of St. Helier. When I lodged the proposition I invited amendments and said: "I welcome anything which tries to find a solution and tries to find a solution to move forward." I do not know how this debate will go. I do not know how the amendments will proceed. All I do know is that a solution needs to be found. Forecasting is a precarious endeavour. I am confident about one thing this year: I am confident the election that will be held later this year will be against the backdrop, I hope, of improving economic conditions. What is also certain is that improving economic conditions will not make the decisions of this Assembly any easier. There will still be big decisions and big challenges for the new Assembly to take. I would like, if I may, to ask Members to do 2 things in this debate. First, to set personal interests aside but secondly to get out their crystal balls, to climb into a time machine and to travel with me to Friday, 19th October 2014 when it is certain that there will be the outcome of an election being examined. I would like Members to imagine it is 7.00 a.m. on the morning of Friday, 17th October 2014. It is the morning after the night before of the general election. The Island is waking up. We have just heard the pips on Radio Jersey or Channel 103 and the Island community sitting down to breakfast, travelling to work, meeting their work colleagues, taking their children to school, are beginning to assess, digest and understand the implications of the election result. Last night the *J.E.P.* printed the faces of the Members of the Assembly that were elected the evening before and who will be sworn-in into the new States in a week's time.

[15:30]

The results of the 8-seat senatorial election, the 29 Deputies' election and the 12 Constables' election, the discussions on the breakfast tables are: "How was the election? Was it fair? Was it free? Do the election results, do those faces, represent a fair reflection of Islanders' opinion? Were all candidates elected in a credible way? Was there a good quality of candidates coming forward,

that there be good tests of all the people that will now serve the democracy of Jersey? Are these collective group of people capable of meeting the challenges ahead on spending, immigration, diversification in the economy and so on? Is this group of people capable of strengthening trust and confidence in politics in Jersey?" The senatorial election of 8 seats result was the following. Because of the increased number of seats available, the number of candidates standing in the 8-seat senatorial was 9 higher than in the previous 6-seat senatorial of 6 years before and the 8-seat senatorial election results are now clear. Despite the enormous efforts of the Parishes to get Islanders on electoral rolls which would meet record numbers, over 67,000 people were on the election rolls, election turnout for the election was down to 35 per cent. A similar number of people turning out to vote but a lower election turnout. It appeared that some members of the Island-voting community had indeed boycotted the election and had stood by the Social Survey results which were published at the end of 2013 and that a number of people said they had lost trust in the vote that they had. The media had done their best to cover the senatorial elections. However, with so many candidates standing at once, the greatest ever, in the election that was regarded as the only Island-wide test of public opinion, most of the media efforts had gone on the senatorials. Early indications were that 4 times as much newsprints and air time had been devoted to the senatorial contest as opposed to any other of the elections. The hustings meetings with those numerous numbers of candidates had unfortunately turned out to be nothing more than a 30-second sound bite. Each candidate, who of course had to have absolute equality in the terms of the opportunity to speak, barely had the time in their minute and a half to say their name, where they came from and the basic ideas of what they stood for. They did not really have an opportunity of explaining anything about the Island-wide issues. In some Parishes all the candidates could not even get on the Parish election stage. It is felt that the hustings did not even begin to really scratch the surface of the important Island issues that needed to be debated. With more seats came more candidates and with more candidates came an even less likely ability to discuss the issues that the Island cared about. There had been experience of senatorial elections in the 1980s, 1990s, and 2000s when 6 seats were available. As expected, Islanders with 8 seats had used less votes than they had had seats available. Just as has been predicted, this resulted in lower mandates for the Senators that had now been elected. The results for the first 4 candidates were predictable. The top 4 candidates, quite well known, receiving about 15 to 9,000 votes were regarded as credible. However, the candidates in positions 5 and 6 had polled 6,200 votes and 6,000 votes respectively and were the lowest number of votes ever to have achieved a senatorial election. The media was harking back to previous senatorial elections and recalled that in 2002 a Mr. de Faye who had stood and got elected in position 7 had not got elected, together with a Mr. McDonald. In 2005 a Mr. Travert with 6,256 votes had not got elected but in this election would have done. In 2008 a Mr. Southern and a Mr. Higgins had unsuccessfully achieved a senatorial position but in this election had been elected, not in terms of the names but in terms of the numbers. So the real shock results were in the positions of 7 and 8. The successful candidates had achieved 5,000 and 4,900 votes respectively. The media regarded that and record that in these positions in 2012 a Mr. Syvret would have been elected with a similar number of votes. It was regarded that the successful senatorial candidates elected lower down the list had not really particularly impressed electors but they had secured their seats more as a result, as difficult as it was to say, as a memory test rather than democratic legitimacy. With 67,000 people on the electoral roll the positions in the lower rankings of Senators had less than 10 per cent of the support of the people entitled to vote. Even though they had got more votes than some of the Deputies, their democratic legitimacy was questionable. This morning Islanders were scratching their heads. The outcome of the senatorial elections had been known. P.P.C. said this would happen, a number of Back-Benchers said this would happen, a number of observers said this would happen and Islanders were this morning scratching their heads. How was it that the Island Parliament could have allowed this to happen? Discussion turned then to the deputorial elections. The unreformed deputorial systems were

regarded as a very much mixed bag. As the senatorial election had pretty well dominated inevitably the discussion because of the single election day, most of the deputorial elections had largely been localised issues and had largely gone unnoticed. The election results were somewhat regarded as being inconsistent. Some Islanders had had no votes; some had one; some had 2; some had 3 and some had 4. That was because a number of the single-seat rural Deputies had been elected unopposed. There had been some fiercely-fought elections in the 3 single Parish seats - I may regret this - of St. Ouen, Grouville and St. Saviour No. 3. But most of the candidates that were going to challenge those single-seat Deputies stood in the more populous districts of St. Helier 1, 2 and 3 and St. Brelade No. 2. The turnouts for all of these deputorial elections were down. Across the Island, Deputies and the candidates had worked extremely hard. There had been a great deal of door-knocking. It was reckoned that it was a result of the personal contact between candidates and electors, that was the thing that had really got a number of the Deputies elected. Deputies had been elected on a huge variance of votes, some with as few as 240 votes and some in the fiercely-fought election in St. Helier Nos. 3 and 4 with over 1,500 votes. The hustings for all of the Deputies were certainly regarded as a mixed bag. Many were poorly attended. Islanders were this morning asking why it was the good candidates in some districts who had failed to get elected and others which were regarded as almost unknowns with unknown policies with questionable views in terms of representing Island opinion had been elected in other areas. The compromise that had been put forward in the first sitting of the States in January which has improved fairness, improved equality of elections had been rejected. The unfairness of the elections which meant that Islanders have different numbers of votes had now been better understood. It was clear that it was unfair to run elections on the basis of different numbers of different electors having different numbers of votes. There was an info-graphic that had been widely circulated about a week before the election which had also set out the difference of the value of each of the different deputorial seats. There was a wide difference between the value of each deputorial seat in terms of the mandate and the electors that they had. The Constables' elections had gone pretty well as expected. Half the Constables had faced elections but many people had not stood in the Constables' elections because it was regarded that it was easier to stand in the multi-seat deputorial elections rather than go head-to-head with an incumbent. The media was also reporting that there had been an election-observing mission that had been called to come to the Island that was now best practice for all elections in all democracies of the world. They had produced their first initial report on the day after the election. They had said that the modalities of the election had been well run. The Parish staff had been well and the counts had gone well and the oversight of the Jurats had certainly proved there to be a proper election basis. But the international observers had written that the election system itself was one of the worst that they had seen in terms of fairness, in terms of equality of votes and in terms of value of individual seats. The turnout, they observed, was also the lowest that they had recently observed in European or small-State jurisdictions, just as the Electoral Commission had reported 2 years ago. The media in that morning was reporting that there were now plans to petition the Privy Council and that a commission should be called to investigate how it was that this election result could have been allowed to happen. Islanders faced an uncertain period. It was clear that reform was needed and how was this to be achieved? Some Members may be surprised by that look into the future. In this debate I would ask Members to think about Friday, 19th October. I would ask them to think about their responsibilities in creating the certainty of what will happen in that morning. I believe that there was an alternative 7.00 a.m. news broadcast that could happen. I believe that we have the choice of creating a morning report on 19th October which is different. I believe that we can create a situation where there is regarded to have been fairness among the amount of people coming forward in districts. I believe that there is a difference we can create in terms of the fairness of equality so that every person in Jersey has, with the exception of St. Helier representing their slightly larger constituency, the same number of votes. I believe that we can create a situation whereby every single Member of this Assembly who is elected in those big, large districts will face

an equal test in terms of democracy. I believe that we can create a system which will report upon hustings which will have been well run. I believe that we can create a system in which turnout will be improved because there will be a clear understanding of the way in which our democracy operates. I believe that we can create a system in which there is a reasonable, legitimate, fair number of votes which underpins each successful candidate that serves the democracy and serves the Island. I believe that we can create a system in which every Member faces a contest. I believe that we can face a system which will create certainty which may well create a system on which further reform can be carried out and further improvements can be made. It is up to us whether or not we reform. I realise that this debate has a number of amendments. One of those amendments includes the potential option of a third scenario for Friday, 19th October which includes an election for the re-introduction of a limited number of Senators but with larger constituencies. I will leave it to Senator Farnham to paint a picture of that morning to persuade us to see whether or not the results of that election could indeed work. There are a number of Members, I know, who are listening to this debate who have indicated that while they want change, they want change only on the basis of an Island-wide mandate. I think that we need to listen to the representations of Senator Farnham because I think that there is a requirement to at least do something to improve what I believe that true nightmare of Friday, 19th October so as to be avoided. There may well be an argument for a third option. My proposition will ultimately come back for Members' consideration, amended or unamended. It is in that position that we will either face an option A or an option B outcome. Democracies are based upon foundations and principles. In many of the debates of reform I believe that we have lost sight of the basic tenets, of the basic reasons of democracy and what it is based upon. Democracy gives legitimacy to government. It gives credibility to decision-making. It is in those principles that we must have regard to our decisions today. Today is the opportunity to fix things.

