

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 8th JUNE 2010**

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

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

### **1. Notification of resignation of Minister for Housing**

**The Bailiff:**

Chief Minister, I understand you have an announcement to make?

#### **1.1 Senator T.A. Le Sueur (The Chief Minister):**

Yes, but before nominating a new Minister could I perhaps say a few words about Senator Le Main, the previous Minister for Housing. It is with considerable sadness that I received last week a letter of notification from Senator Le Main confirming he felt the need to relinquish the post of Minister for Housing. Senator Le Main brought to the role a unique and sometimes flamboyant style which may not have suited everybody, but I defy anyone to question the depth of his commitment and the compassion which he brought to an often difficult role. Probably none of us know fully the extent of the sacrifices he has willingly endured for the benefit of people in difficult circumstances and while I am not going to pre-judge the outcome of the inquiry which I am conducting to issues arising from a recent court case, I can nevertheless say that I have known Senator Le Main long enough to know how much he dislikes injustice and how strongly he will fight for those he believes have been unfairly treated. **[Approbation]** In accepting his resignation I am nevertheless pleased to pay this small and inadequate tribute to a Minister who has at all times put the needs of his constituents and the department ahead of any problem of his own. I am sure he has got a lot to offer the States in the electorate in whatever role he subsequently undertakes. **[Approbation]** There is accordingly a vacancy for the Minister for Housing and I am pleased to nominate Deputy Hilton of St. Helier to that position.

**The Bailiff:**

Very well, is that nomination seconded? **[Seconded]** Are there any other nominations for the position of Minister for Housing?

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

I would like to nominate Deputy S. Power of St. Brelade.

**The Bailiff:**

Is that nomination seconded? **[Seconded]** Are there any other nominations?

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

I would like to nominate Senator Alan Breckon.

**The Bailiff:**

You nominate Senator Breckon. Is that nomination seconded? **[Seconded]** Are there any other nominations? Very well then, those are the 3 nominations, therefore the Assembly has to proceed to a secret ballot in accordance with Standing Orders. Perhaps it would assist if I would just remind Members very briefly of the procedure. Each candidate will have the opportunity of addressing the Assembly for 10 minutes; that 10 minutes will be ruthlessly enforced. There will be a bell after 9 minutes and a final bell after 10 minutes at which stage the candidate will have to stop speaking no matter what. There is then 20 minutes available for questioning of each candidate. The other candidates will be taken away and will be placed separately in a room where they are unable to hear the proceedings clearly so that all candidates come on a level playing field. At the end then there will be a secret ballot. Now, we will hear the candidates in the order in which they have been nominated, so first it will be Deputy Hilton, then Deputy Power and finally Senator Breckon. So, I



would invite Deputy Power and Senator Breckon to withdraw with the member of the Greffier staff who will take them to a suitable room. Very well, then I now call upon Deputy Hilton to address.

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

Members will no doubt wish to know what has moved me to accept the Chief Minister's nomination for the position of Minister for Housing. It took me about 24 hours to consider the Chief Minister's offer, wanting to discuss the matter with my children first before making a final decision. I was absolutely delighted to be approached and accepted his proposal almost immediately. I have been in politics 8 years. I have served as Vice-President on the Environment and Public Services Committee, Assistant Minister at the Housing Department and latterly Assistant Minister at Home Affairs, a position I occupy today. There have been some occasions in the last few years when I attended the Council of Ministers sitting in on behalf of my Ministers to add to the above experience.

[9:45]