[15:45]

It is not too late; it is possible to reform; it is just in time. The morning of 19th October is in Members' hands. The morning that will report fairness, equality, credibility, legitimacy is in Members' hands. Do they want to create a morning of stability, certainty and fairness for the Island or do they want the opposite? The burden of responsibility for reform has never been greater than it is this afternoon and perhaps tomorrow morning on Members' shoulders. There is no longer any hiding place from making decisions. The future is in this Assembly's hands today and tomorrow. We have a heavy burden of responsibility. We will be the architects of the future and I ask Members to put personal interest aside to re-examine the principles of the reasons of why we are here and the basic tenets of democracy on which the fountain of democratic government is based upon.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Very well, a number of Members have indicated they wish to speak but we first must move to the amendment of Senator Farnham. Deputy?

**Deputy J.A. Martin:**

I had a clarification, I think it is, from the Senator. I was wondering if he could look into the future for me and see if I am one of the smiley faces on 19th October this year or is that not possible, because he seems to know everything else about the future? The election is 15th ...

**The Deputy Bailiff:**

Deputy, that was not a point of clarification. **[Laughter]**

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

May I just respond to her? I did not mention who the actors were. I said the structure was the thing that I was talking about.

### **The Deputy Bailiff:**

I beg Members' pardon. The amendment that we tackle next is Deputy Le Fondré's amendment.

## **9.2 Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - third amendment (P.93/2013 Amd.(3))**

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

1. Page 2, paragraph (a) delete paragraph (a) and substitute the following:“(a) that the Assembly should be comprised of 51 Members, comprising 8 Senators, 12 Connétables and 31 Deputies”; 2. Page 2, paragraph (b) delete paragraph (b) and renumber the following paragraphs accordingly. 3. Page 2, paragraph (d) delete the table in paragraph (d) and substitute the following table: Deputies' Constituencies: St. Helier: Cantons de Haut et de Bas de la Vingtaine de la Ville, number of Deputies to be returned 3; Cantons de Bas et de Haut de la Vingtaine du Montau-Prêtre, number of Deputies to be returned 3; Vingtaines du Rouge Bouillon, du Mont-à-l'Abbé et du Mont Cochon, number of Deputies to be returned 5; St. Saviour: Vingtaine de la Petite Longueville, number of Deputies to be returned 2; Vingtaine de Sous l'Eglise, number of Deputies to be returned 2; Vingtaine de Maufant, de Sous la Hougue, des Pigneaux et de la Grande Longueville, number of Deputies to be returned 1; St. Brelade: Vingtaine de Noirmont et du Coin, number of Deputies to be returned 1; Vingtaines des Quennevais et de la Moye, number of Deputies to be returned 2; St. Clement, number of Deputies to be returned 3; St. Lawrence, number of Deputies to be returned 2; Grouville, number of Deputies to be returned 1; St. Martin, number of Deputies to be returned 1; Trinity, number of Deputies to be returned 1; St. John, number of Deputies to be returned 1; St. Mary, number of Deputies to be returned 1; St. Peter, number of Deputies to be returned 1; St. Ouen, number of Deputies to be returned 1. 4. Page 3, paragraph (f), delete paragraph (f) and substitute the following: “(f) that in an Assembly of 51 Members, the maximum number of Ministers and Assistant Ministers shall be 23”. 5. Page 3, new paragraph (g), for the number “44” substitute the number “51”.

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

I am bringing this amendment to try to avert yet another knee-jerk reaction to finding a solution to States reform. In my view, if Senator Ozouf's proposition is adopted as it is we will be launching into a situation where we still have not agreed the basic foundations of the process that we are trying to build. If the foundations are not strong then any system will struggle. The present system has endured since 1948 and indeed has hundreds of years of history behind it. Now that is not to say that change is not essential. We do need to move forward with the times but in a properly thought-out way. With elections looming there seems to be a rising sense of panic to change. I just want to address some of the comments made by Senator Ozouf and, in fact, I am slightly confused. Fortunately, from my perspective, Friday, 19th October does not exist if you work out the dates. I think from the perception and description he gave I am very glad it will not. I will just add that Senator Ozouf is the one who is responsible for having all 8 Senators being elected on the same day in October 2014. It was an amendment he brought which was adopted by the Assembly. So if there are any particular issues about having 8 Senators on the day, the recommendations of the P.P.C. of the day were to keep it staggered at that point and to make them on one day later on. It was Senator Ozouf that brought them all together. So in terms of the gloomy image that he has just portrayed, he must hold himself responsible in creating that image. As I said, fortunately, Friday, 19th October 2014, as far as I can look on the diary, does not work out, particularly the elections are on Wednesday, the 15th. The point is the people of this Island, in my view, deserve better than this. With this amendment I am testing the mood in this Assembly for saying: “Stop and just



pause.” Freeze where we are at the present number of States Members in this Assembly now. Let us just be bold enough to admit we have lost our way, but when the fog clears determine to find a clearer direction in a properly navigated way, a properly considered course.

**The Deputy Bailiff:**

Deputy, you are not proposing your amendment then?

**Deputy J.A.N. Le Fondré:**

I am getting to that point.

**The Deputy Bailiff:**

You must be clear if you are proposing your amendment, because that must be the basis upon which ...

**Deputy J.A.N. Le Fondré:**

I just said the number of States Members of where we are. The number of States Members in this Assembly is 51.

**The Deputy Bailiff:**

I see; my misunderstanding. Thank you.

**Deputy J.A.N. Le Fondré:**

Thank you. A properly considered course. Blindly heading off as the wind takes us, in my view, is a recipe for disaster. Freezing at 51 Members, which is where we are today, still represents a reduction in numbers compared to where we were. However, because I accept that an election for 10 centres on one day might cause some difficulties I have suggested that we stick with the 8 that was previously agreed under Senator Ozouf’s amendment and then reallocate those 2 seats on the basis of 2 districts that are most under represented according to my calculations. Just be very clear, this amendment presents a safe holding position. It is not meant to be a final answer. It presents a fractional improvement to the current position, but in a way that leaves flexibility in the hands of the body that is brave enough to pick up this particular challenge down the line. It gives breathing space to try and establish the fundamental parameters, which if they are accepted or rejected have quite a significant impact upon which any future change might look like. For example, super-constituencies are one of those parameters, as are Senators. The reason I labour on that is, do not forget that in the MORI polls that were done by a previous P.P.C. in 2006 and 2007, super-constituencies were the least favourite option. Only 91 people out of 1,300 who were surveyed supported super-constituencies, whereas Senators received a huge endorsement. That is quite important. For example, in 2006 and 2007 we knew that super-constituencies, and in fact option B because that is one of the things that the statistical surveys were run on, on a survey of about 1,300 people they were among the least popular choices of the public then. That might explain why, for example, in 2013 turnout in the referendum was so low. They are the least popular choices that were being presented to the population and we knew that. As I have said, we simply failed to look at the evidence we already possessed. As a starting point perhaps, because we seem to be very focused on number, the actual basis of determining the representation should be agreed. That may sound like an obvious statement to make. A lot of what is being driven is the over-representation in certain areas and the under-representations in other areas. Obviously, as has been said in the past, we have to look at certain Parishes, which in themselves are statistical anomalies. If you strip them out in terms of how you calculate things, the ranges and distortions disappear. That, again, has come down to a principle: should every Parish have one Constable? Should every Parish, if you are going to keep them, have one Deputy as minimum? If you accept that principle, then you are accepting there is going to be a distortion. Again, the numbers that everybody focuses on are a

point in time. With the Connétable of St. Lawrence we have just been looking at a potential application for 140 homes, at the worst I hope, in the Parish. That would significantly skew the proportionality for 2 Deputies in St. Lawrence. If that was built in 5 years' time and we have done all our numbers based on where we are now, where does that leave you for the next 60 years? What I will say, interestingly, that is why you have to determine the basis of representation, in my view. If you cite, for example, the Venice Commission, it states that: "Allocation criteria could be on any of the following basis: population; number of resident nationals, including minors; number of registered voters; and possibly the number of people voting turnout." An appropriate combination of these criteria may be envisaged. Which basis are we meant to be working from? I am sure that certain Parishes with a lower turnout would love to know that the Venice Commission apparently would endorse representation based on, for example, turnout percentages. The point here is that, again, the basis of determining representation should be agreed before we start to focus on the numbers. As has been said in the past, I am not aware of a significant numbers of Members sitting around twiddling their thumbs. I am certainly not aware that my workload has significant decreased, yet we seem to be leaping yet again to a perceived solution without having worked out what the problem is. Let us pause, just to allow things to settle down and revisit and establish the basic core parameters which are acceptable to the public. If the public turn around and say: "We want more Senators than less" that determines what the system should start looking like. If they turn around and say: "Yes, we do want super-constituencies" - and in the past they have said: "We do not" - then that also determines what the system is going to look like. In the meantime we should be focusing on somewhat more pressing matters: the economy, long-term care matters, population, immigration, taxation, whatever, more directly. The Working Group and the Machinery of Government have not yet brought back the proposals to this Assembly for debate. Civil Service Reform is only just starting to emerge. Freedom of information is not here yet. It is coming. Personally, I am of the opinion our governance and transparency arrangements need further improvements. All of those impinge on the numbers of States Members. The growth in the public sector in the last few months - well more than a few months perhaps - far outweighs any perceived benefits that might arise from losing 2 or 4 or however many States Members. In suggesting this amendment, I repeat, I am saying stop. Freeze at 51, which is where we are today, now in this Assembly. It still represents a reduction in numbers compared to where we were. However, I do not try to hold this out as a permanent solution. The default position, if none of this goes through, is that we have agreed to go to 49. That is probably still workable. Super-constituencies are not liked. Do not forget option B was categorically stated by the Electoral Commission as being worse than the present system in terms of representation. It is my opinion that super-constituencies, even with Constables still in place, will heavily damage the Parish system, something even recognised in Clothier. For me, the Parish-based system is a significant part of the joy of living on a small Island and the community it supports. Damaging that, to me, would be a tragedy of the highest order. However, by sticking at 51, to me, this leaves a small amount of flexibility in the hands of anybody that picks up this particular challenge. However, I really think the dust needs to settle from this last mess before we re-examine it. That is me done. I have said enough. I hope Members will at least think on what I have said and perhaps support the proposition which I now make.

### **The Deputy Bailiff:**

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

### **9.2.2 The Connétable of St. Helier:**

I am going to speak early and I am only going to speak once on these amendments. I would encourage Members to do the same or not to speak at all. Many Members that I have discussed the proposition with are unhappy that we are here again, having this debate. Moving on to the next

item was talked about. I must say, I enjoyed Senator Ozouf's speech it was very interesting and entertaining and had some useful pointers, particularly in the science fiction or hypothetical section, which P.P.C. would do well to look at if we approach the October General Election with the system unchanged.

[16:00]

Hopefully, we can mitigate some of the more dystopian elements and outcomes that he talked about. My view is that however superficially attractive the various proposition amendments before us today are - certainly for St. Helier some of them are attractive - we do not have a mandate to be making these changes now. We are but months away from a general election. A new Assembly will have a new opportunity, a fresh chance, to secure that mandate, to make the kind of major changes that we are talking about. We had a mandate, of course, and I have said this before in the States, I will say it very briefly now in relation to the amendment, we had a chance in this session to carry out significant reforms. We set up an Electoral Commission, we held a referendum and however much of a curate's egg that was and however much 28 Members disagreed with its findings, in my view, we missed the boat. We rejected the referendum. We rejected the view of the people. Most of the people I talked to - and some Members may be talking to different people and I may be wrong - about electoral reform regard it as something we messed up on last year. Really it is not appropriate in the first sitting of this Assembly to be trying to get something passed to be in what has been called the Last Chance Saloon. I do not believe a saloon bar is the place to make major changes to your constitution. As I say, I think Senator Ozouf has spoken very well. I think it was a valuable speech. I am sure I would say the same for Deputy Le Fondré. But, I would urge Members not to have a lengthy debate on this. I think a future House needs to come back to this matter [**Approbation**] and bring reform in. Thank you.

### **9.2.3 Deputy J.M. Le Bailly of St. Mary:**

The Deputy should be commended for this proposition. He has listened to the public opinion and come to the best solution available at this time in order to strike a balance. No proposal voted for by this Assembly will be perfect. There still needs to be a public vote, with public input and should then only be carried when a minimum of 51 per cent has been achieved with the resulting vote. That, however, will require another referendum. In the meantime, this proposal is the best on offer. It fulfils the wishes of the public, until a clear alternative can be put forward for public approval. This is a proposal that I can safely say to my electorate has not imposed unwanted choices as a compromise. This is logical and common sense. At this time, while awaiting public engagement, I have confidence to vote for this. Thank you.

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

I am not speaking officially on behalf of P.P.C., although I hope at least the comments I make are not far off the official position if there can be said to be an official position. I am not going to talk about Senator Ozouf's proposition at this point. It would not be in correct order. I have to go by the evidence, as much as P.P.C. can be compared to a Scrutiny Panel, because we are a composition and coalition type of body, we have to rely on facts-based evidence. It was on that basis that we put the various different options, all of which have fallen away apart from this delayed one, to expert opinion. It has to be said that Deputy Le Fondré's is marginally better than the default. That is true. It is not as good as Senator Ozouf's in terms of fairness, I guess, which was the main criteria. I am not supporting Senator Ozouf's. Therefore, it would be incongruent for me to support Deputy Le Fondré's. The other risk we have with Deputy Le Fondré's is, as opposed to what P.P.C. came back with as the interim measures, this seeks to change the allocation of seats. We were very mindful of the fact that any interim measures needed to be very modest insofar as they had to keep the same boundaries, because really any changes need to be overseen by a

Boundary Commission. They need to be done by independent experts, at the very least they could be local, but they need to be done by people who can prevent any intentional or unintentional gerrymandering from taking place. Any redrawing of boundaries has the potential to make winners or losers, even in a non-party context. So, while it is absolutely correct that the current system is broken and needs fixing, it needs a lot more attention than simply adding a couple of seats here and there. I suggest it would not be the best use of energy and time - Deputy Le Fondré alluded to it himself - simply putting a housing estate in a relatively underpopulated Parish or District can have fluctuations which may require us to address this in the future. What we can accept is that P.P.C., as charged by this Assembly, was told to go away and come up with alternatives. We have already agreed now, as an Assembly, to have a referendum on, essentially, Clothier, which is currently with us. We need to put the meat on those bones, which I would hope would be a clear set of proposals which says: "A single seat constituency within the Parishes, a single type of States Member, all elected within the Parishes with constituencies of, as far as possible, of equal size. Of course, the smallest Parishes will always represent the smallest constituencies. That needs to either be got behind by States Members or campaigned vigorously against, depending on one's political opinion. A solution has already been proposed. We should not throw the baby out with the bathwater, but I suspect we may be new water as well. I think that is the position. That point can be reiterated later, for any of these. We have made progress. The reason we have not made progress in this term is because try and find a parliamentary language. But the curate's egg I quite liked, because it is similar to a ball shape. Certainly we have made a curate's egg, if not a pig's ear of this particular set of proposals. One last comment, there will be necessarily frustration both within the Assembly and within the wider public. That is because in this Assembly there are 3 types of States Member when it comes to reform. There are those who do not want any type of reform at all. There are those who want a fair type of reform, irrespective of where one is on the political spectrum and irrespective of where the constituencies are. There are those who masquerade as reformers, who want to gerrymander the system. **[Approbation]** That is exactly what we have been seeing from those who subverted the Electoral Commission, who stopped it from being independent and their current proponents who essentially attracted B supporters from among the Assembly. That is simply the truth. Unfortunately, the real reformers here will have to make an unholy alliance and have made an unholy allowance with the small "c" conservatives. That will not last for ever. We have not always been in a position when a compromise could have been made. The time for compromise was immediately after the referendum when A and B were essentially willing to come to some kind of dialogue to have change, but to have fair change where St. Helier was not disenfranchised and not simply by putting an extra seat in each District, which is quite frankly an insult. Now, I am straying into the main debate, so I will stop there. I hope that is clear enough for now.

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

I am not going to speak for very long. Deputy Le Fondré said that a proposal was being rushed. I would like him to explain why attempts to put in place basic democratic rules over 15 years is rushed. I would like him to explain why the 8 seat senatorial election will result in Senators being electors on a fair, legitimate basis. I would like him to explain in his summing up how he believes that the system can be made to work. I would like him also to explain how his proposal meets the basic test that every Islander, man or woman, that can vote, has an equality of votes. How does this proposition meet that test?

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

I will try to take the advice of the Constable of St. Helier, because I thought he made quite a good speech, although I hope that he may in due course be persuaded that Senator Ozouf's proposition is after all worthy of support. More people took the trouble to make submissions to the Electoral

Commission than in any other previous consultation on this subject. Many people took the trouble to attend Parish Hall presentations on the recommendations of the Electoral Commission. The vast majority of the people who engaged in the work of the Electoral Commission were divided on a number of questions. They were divided on the question of the Constables. They were divided on the question of the Island-wide vote. However, on 2 things the people were almost unanimous. The first one was that there were too many Members of this Assembly. That is why the Electoral Commission recommended a reduction to 42. Senator Ozouf's proposition recommends 44. This amendment of Deputy Le Fondré not only does not reduce the number of Members, but increases them from 49 to 51. I would like the Deputy to explain in his response why it is that the views of the people matter so little to him. The second matter on which the people who made submissions to the Commission were almost unanimous was that voters should have an equal number of votes. It was wrong that some voters should elect one Deputy while others should elect 2, 3 or 4 Deputies. What does this amendment do? It makes a bad situation even worse. Now some voters will be able to elect 5 Deputies to the Assembly. The amendment is, to my mind, untenable. It ignores the mandate of the referendum. It ignores the wishes of the people. I am going to vote against it.

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

The only one in the queue. When Deputy Le Fondré was considering whether to bring an amendment to this proposition he was very torn. I gave him one piece of advice, not that he was asking for it, but he got it anyway. I said: "Whatever you do, do not do it." I am still of that opinion. I will be voting against this.

### **The Deputy Bailiff:**

Does any Member wish to speak? I call on Deputy Le Fondré to reply.

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

I think the advice from Deputy Southern was probably anticipated even before it was received. I thank those who have spoken. I think what I would just like to say, it is relevant to this proposition, I am going to try and do my speech now and it will mean hopefully not too much talking for any of the future ramifications. I want to quote from some representations made by a Guernsey politician into their House Committee on Island-wide voting. To quote: "The previous Bailiff, de Vic Carey, during a speech given at one of the I.o.D. (Institute of Directors) conferences a few years ago made special reference to our electoral process. He warned at the time of the Harwood Report of the possible consequences when embarking on a change to a more focussed form of government. Without first addressing the pressing matter of the limited support there seemed to be for the present political system." This is Guernsey and obviously Guernsey at this point excludes Senators. De Vic Carey said, and I quote: "If only a small minority vote and you move from consensus government to a more focussed government the risk of that government being unrepresentative and suffering a serious loss of confidence is that much greater. When we vote we are not voting for a party ideology, we are electing a group of individuals that stand on their own policies or beliefs in an election for a single seat that would collectively make up the entire legislature of this Island to complete government.