I am, I believe, ideally placed now to take up this opportunity. Based on my direct and indirect contact with the Council I can say that I have generally agreed with the thrust of its work. My principal difference of opinion has been with regard to G.S.T. (Goods and Services Tax) and that is well known and documented. However, like some Members, I have a few reservations about the direction the Council of Ministers has been taking in recent times, specifically regarding possible future tax increases. To avoid or minimise such increases I accept absolutely and I am totally committed to the need for all departments to have a very close look at their expenditure. Savings do need to be made and if elected I will immediately review the work done so far within the Housing Department aimed at containing the costs and to contribute as much as reasonable to the total States savings. I have more to say about my plans regarding housing policy in the department later in my speech. I have had a frank discussion with the Chief Minister about the areas where there will be differences including taxation. He has assured me that he understands that I may not always be able to support the Council of Ministers. For example, I do believe the time has come for the Council of Ministers to have an in depth look at our current tax structure. I feel middle Jersey families are being hit from all directions. Before we consider increase in taxes thereby hitting them again, I believe we have got to have a serious look at changing our tax structure in order that those who have earned or unearned incomes in excess of £100,000 may well have to pay more than the current 20 per cent. I know this percentage is considered to be a "sacred cow", but things have changed so much throughout the western world in recent times that I believe that the argument put forward that we would lose those high earners is not valid. While other places may have rates as high as 50 per cent I do not believe for one moment that if this government decided to increase its upper band of tax to 25 per cent those individuals in receipt of 6-figure salaries or more, that those people would leave the Island. "The grass is not always greener on the other side." You may wonder why I am telling Members all of this today; after all it is the Housing Ministry we are discussing. The reason I am saying this is to give Members and the public an example of my views to Members so Members know exactly where I shall be coming from if they elect me today. Being elected primarily to evaluate current housing policy and determine what changes might be required and to lead and oversee the operations of the Housing Department will give me an opportunity I would not have otherwise had to influence all manner of issues that come before the Council; after all these issues are often very interrelated. What it means is I shall be given a voice at the Council of Ministers table. This is my chance to influence and change policy and I am ready to grasp that opportunity with both hands. What I can offer States Members is someone who has and will maintain an independent voice. I am energetic, hardworking, honest, "play a straight bat" and will always put the public interest first. I am good with people. I thoroughly enjoyed my 3 years at Housing with Senator Le Main and I believe I made a significant contribution to the positive efforts that he made to tenant participation, the 2008 rezoning proposition for over-55s and first

homebuyer homes and also the Property Plan. I come to the House today with the goodwill and wishes of many States tenants I have bumped into since the announcement was made that I am standing for Minister today. The Housing Department is a very well-run organisation, staffed by a competent management team and a willing and hardworking team of officers. The second major issue I will, if elected, tackle is the future of the Housing Department itself. The 2009 Whitehead Review report on social housing in Jersey concluded that in current conditions States housing, while operating as effectively as possible within the current policy and financial regime, cannot hope to maintain the 21st century social housing sector which is value for money. It went on to set out the options which States Members may or may not support. It is a piece of work which will need to take the high priority by whomever is elected today. Whatever the final outcome we have to be sure the department has more financial flexibility to borrow from any available source to provide social housing to a high standard for those who require it at a price which they can afford. It goes without saying whatever form a revamped Housing Department takes in the future, it will be subject to proper financial oversight and governance in order to achieve best value for money. The question of regulation needs to be addressed. The Housing Trust will of course be subject to any future regulatory authority set up to deal with this matter. In an ideal world I would like to see the Housing Department able to buy, sell and develop properties at a rate which would accommodate an expanded eligibility criteria in order that those people who are currently not catered for, i.e. older single working people and couples without children just above the income band, would be helped. If we are to be a fairer society we need to include these people; for too long sections of our population have been at the mercy of the private landlord and all that entails. Something which has puzzled me of late is why we, the States, are not making better use of publicly-owned land. There are many sites in and around St. Helier which we could use. For too long now we have moaned about the cost of land as soon as it is rezoned. Why are we not using those appropriate sites we already own to provide good quality social housing for those who need it? The issue of additional housing sites has to be addressed. This is an area I shall be working on with hopefully close co-operation from the Minister for Planning and Environment, and Property Holdings. I am not impressed by the fact that in 2008 the States Assembly rezoned land in order to provide much needed lifelong homes and first homebuyer homes. As far as I am aware the Trinity site is the only one being developed. I am not sure why this is and I will investigate and seek to activate development of remaining sites, but I suspect it may have something to do with developers sitting on sites until the housing situation improves. This cannot be allowed to continue. In future I believe the Minister for Planning and Environment needs to time-limit rezoning in order to stop this speculation. If a development does not go ahead within say a period of 2 years the permission to rezone should be withdrawn and the land reverted back to its original use. The Homebuyers Scheme appears to have worked well on the first site it was applied to. I would seek to further increase opportunities for people to access the Homebuyers Scheme in order to realise their dreams of home ownership. During my term as Assistant Minister at the Housing Department a lot of time was spent on creating residence groups which came under the umbrella of the tenants' forum. It is my intention to meet on a very regular basis with these groups in order to increase my understanding of the needs of the people we are accommodating. Another area I wish to try and expand is the relationship between the Housing Department and the charitable sector. Of particular concern to me are the housing needs of young people who, through no fault of their own, find themselves homeless in their teen years. I feel in the past they have been abandoned to a certain extent to "sink or swim". With the Minister for Health and Social Services this is an area I would like to explore. Another area I would like to explore is the possibility of people remaining in their homes as long as they are paying a fair rent. It seems to me this is a far better way to treat families who may have occupied properties for 20-odd years, put down roots in their communities, but because their children have flown the nest they have to leave to move to something smaller. Lastly, I do believe there are great benefits in group working so will therefore look to set up small working groups with any interested Members. Jersey, despite what some critics may say, is an absolutely fabulous place in which to live, work and bring up our children. It is not perfect; we have to