[16:15]

Recent attempts at reducing the number of States Members also has huge dangers for the electorate, having fewer numbers in the House will not somehow give us more legitimacy to govern. The number of States Members - this is obviously the opinion of a Guernsey politician - must never be reduced to the level where it would be possible for Ministers and Deputy Ministers to outnumber those left to balance the decision making process on the floor of the House. Our legitimacy to govern our people can only come with a ballot box, not by some politically engineered elected block vote that would amount to little more than an elected dictatorship. One problem we have is

that our people do not believe any more than they can influence the State's deliberation. They certainly do not believe it at election time, which is why I believe they are turning their backs on the whole electoral process." There is a final little quote which was not from the same individual. The writer of those comments was a Minister at the time. Another little comment is: "What voters need is proper representation. Perhaps start by bringing back Douzaine representatives in the States. Failing that, at least one Parish Deputy elected by the Parish and he must also reside in the Parish." To an extent I thought that was quite relevant to establishing what your basic foundations are that you are trying to achieve. Also it comes down to in essence we are not alone in having issues to do with reforming our system. One of the other difficulties we have and some of the arguments that we run is that we must listen to the people. The people would be disappointed, *et cetera, et cetera*, which is great. However, when the arguments do not stack up, which in my view they do not, surely the people expect you to make a rational decision. If they do not you go back down to the 19,000 signatures against G.S.T. (Goods and Services Tax), which was something like 20 per cent of the population, not the just under 8,000 who voted for option B. Or, for example, the demonstrations on Queen's Valley. What I found was interesting was what was being said about representation, about the dangers in reducing numbers and also in the link now being weakened between the Assembly and the population, those people we represent. I think it illustrates the problem that there is something missing, which has come more to the fore ever since ministerial government was introduced. Part of that can be summed up as inclusion, i.e. the ability of Members to influence decisions, including matters of policy. We do not have that right yet. That is one reason why I want Members to focus on super-constituencies, Senators and the like. At present we still have Senators. This amendment ensures we keep them and at a higher number than proposed by Senator Farnham, although that is also the position for the default. Guernsey removed them quite some time ago. Indeed there seems to be, as I have understood it, yet another attempt to bring them back underway. I do not know what has happened to that. I was also struck by comments made by the Chief Minister last year, November or December, when he was being questioned in respect of the Bishop of Winchester. He referred to the inter-linking of the church and the Parish communities, in particular with the role of the rector in the Parish system. That is all part of the network that brings our community together. That network culminates, if that is the right work, here with both the Connétables and the Deputies. I think we meddle with that at our peril. I think that is where we have lost our way. In particular, even Clothier recognised the enormous importance of the Parish system within our culture and our Island community. To me super-constituencies endanger that system. It is probably the right time to just address a couple of the remarks made. I am not going to go through too many. Obviously sticking at 51 is not a reduction from where we are today. It is also not an increase from where we are today. It is an increase on the default position if nothing goes through. That is for clarification. In relation to Senator Ozouf's comments, I am not going to get drawn too much in trying to explain 8 Senators, because it was his amendment. If he did not understand it, I do not think I can elaborate any more for him. As I have said, in answer to both of them, I am just saying this is a holding position. I do not hold it out in any shape or form to be perfect. It is a combination just to give some flexibility for people who are going to try and address this later on. It is a holding position. It is saying: "Stop. I think everybody has had enough." One of the most common remarks I get from people who arrive here from foreign parts, shall we say, and I do not just mean St. Ouen or even Guernsey, is the sense of community and inter-linking at all sorts of levels. Yes, we do need improvements in how we deal with certain matters, greater transparency. But, we must also respect our community. Going back down and saying I think it was the biggest number of people who engaged with the system. It is a bit like us saying: "8 out of 10 cats said this was their favourite cat food." Later on if you remember the relevant brand's adverts it then came down to: "8 out of 10 owners, sorry, who expressed a preference." There is a big difference. The only statistically objective work we have is the MORI polls from 2006 and 2007, which shows that what is being proposed is the least popular

options. That is why I am saying we have to get those foundations set correctly first and then build up from them. Then you will take the population with you. To me, the Parish system is part of the foundations of our community. I have to say, I am not convinced that 6 Senators is a viable number for the long term. In other words, to me it is a short-term fix. This is a serious matter. It is not subject that should be subject to a quick fix. The reason I used the words “a quick fix” previously, I understand the main amendment to the main proposition that has been debated, I think, was lodged in August; I cannot remember now. But it was a matter of a short number of weeks after the loss of the original P.P.C. proposals. That, to me, is a quick fix. It is a knee-jerk reaction. So, if we go to super-constituencies, in my view, even if there is a short-term fix on Senators, to me, the days of the Constables will be numbered. That will be the signal, in my view, for the beginning of the end of the Parishes. To me, the Constable of St. Helier made it very clear in bringing forward option B, that that was a step towards the reform. In my view, in that instance it was a reference to the removal of the Constables from this Assembly. To me, as soon as that happens, the influences of the Parishes would be significantly reduced. Thereafter the ability of the population to have contact with their political representatives will be much less than it is now because there will not be that same level of connectivity between the politicians elected in the super-constituencies as there is now at a Parish level. At the same time, under the present proposals unamended, there will no longer be an Island-wide mandate, for example, to select the Chief Minister from. But inherently surely it does not make sense, in respect of Senator Farnham’s amendment, to have super-constituencies and Senators together. Slowly the Parish will wither. Will parishioners be willing to pay for a Connétable and the performances of their duties if they are not in the States? If so, how will that impact upon the honorary system? Will the Parish rates fall under the control of central government because that is my understanding of the position in Guernsey? Then subsequently will ratepayers lose their ability to influence a significant part of their rate, and, indeed, what it is spent on? I am not talking about next year or the year after. I am talking 5 years, 10 years, 20 years’ time. Super-constituencies represent a very real threat, in my view, to the Parish system, and to part of our cultural identity. They are one of the least popular options, according to the public, and, even Clothier recognised the importance of the Parishes to this Island community. This amendment takes away super-constituencies, retains the Island-wide mandate. As I have repeatedly said, it is a holding position. It is designed to let the dust settle. It is by no means perfect. It represents a fractional improvement on what is described as the default position. Even if Members wish to reject the whole debate, I would ask them to consider supporting this amendment in the first instance. On that basis I call for the appel, Sir.

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

May I make a point of clarification? The Deputy said that I was the proposer of the 8-seat senatorial. I have called up the amendment of the miscellaneous provisions that were lodged by me, an amendment on 4th January. The Deputy needs to withdraw his suggestion that I proposed the 8-seat senatorial. My amendment was designed to make the best of a bad job of an otherwise dual election, which would have happened in 2014, with some senatorial election positions expiring in the middle of a course of an election. Mine did not introduce the 8 seats. Would he please answer the question of how he thinks - I did not come up with the 8 - how will 8 seats work; how will it be legitimate? My question remains.

**Deputy J.A.N. Le Fondré:**

The point was that it was Senator Ozouf’s amendment that brought it all to a head on 15th October 2014. As he correctly has stated, the previous P.P.C. proposition was a staggered election and I

think the first general election of all Senators on the same day with everybody else was in something like 2018. But I cannot be clear on that. On that basis, I think we have all had enough words now.

**The Deputy Bailiff:**

The appel is called for. I ask Members to return to their seats. The vote is on whether to adopt the third amendment proposed by Deputy Le Fondré and I ask the Greffier to open the voting.

<b>POUR: 8</b>		<b>CONTRE: 38</b>		<b>ABSTAIN: 0</b>
Senator S.C. Ferguson		Senator P.F. Routier		
Connétable of St. John		Senator P.F.C. Ozouf		
Connétable of St. Martin		Senator A. Breckon		
Connétable of St. Saviour		Senator A.J.H. Maclean		
Deputy J.A.N. Le Fondré (L)		Senator B.I. Le Marquand		
Deputy J.M. Maçon (S)		Senator F.du H. Le Gresley		
Deputy G.C.L. Baudains (C)		Senator I.J. Gorst		
Deputy of St. Mary		Senator L.J. Farnham		
		Senator P.M. Bailhache		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of St. Clement		
		Connétable of St. Peter		
		Connétable of St. Lawrence		
		Connétable of St. Mary		
		Connétable of St. Ouen		
		Connétable of St. Brelade		
		Connétable of Grouville		
		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 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 of St. John		
		Deputy J.H. Young (B)		
		Deputy S.J. Pinel (C)		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		

**9.3 Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - amendment (P.93/2013 Amd.)**

**The Deputy Bailiff:**



We now come to the amendment of Senator Farnham. I ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

Page 2, paragraph (a): Delete paragraph (a) and substitute the following: “(a) That the Assembly should be comprised of 45 Members comprising 6 Senators, 12 Connétables and 27 Deputies.”

Page 2, paragraph (b): Delete paragraph (b) and renumber the following paragraphs accordingly.

**The Deputy Bailiff:**

Perhaps we can take paragraph 3 as read, if Members agree.

**The Deputy Greffier of the States:**

Paragraph 4, page 3, paragraph (f): Delete paragraph (f) and substitute the following: “(f) That in an Assembly of 45 Members the maximum number of Ministers and Assistant Ministers shall be 20.”

Paragraph 5 on page 3, new paragraph (g): insert the following new paragraph (g) and renumber the remaining paragraph: “(g) to agree that the Chief Minister should only be selected from among Members with an Island-wide mandate, namely, Senators.”