continue to strive to maintain its natural beauty while making sure that it is a place which people from all walks of life can call home and enjoy living in. There is much we can do to improve those things which affect people directly, especially when this relates to housing matters and the policy areas that directly influence them such as planning. Taken in the round, I believe I have the most to offer for this role at this time. I would ask, please, that Members consider me for their vote. I shall not let you down. Thank you. **[Approbation]**

**The Bailiff:**

Very well, there is now 20 minutes available for questions to Deputy Hilton.

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

Deputy Hilton in her speech mentioned that there were a number of sites within the States ownership within St. Helier that should be developed. Would she please tell us which sites they are and which ones would have precedence?

**Deputy J.A. Hilton:**

Thank you for that question. There are a many sites in States ownership, not least all the sites that are surrounding the Gas Place area; Ann Court. We have Le Bas Centre there; South Hill which was put forward for first homebuyer homes that has just been in the doldrums since I have been in the States, which is 8 years. So, there are several sites which I believe could be and should be looked at for social and first homebuyer homes.

**1.2.2 Connètable A.S. Crowcroft of St. Helier:**

Does the candidate for the post subscribe to the view that all or the majority of new housing should be concentrated in St. Helier in the other urban settlements, both to protect the countryside of the Island and to enhance the vibrancy of the urban areas?

**Deputy J.A. Hilton:**

Yes, I do. I believe that we should try and protect our green fields as much as possible. In normal circumstances I would only support development on brownfield sites or in the built-up area. I am, as Members are probably aware, against greenfield development on the few green fields that we have left in St. Helier. I think it is a very important point. I live in St. Helier, have done so for decades. I love living in St. Helier and I do believe that it will add to the vibrancy of the Parish if we have more homes built there.

**1.2.3 Deputy R.G. Le Hèrissier of St. Saviour:**

Would the candidate acknowledge that notwithstanding her previous answer that her involvement in finding over-55s housing provision on greenfield sites was a misjudgment and was based at the end of the day on very poor evidence?

**Deputy J.A. Hilton:**

Absolutely not; the Property Plan was supported by the majority in this House. Having sat on the Environment and Public Services Committee in 2003 - I was elected in 2002 - and being very aware of the huge problems that that committee had in delivering the H2 sites because Members felt that they had been somehow excluded from the process, when the Assistant Minister for Planning and I set about in trying to establish where we could provide much needed homes to the over-55s and first homebuyer homes, we both agreed that the Connètable should be our first point of contact. I believe if we want to sustain our rural Parishes they need to have over-55s or first homebuyer homes or the Parishes are just going to die. So, I obviously supported it then and as far as that policy went, I did support it.

**1.2.4 Deputy R.C. Duhamel of St. Saviour:**

What housing density does the Deputy consider to be the maximum supportable for a built-up urban area?

**Deputy J.A. Hilton:**

I believe when we were dealing with the H2 sites, especially the 3-bedroom homes, we were working on a density, if I recall correctly, of about 14 homes per acre on a density of about 75 habitable rooms per acre. That was 3-bedroom homes which although I know at the time some Members felt was on the small side, the size of the rooms are more spacious than estates that had been built in the 1970s or 1980s. The question of density in St. Helier, I think the density can be increased, but not to the detriment of the quality of life for the people who live there. It is very, very important if we are going to build in St. Helier that we have enough green space, and amenity space for those people to access, hence the reason that I have fought so long and hard to keep the Gas Place site completely free of development.

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

Many candidates for this post I am sure will talk about the need for affordable housing. I believe you touched on it. Could the candidate please reiterate her stance on what she would do to create truly affordable housing and also comment on initiatives such as taxes on second homes and also capital gains on speculative purchases, particularly in the short term to prevent flipping which is inflationary in the market place?

**Deputy J.A. Hilton:**

Three question there; I will try and remember them. Sorry, can you just repeat the first question?

**The Bailiff:**

I think, Deputy, Standing Orders say the question must relate to one subject, so choose one of your 3.

**Deputy M. Tadier:**

To do with taxes to prevent inflation and those 2 examples that I gave, if you could comment on your stance on what taxes we could introduce to prevent inflation in house prices?

[10:00]

**Deputy J.A. Hilton:**

I have deep concerns about when the States Assembly rezoned land the price shoots through the roof. I think affordable housing is the biggest issue facing this States Assembly and whoever goes into the Housing Department is going to have to work very, very hard with the Minister for Planning and Environment and the Minister for Treasury and Resources to address this problem. Various attempts have been made to do that and, in my opinion, I do not believe they have quite worked out as well as they could have done and so I will be looking to find - by working with Treasury and Planning - a way of being more financially flexible so that the Housing Department can build and develop their own homes on, hopefully, States-owned land. I know the Treasury will say: "Well, there is a cost to that. Even if it is publicly-owned land there is a cost" and I accept that, but I feel in the past that the cost has been based on Category B housing and not social housing. I think that is something I would like to discuss with the Minister for Treasury and Resources. So, I feel that there are opportunities for the States as a whole to deliver more affordable housing and it has to be a big priority. You asked a question about capital gains. I have not really given any thought about that, but I would imagine I think it is something that needs to be looked at, but I think that is probably something that will come out in the consultation paper that I believe will go out some time in the next couple of months to the public about how we fill the black hole, and I think capital gains and tax on second homes that you described will be in that consultation paper.

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

Does the candidate agree that the underlying problem both with the pressure on greenfield sites and the pressure on what is called windfall sites in St. Helier - which means every garden that there is - and the brown sites of St. Helier, that the underlying problem is the endless pressure caused by the policy of more and more people coming in, net inward migration, and would she say what her stance will be on that in the Council of Ministers.

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

I think that is a very, very good point. Our infrastructure cannot go on accepting more and more and more people. The census is being carried out next year, which I think has to be a welcome thing. It will give us... although we have good statistics and our Statistics Unit are very good at producing information for us, I think the census will provide us with some very, very useful information about exactly how many are on the Island, where they are living and the circumstances that they are living in. Population is an issue that I believe the Council of Ministers really has to have a very long hard look at and I should imagine it is probably on their agenda. I do not know, but I should imagine it is and it is something I do feel very strongly about. It is a very fine balance between maintaining an economy that will provide the public services that we have all grown very used to, but not impacted on the infrastructure of the Island. So, it is a fine balance. Obviously any decisions around that I would look to people who could offer me experience in those matters. Yes, so I agree population is a big issue.

### **1.2.7 Deputy A.T. Dupre of St. Clement:**

I know the Deputy has touched on this already, but if you are elected as Minister for Housing, will the Deputy continue with her proposal regarding the site number 8 and Channel TV site? I seem to recall that when the Deputy was Assistant Minister for Housing she was enthusiastic about this site being developed for social housing and for sheltered housing.

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

I am glad the questioner has asked that question because it is an important question and I think at the end of the day if this Assembly is going to go out and consult with people about what it proposes to do then we should at least listen to what they are saying. It was the same as G.S.T. at the end of the day; the 19,000 people who signed that petition and ultimately we ignored it. As far as that site was concerned it was a site that in the Island Plan was an H3 site and when I was at Housing we were looking at appropriate sites. It was consulted on firstly at the Town Hall, but then when we went out to our Island-wide consultation we became very aware that there was outright opposition to development on that site. When I looked at the site I understood perfectly well why the residents in the immediate area felt that way. Collectively the 4 Ministers decided to pull that site on the basis of the opposition and for the site to go forward into the Island Plan draft in the bigger round, and so I listened. I went there as the Assistant Minister for Housing with a job to do, but I listened. It was the only site that was in the plan that did create so much opposition. We collectively listened to what the public had to say and decided to withdraw it and I stand absolutely by that decision.

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

Does the Deputy accept the findings of the MacDonald report commissioned by the Minister for Planning and Environment which says that there is no such thing, even with a 35 per cent discount, as affordable housing in Jersey with normal multipliers and borrowing ratios and does she agree further that the key element is the price of land and what steps will she take to enable the States to acquire land up to and including compulsory purchase if necessary?