**9.3.1 Senator L.J. Farnham:**

It might be worth mentioning right at the start that I intend to accept the amendment to this amendment of Deputy Noel. I get the feeling that the Assembly is probably not in the mood to discuss 2 amendments of a similar nature and I think it is a day for compromise, so I hope to lead by example here. I would rather have not had to be in a position to lodge an amendment because I wish we had not have had to discuss the proposition of Senator Ozouf. I align myself with the comments of the Constable of St. Helier earlier and I am struggling with the fact that we have previously agreed to hold a further referendum at the next election. So it all sits rather uncomfortably, I think, with Members. Nevertheless, I felt compelled to bring my amendment because it maintains my strong belief that the Assembly needs to retain at least an element of the Island-wide mandate. I think, in the spirit of compromise, the combined efforts of Deputy Noel and myself represent the best option to move the process into a better position than what we could end up with if we do nothing. That is not to say, I think, that if we stay with what is prescribed it is going to be the Armageddon scenario that Senator Ozouf describe in his proposition speech, and I will come back to that in a few minutes. But I think it is an opportunity to reinstate the mandate of the referendum with the added bonus of 6 Senators. If we are all honest, I think every States Member here should accept the fact that, notwithstanding the result of the referendum, the majority of Islanders do want to retain the Island-wide mandate. I have not yet really received a strong argument other than it is inconvenient at election time as to why this Assembly back in 2010 and ultimately in 2011 decided to arbitrarily, in my opinion, without consultation, without the permission of the electorate, reduce the number of senators, which was rather bewildering. I said at the time that it would influence any decisions in reform and I believe it has. The very fact that the Assembly had already decided to reduce the number of Senators was probably the very reason why the continued demise of the office was proposed in the Electoral Commission’s report.

[16:30]

I hope Members have read the short report attached to my proposition. There is absolutely no point in going over a lot of these very well-rehearsed and well-read points. I will refer to one or 2 of them shortly. But I just want to answer Senator Ozouf’s challenge to me to paint a scenario of what might happen if this amendment was accepted or if nothing changed. But under the P.93 proposed by Senator Ozouf with the joint amendment of Deputy Noel and myself, I think we could be in for a surprise because what Senator Ozouf, I think, has failed to recognise is the whole dynamics of the election will be changed because this is going to be the Island’s first true general election day. The Senators, whether we elect 6 or 8, will be the total number of Senators that sit in the Assembly. It

will not be 6 of 12. I think that does change the dynamics quite considerably. If we then go on to approve the second part of this amendment and the Assembly decides the office of Chief Minister from those Ministers holding an Island-wide mandate, I think that alone will serve to raise the bar of the calibre of candidate that put themselves forward for an Island-wide mandate. Of course, it means that other Members of the Assembly, whether they be a Constable of a Parish or a Deputy who wish to aspire to high office, will also have to put themselves before the Island to get the mandate that they should require. So, on Friday 19th October 2014 I very much hope that the media will be reporting that because the States today reinstated to a large part the mandate of the referendum with 6 Senators and the only direct Parish representation in the States was from the officer of Constable, I would hope that that fact alone rejuvenated interest in the Constables' election and we could see for the first time in history that all Constable seats were contested in the election because that was the only seat available to represent the Parish directly. The super-constituencies, which, I have to say, I was not and am not keen on but am prepared to compromise on if we are to retain an element of the Island-wide mandate, being a new concept for Jersey, would also bring in a lot of new faces, credible faces and therefore we could expect healthy elections in all of those 6 districts. On top of that, the 6 senatorial seats, which I do not think will overshadow the whole electoral process ... we are as an Island and as community quite capable of managing that process, as we have demonstrated for many decades, will contain a number of ... I do not agree that there will 20 or 30 or a lot more candidates coming forward but because the office of Chief Minister has to be selected from that roll, then we have a good selection of candidates. The first 6 Members elected have a credible number of votes. So that is my scenario. Just talking about part 2 of my amendment briefly, I notice a key concern for many electors with super-constituencies without an Island-wide mandate will mean that at least five-sixths or at least 83 per cent of the electorate will not have voted for the States Member who eventually is selected to be the next Chief Minister, which I think is probably unacceptable. That, certainly, when I was campaigning a couple of years ago and during the referendum campaign process, was one of the key concerns of people I spoke to. This proposition for the States to elect the Chief Minister from those returned as Senators - I am referring to my report now - may prove to be practical and sensible, notwithstanding the fact that the pool of Senators may be reduced to 6 Members it should also be noted that the calibre of those returned by the Island-wide mandate is generally of a good standard, with one or 2 exceptions, a fact that is underpinned by the statistics that all Presidents of former Policy and Resources Committees and subsequently all Chief Ministers have been Senators. That is all I have to say at this stage. I would like to ask if I could take about 5 of my amendments separately, which is the part relating to agreeing that the Chief Minister should be elected from among Members with the Island-wide mandate.

**The Deputy Bailiff:**

Thank you. Is the amendment seconded? [**Seconded**]

**9.4 Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - amendment (P.93/2013 Amd.) - amendment (P.93/2013 Amd.Amd.)**

**The Deputy Bailiff:**

Very well. We now come on to the amendment of Deputy Noel and I ask the Greffier to read the amendment.

**The Deputy Greffier of the States:**

Number 1, page 2, amendment 1: for the words "45 Members" substitute the words "44 Members" and for the words "27 Deputies" substitute the words "26 Deputies". Number 2, page 2, amendment 3: in the table showing the proposed Deputies' constituencies, for the number "6" in the number of Deputies to be returned for Districts 1 and 2, substitute the number "5" and for the

number “3” in the number of Deputies to be returned for District “5”, substitute the number “4”. Number 3, page 2, amendment 4: for the number “45” substitute the number “44” and for the number “20” substitute the number “19”.

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

I am grateful for Senator Farnham to be accepting this amendment so I am going to be very, very brief just setting out why I believe this amendment is necessary. I am a firm believer that every eligible voter in Jersey should have, wherever possible, the same number of representatives in this Assembly. The number of States Members an individual has the option to vote for should not be predetermined by the postcode they happen to live in. Unamended, Senator Farnham’s own amendment would mean that, depending on where you lived in the Island you would have 10, 11 or 13 representatives in this Assembly and that is simply not justifiable. Those, for example, in St. Helier Districts No. 1 and No. 2 would have 13 Members each, while, if I can be frank and honest with Members, if you lived in District No. 5, which is my own District, you would have 10. That simply is not fair. There are also issues with the relative size of the eligible voter populations. The largest District, No. 3, being St. Clement, Grouville and St. Martin, would have 2 fewer representatives than either of the St. Helier Districts, even though District No. 3 has the largest population, by eligible voter and by population. Indeed, in District No. 4 of St. Saviour and Trinity also has a population and eligible voter greater than that of St. Helier No. 2 District, but, again, would have 2 fewer representatives. That is simply not fair, which is why I brought this amendment. However, I do appreciate that both the St. Helier Districts have to effectively share their Constable but in compensation for this, under my proposal, and, indeed, under Senator Ozouf’s original proposals, they each have an extra Deputy to compensate. So, although my proposal does not mean that every Islander has exactly the same number of Members, and, as such, is not ideal, it is, in my opinion, a better compromise than what is currently before us. Simply the difference is one as opposed to 3. What is clear is that if this amendment of mine, and now Senator Farnham’s, is accepted by this Assembly, then every voter in Jersey will have the opportunity to select one-quarter of this Island’s Assembly, which is a vast improvement on the current basis. I hope Members can support these modest proposals of both Senator Farnham’s and my own and can clearly see that what we are proposing is a sensible compromise, giving each voter, regardless of where they live on the Island, effectively the same number of States Members to represent them. I maintain my amendment.

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

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

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

The Constable of St. Helier in an earlier amendment spoke about the fact that this Assembly has no mandate today to change the system of election of Members of this Assembly and I understand that comment. But the reality is that no solution has been found. There was no mandate on the basis of a referendum to move to a single election day, which caused and will cause the significant problems that I identified in my opening remarks. There was no mandate to reduce the numbers of Senators to 10. There is no mandate to reduce the numbers of Senators to 8. There is no mandate to achieve a reduction to the numbers of Senators to 6. I understand that Members ... and some of the remarks so far have been: “It is all right. We can just airbrush the past. We can forget about what we have done. We can forget about all the decisions that we have inherited or been part of and we can somehow live in some cocoon and forget the consequence of what is going to happen with those changes that have been made. Our system is wrong. We have arrived at a situation where it is a dog’s breakfast of different amendments that have been brought forward in a piecemeal way that will not work.” So, I would urge Members in the discussion with these

amendments not to be putting their heads ... somehow forgetting the past, ignoring the future, but facing up to the responsibilities that we have. Every Member of this Assembly sits here with a mandate: with the responsibility of making laws, of making decisions which govern our Island. They cannot avoid that. They have to confront the situation that we find ourselves in. I found the debate of the Senators extremely difficult. I was one of the Members that, together with the Deputy of Grouville, Senator Farnham and others, tried in the previous administration to keep Senators. But we failed. We now have an almost unacceptable set of trade-offs and compromises that, if we do not make a decision today, we will end up with that ... and I am afraid I got the date wrong. It was 17th October 2014. I was almost looking forward to, I think, 2019, which is the first time in October. I think Members understand. I am talking about the Friday after this year's elections. I am wanting to try and find a solution. I will not say anything but I am trying to find something that will avoid implementing the Horlicks, the dog's breakfast, the unmandated set of arrangements that we have. We have to avoid that. We have to find a solution. There were some Members that accept the principle of, broadly speaking, the same number of votes for each elector. There were some Members that understand that the distribution of seats really matters. The introduction in this debate of Senators does offset some of the concerns of the option A. Deputy Tadier spoke earlier; there needed to be, he said, a solution between the option A and the option B supporters. The Chief Minister spoke earlier in this sitting today about the need for consensus, for finding a solution. The worst decision making is when you put a decision off, when you make no decision at all and when you shut your eyes and then you live through the inevitable consequence of your decisions. Members have an opportunity to try and avoid what I believe will be the very, very serious consequences of a completely unreformed system. I am prepared to hear the arguments. I am prepared to listen to an alternative which is not my solution but will avoid that situation. I am asking myself: is there enough of a majority of Members, is there enough public support to find a solution? I do not like the word "compromise" because then it means that almost somebody has lost out.