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

I am sorry, among all the many reports that are produced I have not read the MacDonald report, but I do not think I need to read it to know that the price of land and the price of housing in Jersey are out of reach of the ordinary person. I think I have said before in my speech that I will work very, very hard at trying to change that, addressing those issues. They need to be addressed. It is important that we have good quality affordable housing for all across the board. I do not think there are any easy answers to this problem. I know in the past when it has been discussed with the Law Officers about the States buying agricultural land and then turning it into building land in order to try and provide affordable housing, the legal advice has always been that we cannot do that and we have been really struggling with this. It is something that I would like to look at again. We have got a new Solicitor General in post. He might have a completely different view on that. There may be in certain circumstances a case for compulsory purchase, but I would say normally it is not a route that I would choose to go down to, but I am not saying “never”.

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

Will the Deputy please give details of her “running mate” and also what action she will take, if elected, on the number of people or any number of people who are in States rental accommodation with high incomes? Will she be means-testing these people?

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

As far as my “running mate” goes, I have not really given that an awful lot of consideration. It is something that I am not going to just jump into. There are lots of questions and a lot of discussion that I would need with a potential Assistant Minister. I have a couple of people in mind. I have made no promises to anyone at all and so that is the way it stands at the moment. Obviously if I am fortunate enough to be elected today then I will give that due consideration over the next week or 2. I have not discounted waiting to see the outcome of the Senatorial election, so I will be giving it some very deep consideration. As far as means-testing of States tenants is concerned, it is quite a difficult one because quite often people go into States housing on a fairly low income with their families and over a period of time their income might increase. On the one hand I can understand why the Deputy is saying that, but on the other hand if we want to maintain and build communities we want to try as far as possible to leave people in their communities; they are important to the community. It is something that I could look at, but I am not going to be giving any promises as far as that is concerned. I think community is very important.

### **1.2.10 Senator B.E. Shenton:**

Could the candidate give her opinion on the Homebuyers Scheme?

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

I was disappointed to be in receipt of the emails that were circulating yesterday where certain allegations were made that apparently will be produced in some report at some time. As far as I am concerned the Housing Department is an extremely well-run organisation. I was there for 3 years and I did not see any other signs that it was anything but a well-run organisation. The principle of the Homebuyers Scheme is a very good principle, but it was a token scheme. It was a first scheme that was applied to La Providence at Goose Green. I think with anything that is produced, a scheme like that, there are going to be things that maybe could have been done better, but I am not going to speculate on what may or may not be in a report that is going to be produced very soon, and I do not think it is very helpful to Members to be told that a report is going to be damning about a department. I do not think that is very, very helpful at all. We have got no evidence at this present moment in time to suggest anything of the sort, so I am rather disappointed about that. I think the idea of the homebuyer is a very, very good idea.

### **1.2.11 Connètable G.F. Butcher of St. John:**

My Deputy has stolen my first question, but I will ask another one. Does the candidate believe that the selling-off of State stock is still a good idea?

**Deputy J.A. Hilton:**

In 2007 when the majority of this House supported the Property Plan, I think it absolutely was a good idea. We were looking to increase home ownerships among States tenants and to date we have achieved that with quite a large number of families. So, I supported it then and I thought it was a good idea then. We have moved on considerably in the last 3 years; 2010 over 2007 is a completely different place. For a lot of people who may have qualified in 2007 they would find it extremely difficult to now get a mortgage. In the Property Plan there was a clause to say that the sell-offs would be matched to the waiting list. At this current moment in time my understanding is the waiting list has increased and so I would say that in the current circumstances it would need to be looked at again and, as far as I am aware, not many houses are being sold at present, so I would say at the current time if the housing list is increasing as much as it is then we should look at that again and make a decision based on the evidence.

**1.2.12 Connètable D.W. Mezbourian of St. Lawrence:**

In her speech to the House the candidate made reference to the Whitehead Report and told us that it would need to take the priority of the new Minister. Will the candidate tell the House now what her top 3 priorities would be from the report?

**Deputy J.A. Hilton:**

The Housing Department needs to be put on a footing whereby it can get out and provide homes for those people who need them, which they are not able to do at the present moment in time. The Housing Department has stock worth, I understand, in the region of £900 million to £1 billion and they are not able to go out and borrow. That situation needs to change. So, a proposition will be brought to the House. The Whitehead Report makes several recommendations about what form the Housing Department could take, whether that is an arms-length organisation, whether it becomes part of a bigger trust, whether it become a trading company. All those options need to be looked at.