[16:45]

I have been examining my conscience to work out whether or not we should try and find a solution which involves keeping an Island-wide mandate and putting in place a fair system to elect Deputies, which is the issue. I offer no criticism to Deputy Martin or any other of the Deputies. But the legitimacy, the fairness and equality of the way that people are elected matters. It is the foundation of democratic principle. Deputy Noel, together with Senator Farnham, have tried to find a solution which respects those principles, which avoids the nightmare scenario of doing nothing. I have really examined my conscience and I am prepared to accept ... I do not know whether or not there will be a majority of Members but I know that the proponents of this proposition also want to avoid the absolutely no reformed system and that they are willing to compromise. There is some thought that needs to be given to how an election could be successfully held on the basis of running some Senators and super-constituencies. A 6-seat senatorial election would certainly achieve legitimate results, as previous elections for 6 seats have done. It is the 8-seat senatorial which will not secure something which is safe. I believe that Deputy Noel's amendment does reflect fairness. It compromises. It is an appropriate win-win for the principles of fairness of ensuring that each seat has a fair number and a consistent number of votes attached to it. I believe that he has come forward with that overall solution. So, I think we need to listen carefully and we need to examine the principles. We cannot put this decision off. We cannot avoid what has happened. We need to fix some of the mistakes that have happened and we need to find a solution which avoids - I will not use the word "apocalypse" - but the very serious consequences of the election that is unreformed, that fails so many of the basic tenets of democracy and that will be having consequences in terms of reform. So I am going to listen to Deputy Noel's summing up. If there is a sufficient number of Members that will accept this compromise, then, of course, my

proposal will go forward as amended. We have had elections for Senators and Deputies at the same time and the super-districts for Deputies' election, fairness, equality of votes, respecting the electorate numbers in the different constituencies could be regarded as legitimate. So, I ask Members to search their consciences. Is this a better solution than doing nothing? In my book, it is certainly a better solution than doing nothing at all.

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

There is some merit in Senator Farnham's proposition on various different counts. That is why I am very concerned to hear him say that: "I am quite happy to accept Deputy Noel's", first of all because it is not entirely his decision. It is the Assembly's decision. Secondly, he weakens his own position by doing so. Certainly from an objective position, Senator Farnham's proposition fares quite well in the P.P.C. league table of shame or glory, depending where you come into it. But if we adopt Deputy Noel's here, not simply are we giving him an extra seat in what will happen to be his district, potentially; we do not know that and he may stand somewhere else or stand for Senator or not stand at all and it is not about the individual. But that is one consequence. But it also makes the distribution of seats physically worse, which is what our experts told us and we can do the maths very quickly to find out ourselves. Senator Farnham's is on the money in terms of the percentages. St. Helier has virtually a third of the population and under his model they would have a third of the representatives, not counting Senators, because, of course, they are proportionately distributed anyway. Deputy Noel comes along quite clearly from the right of the Assembly saying we cannot possibly be giving too many concessions to town because that is where all the lefties or what passes in Jersey for the left ... they are just right-wing anti-establishment for the most part. But anyway, let us not get bogged down with labels. That is where the working class people live. We have already gerrymandered District No. 2 by ... sorry, is there an issue, Sir? I can give way if any Member wants to make a point of clarification.

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

Do not encourage Members. **[Laughter]**

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

We have already gerrymandered St. Helier District No. 2, which is the ghetto where the working class live, who tend to vote for **[Aside]** ... it is not outrageous at all. It is a political ghetto, to be fair ...

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

Will the Member give way?

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

... and more power to their arm. I will give way to the Member for that District.

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

As representative of St. Helier No. 2 I do object to having it described as a ghetto. **[Approbation]**

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

I will continue to fight for improvements in the material circumstances of those constituents in that area and encourage more political work to be done in that area, and what is wrong with a ghetto after all? That is being divided up already. The bottom line is that super-constituencies are dead in the water now; the time for negotiating is long past. On whose terms do we negotiate? I did not see any negotiations taking place with the former Deputy Pitman when he was in the Assembly, who tried to put some kind of compromise to option B, which would probably have been acceptable

to all were the work only done. But the issue is here: Deputy Noel has deliberately, I suspect, made St. Helier's representation worse at the benefit of the countryside Parishes and that is simply unacceptable. If it turns out that we reject this amendment then I will be quite happy to consider supporting Senator Farnham. But on the basis that we may not be able to debate it again, I think that Senator Farnham definitely has some merit in the reduction from 8 to 6 Senators because I believe that after this whole fiasco is finished we will be left with the status quo. It will be problematic electing 8 Senators on the same day. We definitely need to have a system of S.T.V. (single transferable vote) introduced for the 2014 election, 4 Senators, and for any multi-seat constituencies and after that we also need, I believe, to elect 6 Senators rather than 8 if we are going to maintain Senators in the next election. There is a lot of fear from certain quarters, understandably, about having an Island-wide manifesto. Certain Senators in the election may be very fearful of facing an electorate when they essentially had to provide what became subsequently untruths in their policy which they had to do U-turns on. I would certainly be very fearful about facing an electorate and facing their fury in terms of an Island-wide election when it would be much easier to get in in a nice cosy super-constituency which the result was much easier to predict. That could be part of the underlying reason for so much fervour for reform when we have not seen it in the past. But I will leave Members to work out in their own minds with that.

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

Deputy, for the avoidance of doubt, the Greffier has read this proposition separately and because we are going to take a vote on this proposition separately I entirely recognise there may be some Members who would support Senator Farnham's amendment but would not support this proposition and that is why we are taking it separately. I call on Senator Ferguson.

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

I will take the Connétable of St. Helier's words to heart; I shall be speaking once. I will say it just once too. It strikes me that the elephant in the room - with great respect to my great friends the Connétables - about which nobody has spoken are unfortunately my good friends the Connétables. The Senators are quite logical, most of us anyway, but the votes cannot be equalised while the Connétables hold seats by virtue of their posts. Now, I have not got any problem with that, I think that is one of our little idiosyncrasies, but Privileges and Procedures' report underlined the fact that the options retaining Connétables have a problem with the sort of curious view of democracy. I suppose for this reason I support the genuine referendum next October when we get a genuine public response as to whether they want Clothier or not. I mean, we are just fiddling at the edges at the moment and I think the new Assembly should address the problem. Frankly, I will not be supporting any part of this proposition and, with respect, I will not be speaking again.

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

It is good to follow on from the comments of Senator Ferguson because we look at these numbers and I will briefly speak to Deputy Noel's proposition. We are in St. Helier exactly back to where we were before we even went to the referendum. We said we were under-represented and if you add 5 and 5 and 1, which is the Constable, you have 11. If you go all the way through, District 3 has ... you have to add the Constables. Although they are not the whole District, there will be an allegiance and alliance strangely forming and this is where Senator Le Marquand had his reservations. I hear the Constables saying: "Oh, no, we will not work together in the District 5, St. John, St. Lawrence, St. Mary, St. Ouen." But you will have 4 or 5 representatives as Deputies working to you and it might cover 2 or 3 Parishes' problem, so it will definitely have all the lines. But in St. Helier, under the unamended ... if somebody did want to go with Senator Farnham we would have 13: District 3, 8; District 4, 7; and District 5 would have some of the smallest Parishes, St. Mary, in the terms of electorates with their 5 representative and their 4 Constables, would have

9 people. The people will think they are the representatives. I disagree. I have spoken to Constables individually and they say: "No, if I am elected the Constable of St. John, St. Lawrence, St. Mary or St. Ouen; that is my little Parish. That is the only thing I am going to be dealing with." I would like to see that work out when you have still got in the bigger District people elected in that complete round. It is a mess. Why Senator Farnham thinks it makes it any better to support Deputy Noel's amendment, is absolutely beyond me because if he really wants to gain the 9 or 10 votes in St. Helier, do not go back to where we were before the referendum and exactly that is where this takes us. I am not frightened of an election on 15th October as we are. P.P.C. came up with an alternative interim, as has already been said by one or 2 Members on P.P.C. and it was representative of people voting, not how many votes you can cast. We went to an expert, as Deputy Tadier said, and Deputy Noel's was well done the bottom and Senator Farnham was somewhere in the middle with Senator Ozouf.

**Deputy E.J. Noel:**

I think I was one down from the top.

**Deputy J.A. Martin:**

No, Deputy Southern was the top. [Aside] P.P.C. were second, yes. I think Deputy Southern was quite high up with the representation. I do not know, I think I agree with the Constable of St. Helier, who is probably listening outside the Chamber at the moment. I just do not have any appetite; I do not know that it is physically possible if we would decide today to change. I know it would be very tight and there will be things overlooked like all the amendments P.P.C. had to bring on the electoral reform that happened very, very quickly before the elections in 2008 and that would have just been amended. Much, much, much was missed and there is lots of work to do.

[17:00]

I am definitely not supporting the amendment by Deputy Noel; it takes St. Helier back into the stone ages. A third of the population with 2 districts and half a Constable with one foot in each camp? No, no, no, he is a very good Constable but he is not a magician and he cannot do this and he cannot go up against, as I say, the Constables that will be wielding the power out in the country when they do find themselves faced with District come Parish problems that mingle the lines and they are the lines of Parish boundaries. Just to relate what Senator Ozouf was saying on the radio, and has been repeated again by him about how terrible it will be for a person who comes in 5, 6, 7. When you are backing a horse you know your odds on it. You know, if it is an under 8 horse race you only get first and second, over that you get first, second ... and over 16 you get first, second, third and fourth. Well, I am turning it on its head, people may not use their votes but that does not make ... he used my name. Am I less represented in the House than, say, a Constable or a Deputy who turns up at the Parish Hall and has their papers signed by 10 people? This is our system and apparently this happens because in those Parishes, and I am told by the Parishioners, I am told by the representatives, I am told by the Constable of that Parish, so why would I doubt it, that is because the people in the Parish, their Parish, are happy and if they are not happy they vote in an election. That is when people do turn out. I despair at the doom and the gloom that Senator Ozouf painted at the beginning and his forecast for all our or some of our sad faces although maybe I have got one of the sad faces if I decide to stand again, I may be in the *J.E.P.* and I may not be. But as to analyse our system, just by moving from where it is now and exactly where it was 2 years ago, electing 4 Senators ...

**The Deputy Bailiff:**

You will not lose your thread of thinking if Members do not interrupt.

**Deputy J.A. Martin:**

Yes, we went down from 12 to 10, sorry, I stand corrected. But we had 3 elections all on one day and they all ran okay. The only difference is that this time you could have ... whatever amendment you go with you would have 6 Senators or if you do not go with anything you will have 8. I do not care if the Senator thinks that it is going to be a dismal 2 days after and the run up. The hustings started failing us in senatorial elections about 20-odd years ago and we need to find somewhere to get out there and get to the people. I mean, it is not for me to do it unless I do stand in the senatorial districts. If it is, as the Senator says, popular politics by knocking doors, especially people with a new face, you have to go out there and meet the people they represent. They will not do it under the ... they are still proposing 6 seats in big districts and supposedly I have not been told how these hustings will run either. I agreed, although I did not support Deputy Le Fondré because it is basically where we are today, just adding a few in here and taking a few out there, but it is the same system. We have got the system. I cannot see anything that is enticing me to be encouraged to vote for anything today, we will stay as we are and we will face the elections on 15th October with the 8 Senators, the Deputies and the Constables all being elected exactly in the same boundaries as they are now. We will go out to the people with the referendum and it should be a straightforward question, not the muck-up we had before. I leave it there and I will not be speaking again in any of the other debates, I have not got the energy.

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

We all know the Deputy, alias the Assistant Minister for Treasury, has skills as an accountant that are second to none. However, this proposition is not just about juggling figures, the Minister is a good shopkeeper but he is not selling the right goods. This could be the parable of the shopkeeper. In April there was a special offer to the public, they could have 3 choices, A, B and C. As an example, we shall use apples, bananas, carrots and cabbages; the cabbages are included if you buy apples or bananas. Three-quarters of the people said: "I do not want anything, I am happy with the carrots that I have." So they did not go to the shop. The cabbages, you may have guessed, are the constituencies. Some people wanted bananas but they also had to take rotten cabbages. Some people wanted apples but they too also had to take rotten cabbages. The people who bought carrots walked out of the shop but just for good measure got pelted with rotten cabbages anyway. **[Laughter]** Something that they certainly did not want. The people who did not go shopping said: "I am glad that we decided to keep with our own carrots, we have avoided those rotten cabbages." Not true, cabbages are back. The shopkeeper said: "You are going to have them whether you like them or not." The people do not like cabbages; they will not buy them and they certainly do not want them given against their will. They are telling the shopkeeper: "Keep your rotten cabbages, stick them in the bin." That was a load of old rubbish as is this proposition and others. **[Laughter]** **[Approbation]** May I suggest that on behalf of the public that we consign the whole lot to the bin while awaiting public response in order that we may get on with the real issues that the public want addressed in this Island. There ends the parable.

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

Make I seek clarification? Would it be possible ...

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

No. **[Laughter]**

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

Would it be possible for the Deputy of St. Mary, even if he is not a future States Member, to deliver all of the Christmas messages. **[Laughter]**

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



Briefly, I do not think that can be followed, but I think what we have got here, I agree with the Deputy of St, Mary, is the reasons why we should not be discussing this and also we have to look at how come we are here in the middle of January discussing this when we thought we were just discussing it and dealing with it, was it 3 months ago or was it 3 years ago, sometime in the past anyway. Senator Ozouf saw what was happening the last time we debated this and he was at the end of the pecking order and saw that he was going to lose, suspected he was going to lose and, therefore, put it off and put it off and put it off and we are back here again. Now we get to that is very nice, the well-meaning amateurs coming up with their own ideas, getting old. I cannot see what his logic is. It makes things far worse; it was bottom of the list, I think, the first time round, it makes no more sense now. Senator Farnham in his charming and well-meaning way trots through his arguments but did he not have a great deal of conviction there? Again he has got a solution which is not perfect, he says, but let us accept it because we are in this ... we are put in this mind-set that says this is Armageddon. Armageddon? It is not Armageddon, this is the Last Chance Saloon to get anything right. "We must make a decision." The worst type of argument you can ever have: "You have got to make a decision today, make it now." Not true. We do not have to. We have got a set up, we have got a referendum coming, let us wait for that referendum. We will get a verdict of some sort. It is a better referendum than the last one, which is part of the reason why we are here. But let us not go along with these jelly baby different versions, 101 mixes: "I have got a good idea", another one coming up later. Let us get rid of this all in one today, please.

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

Does any other Member wish to speak? Deputy Noel to reply.

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

I am not going to address every speaker that has commented this afternoon. I would thank Senator Ozouf for his point and reminding us what we are facing here. In my opinion, the status quo will lead to a poor election in October. Deputy Tadier, I think, missed the point that this is about trying to achieve a balanced solution between percentages and each Islander having the same number of Members to vote for. The solution that I am proposing gives every voter on the Island a chance to elect 25 per cent of this Assembly and surely that has to be a far better thing than what we are faced with the status quo. Deputy Martin, with respect, the Constables of St. Ouen and St. Mary and St. John do not represent the parishioners of St. Lawrence and vice versa. It simply is not the case. I ask Members to take the time to look at my amendment and the appendices numbers 1 and 2. I asked Members to look at Districts 3 and 4, which I have already mentioned, District No. 3 is St. Clement, Grouville and St. Martin, and District No. 4 is St. Saviour and Trinity. I asked them to look at both appendices because the first one is by eligible voters and the second one, appendix 2, is by population. They give pretty much the same results and those 2 Districts have more Members than the respective Districts of St. Helier Nos. 1 and 2, but under the current system and under Senator Farnham's unamended, both Districts 3 and 4 would be greatly under-represented. It is a balance, you cannot have everything. You cannot have equal percentages and every voter having the same number of votes, not when you have 2 or 3 different types of States Members. What I am proposing is a workable solution that leaves the door opened up for future reform, for future Assemblies and for future referendums for people to be able to evolve this. This is about evolution, not about a step change. The Deputy of St. Mary reminds me of my days when I was a young lad working in a supermarket, too much so, in fact, and it was an entertaining and extremely funny speech. But this is a serious matter, the status quo is not palatable. That is really all I have say. I think the arguments ... we have had these debates time and time again. I think the Island deserves us to step up to the mark and make some decisions. The worst thing we can do is not make a decision. It is better to make a decision and for it later to be found out to be wrong and you can correct it. But to do nothing - to do nothing today - certainly when I stood first time round some 5

years ago, I stood on a reform platform, I think most of us would have done so. Time and time again we decide to kick it into the long grass. Let us go for a solution that is a balanced solution, that balances between percentages and everyone, no matter where you live, whatever your postcode is, having the same amount of candidates to be able to vote for. I maintain my amendment.

**The Deputy Bailiff:**

The appel is called for. I invite Members to return to their seats. The vote is on whether or not to adopt the amendment of Deputy Noel and I ask the Greffier to open the voting.

<b>POUR: 6</b>	<b>CONTRE: 40</b>	<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf	Senator P.F. Routier	
Senator L.J. Farnham	Senator A. Breckon	
Connétable of Trinity	Senator S.C. Ferguson	
Connétable of St. Mary	Senator A.J.H. Maclean	
Deputy E.J. Noel (L)	Senator B.I. Le Marquand	
Deputy of St. John	Senator F.du H. Le Gresley	
	Senator I.J. Gorst	
	Senator P.M. Bailhache	
	Connétable of St. Helier	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. John	
	Connétable of St. Ouen	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. Saviour	
	Connétable of Grouville	
	Deputy R.C. Duhamel (S)	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy M. Tadier (B)	
	Deputy T.A. Vallois (S)	
	Deputy M.R. Higgins (H)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	
	Deputy G.C.L. Baudains (C)	
	Deputy J.H. Young (B)	
	Deputy S.J. Pinel (C)	
	Deputy of St. Mary	
	Deputy of St. Martin	
	Deputy R.G. Bryans (H)	
	Deputy R.J. Rondel (H)	

## **9.5 Composition and election of the States Assembly: reform - proposal 1 (P.93/2013) - amendment (P.93/2013 Amd.) - resumption**

### **The Deputy Bailiff:**

We now return to Senator Farnham's amendment. Does any Member wish to speak? If not, Senator Routier.

[17:15]

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

I voted against the previous amendment in the knowledge that I am going to support Senator Farnham's amendment because I believe that what he has done is a good compromise and that we will have an opportunity to have more of what is reflected in the Island community as the way that they would prefer things to be with the Island-wide mandate. I will leave it at that and to say I will be supporting his proposition.

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

The Deputy's proposal does not go far enough; it only protects the position of Senator in the all-Island mandate. I am glad, though, that the Senator has listened to that public call. However, the Senator totally ignores the other main concern of the public, that of super-constituencies. The Senator has failed to listen to that concern. People do not want super-constituencies. This proposal is no better than the options given at the public referendum, both options then required someone to vote for part of an option that they did not agree with, hence the pathetic turnout. The proposal does the same; to keep Senators we have to accept super-constituencies. The proposal cannot be half right. The public want Senators with an Island mandate but they do not want the super-constituencies. This proposal does not give us an option to make that choice. I can only repeat the public need the chance to engage by putting forward their choices. I cannot support a proposition that is only half right, by doing so I need to accept these constituencies which my electorate does not want.

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

Just an observation, much will be spoken and has been spoken about the Island-wide, both whether it is important or not, whether it is sustainable or not, and super-constituencies not being wanted by the public. I believe that the Deputy of St. Mary was correct that super-constituencies were tolerated by those who were fatigued by reform and who chose one or other of the main camps to support, but super-constituencies themselves were not ideologically sacred, if you like, and I think their time has passed now. It must be remembered that the Island of Jersey as a voting constituency is the biggest super-constituency as at all possible and it is important that we also remember that the larger the constituency size, the less of an impact your vote has on determining the outcome of that election. Therefore, when you vote in a smaller District, be that a Parish or a District within a Parish, especially if there were low turnouts, you are much more likely to influence the vote than you are in an Island when there are potentially 25, 30 or 40,000 people voting - probably not the upper limit. I think that needs to be borne in mind, going forward. Also we have to remember when we are lauding the apparent brilliance of Senators we have to bear that in mind. We also have to bear in mind that in other democracies it is not possible for all the constituencies of a said country to elect the whole of their Assemblies, nor is it possible for them to elect even a quarter of their Assemblies. By and large, it is one man, one woman, one vote and, of course, how do you influence policy under that system? We all know the answer to that and we will, at some point in Jersey's future, grasp that nettle and realise that is how we implement political influence as a member of the public and there is a mutual relationship between the Assembly and the public which has accountability and responsibility. We do not have that at the moment; we will not have

it with any of these proposals. We will have it potentially if we vote the right way and campaign in the forthcoming referendum.

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

There appears to be some history being re-written in this debate. There is concern and there has been a number of suggestions that somehow the referendum result was not a normal voter turnout in elections. I am struggling to find the data because I really do not believe that Members of this Assembly should be making decisions on the basis of inaccurate information. From memory, and I believe and hope that my memory will be accurate, in the last senatorial elections there were approximately 21,000 people, that turned out and turned out in those elections. I also believe and I stand to be corrected by Senator Bailhache who probably can get, or if any Member of this Assembly can get the data for that, that some 16,000 or 17,000 people turned up in the referendum result. Now, in referendums around the world, you do not tend to get the same turnout. But to make decisions today on the basis that somehow this referendum result that we had, and this Assembly, to the views of many Islanders, had the temerity just to simply set aside, was not representative or not valid is, I am afraid, a travesty of the reality of the previous system of referendums. The Electoral Commission held a referendum and there were thousands of people who turned out to vote in that referendum, which was not dramatically short of the elections turnout in senatorial elections. So where is the evidence? As much as I find the Deputy of St. Mary's contributions amusing, in terms of cabbages, rotten and others. Rotten boroughs are used in other places but we are dealing with the rotten nature of our electoral system and an urgent need and a real need for Members to fix it. It is not fair; it is not fairly distributed. To simply put our heads in the sand to airbrush out history, in terms of a referendum result, is simply wrong. It is inaccurate. It is not doing the job that representative democrats are supposed to do. It may be amusing but it is wrong and it is on the wrong basis that we choose the basis of our democratic future. I hope somebody is going to stand and defend, effectively, the integrity of the referendum result and take it seriously and not simply set it aside and to say that somehow we can ignore it because we cannot. There will be consequences if we ignore it completely. Senator Farnham is trying to find a solution to a broken system; to a system which is not credible. It is not right to look forward to October of this year and to see Members knowingly elected on a vastly different number of votes. It is simply wrong. It will be criticised. I perhaps am the only Member of this Assembly that has been part of any international election observing missions. I have done 2; the last one in the Cayman Islands last year. All democracies, those functioning democracies which are respected and have good rules of laws and good accounting systems, open themselves up to examination. We are going to have to open ourselves up to examination. I wonder where the Deputy of St. Mary and the other Members of this Assembly who are going to vote on this amendment, what are they going to say to those election observers who are not interested in personalities or left or right of politics but are just interested in what is appropriate and right, in terms of democracy and principles of democracy. We are charged with putting in place the fundamentals of how that democracy will pan out in elections. A solution has been put forward. I understand the cherished Island-wide mandate. Anybody would say that an Island-wide election is a proper way of electing representatives of this Assembly. There is credibility only in terms of the numbers of people that you can elect in one go, hence the criticism of the 8 seats. If Members want to find a solution, if they want not to put off the inevitable castigation, criticism, unfairness, inequality of our current electoral system, they must choose in the votes that they have between now, shortly, no doubt, and tomorrow. I offer no comparison of a bar saloon when I say it is the Last Chance Saloon. I am not downgrading the decisions of this Assembly as some bar talk, some compromise, some last minute solution. This is a fight against what is right, what is fair, what is going to be justifiable, what is going to be democratic. So I ask Members with all degree of seriousness to wake up, to look at the facts. They have a couple of choices before them; one choice is not or should not be before them and that is,

doing nothing. It is not good enough to say that we are going to hold another referendum and everything will be all right. We have elections this year which must be credible, must be fair, must be equal and must stand up to Scrutiny. Members have a choice. I am sorry to speak in such emotional and clear and hard-hitting terms, but they have a choice. It is not what has been the subject of a referendum but, frankly, we have made lots of decisions about our democracy which have not been backed up to referendums. We have almost said that we do not accept the referendum decision making. They have 2 choices. They have 2 choices which work and are defensible and that is either Senator Farnham's amendment which maintains the line by mandate, which is fair, which is equal, together with super-constituencies. The Deputy of St. Mary may not like super-constituencies but there are many issues before Parliament that people did not like. There are many issues which were regarded, if you look at it today, as being an absolute unfairness in the way that things were said. I do not want to suggest that the Deputy of St. Mary is the individual who might have opposed northern land owners of getting a vote or women getting the vote, or different minorities getting the vote. But this is what democracy is based upon; it must be based on fairness, on equality. Change is difficult; I can see Members being uncomfortable when they are faced with reality. Democracy must be fair and I ask Members if they are not going to vote in favour of this amendment which is fair, which is defensible, which does have equality of votes, which does represent fairness in terms of each seat in this Assembly, then they are going to have some real thinking to do when we come back to the last option that we have.

**Senator S.C. Ferguson:**

May I ask for a point of clarification? The Minister said that he had been to the Cayman Islands to observe one of their elections. May I ask when that was?

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

Last year. I recall it was May.

[17:30]

**Senator S.C. Ferguson:**

Presumably that was the new Prime Minister after the previous one had been taken off to jail.

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

I do not know what that has got to do with democracy. That is not the point.

**Senator P.F. Routier:**

Can I propose the adjournment?

**The Deputy Bailiff:**

Does any Member wish to speak on this amendment because if not it might be better to finish this amendment. If other Members do wish to speak we will put it off.

**Senator P.M. Bailhache:**

I am sorry, I am not answering your question, but may I just refer to the remark of Senator Ferguson because I am not at all sure that the former Premier of the Cayman Islands was in fact sent to jail. He was charged but I do not believe he has been convicted. Unless the Senator has different information, I think she should withdraw it.

**Senator S.C. Ferguson:**

I am quite happy to withdraw it. I do know that he was arrested for alleged financial irregularities in importing explosives. I will follow up the case and just make sure.

**Deputy J.A.N. Le Fondré:**

May I suggest that we try and finish this amendment this evening because I would imagine there are not too many people left to speak?

**The Deputy Bailiff:**

Does any other Member wish to speak?

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

I was thinking about speaking but I rather thought that I would have a good night's sleep before coming to that final decision.

**The Deputy Bailiff:**

The adjournment has been proposed. Members in favour of adjourning kindly show? Did somebody call for the appel? The appel is called for on whether to adjourn at this stage. I ask Members to return to their seats and ask the Greffier to open the voting.

<b>POUR: 6</b>	<b>CONTRE: 40</b>	<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf	Senator P.F. Routier	
Senator L.J. Farnham	Senator A. Breckon	
Connétable of Trinity	Senator S.C. Ferguson	
Connétable of St. Mary	Senator A.J.H. Maclean	
Deputy E.J. Noel (L)	Senator B.I. Le Marquand	
Deputy of St. John	Senator F.du H. Le Gresley	
	Senator I.J. Gorst	
	Senator P.M. Bailhache	
	Connétable of St. Helier	
	Connétable of St. Clement	
	Connétable of St. Peter	
	Connétable of St. Lawrence	
	Connétable of St. John	
	Connétable of St. Ouen	
	Connétable of St. Brelade	
	Connétable of St. Martin	
	Connétable of St. Saviour	
	Connétable of Grouville	
	Deputy R.C. Duhamel (S)	
	Deputy R.G. Le Hérisssier (S)	
	Deputy J.A. Martin (H)	
	Deputy G.P. Southern (H)	
	Deputy of St. Ouen	
	Deputy J.A. Hilton (H)	
	Deputy J.A.N. Le Fondré (L)	
	Deputy of Trinity	
	Deputy S.S.P.A. Power (B)	
	Deputy K.C. Lewis (S)	
	Deputy M. Tadier (B)	
	Deputy T.A. Vallois (S)	
	Deputy M.R. Higgins (H)	
	Deputy A.K.F. Green (H)	
	Deputy J.M. Maçon (S)	
	Deputy G.C.L. Baudains (C)	
	Deputy J.H. Young (B)	

		Deputy S.J. Pinel (C)		
		Deputy of St. Mary		
		Deputy of St. Martin		
		Deputy R.G. Bryans (H)		
		Deputy R.J. Rondel (H)		

**The Deputy Bailiff:**

The States therefore stand adjourned until 9.30 a.m. tomorrow.

**ADJOURNMENT**

[17:32]