**The Bailiff:**

Very well, I am sorry, Deputy. I have just been advised by the Greffier the 20 minutes is up, so I appreciate there are still 2 other Members. **[Approbation]** Very well, then I will ask Deputy Hilton to withdraw and for Deputy Power to be brought into the Chamber.

[10:15]

Very well, Deputy Power has returned and I invite the Deputy to address the Assembly.

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

I would like if Members would be patient with me for a minute or 2 to put into context why I want to stand as Minister for Housing and there are a number of reasons for that. I think the obvious reason is that I am the Assistant Minister and I am very committed almost with a passion to work with Housing and the Population Office. I have a lot of passion for this work and I know some of you have been in touch with me over the last year and a half and you know how much energy I do put into this job. I just need to touch on the fact that I do not have the endorsement of the Chief Minister and to be honest with you I am not that bothered about that. I am quite happy to stand as my own man. The Chief Minister is his own man and it is not for me to question his ways, but I can tell you I am my own man as well. One of the things that motivate me is the commitment of the officers of the Housing Department. I am very proud of the work we have done. We work well together. It takes time, as everyone knows, to build a relationship and we have built that relationship. The sequence to where I am this morning is that the Chief Minister phoned me last Friday morning and told me he did not want me as the Minister for Housing. I accepted that. Deputy Hilton then phoned me about an hour later and said she had been asked, but she did not really want me either, so I felt a bit unloved on Friday morning and I was a bit shell-shocked and I

went back to the office and did a 2-line email to Deputy Hilton saying that I would not get in her way. The Chief Minister then emailed me Friday night and he hoped that Deputy Hilton would take me as his Assistant Minister and then I read the *J.E.P.'s* (*Jersey Evening Post*) article on Friday where Deputy Hilton gave Senator Breckon a huge rounding endorsement. So, I phoned Deputy Hilton on Saturday and I said: "Can we have a chat?" and she said: "Fine" and she said on Saturday morning that she did want to consider me as her Assistant Minister. So, I asked her why she was giving Senator Breckon a big rounding endorsement and she felt that he was the proper man for the job; not me. So, I therefore changed my mind last night, as I am entitled to, after a 5-minute meeting with Deputy Hilton last night and I have thrown my hat in the ring, which brings me to Senator Breckon. I phoned him at the weekend and met him at the Cenotaph on the Sunday morning and he was tight-lipped. However yesterday as you will see from emails, he was far from tight-lipped and sent an email around that in my view was hostile and vulgar, making allegations about the Housing Department and he said that it is in a mess. Well, that is news to me. So, what I think he is doing is he is in a privileged position where he has access to information from his position on P.A.C. (Public Accounts Committee) and is dropping them into an election campaign. Worse than that, as you will see from the C.A.G.'s (Comptroller and Auditor General) email this morning he is using the C.A.G., in my view, as a pawn. So, now if he were to be elected he has to face the Housing staff and the Housing Department and try and build motivation, and I think he has damaged it. However, I am very pleased to confirm that the Housing Department has not used any Greek banks and we do not have any Euro contracts. So, having discharged my views on Deputy Hilton and Senator Breckon, I now want to tell you what I want to do. We have got lots of work to do in the Housing Department; lots and lots to do with affordable housing, over-55s housing, liaising with Parishes, common waiting lists. In the Population Office we have got issues on housing qualification period, single classification on property and our housing needs. There are hardship cases, emergency cases and many, many other issues. Our waiting lists are growing and they are growing because of a number of factors; lack of mortgage finance, lack of more homebuyers, lack of shared equity and a lack of development finance for developers. I want to touch briefly on P.6 - the Property Plan - and the disposal of social rented housing that was approved by the Assembly on 17th July 2007. I was Chair of the Housing Sub-Panel that recommended against it and we then said there were far bigger issues and we wanted to advise the Housing Department to not go down this route. That panel was myself, Deputy - now Senator - Breckon, Deputy Le Hèrissier and the Constables of St. John and St. Martin. The 'elephant in the room' then - and now - is funding for housing and housing maintenance and the proposal to sell 800 homes over a 10-year period was to kick-start this. Well, 104 have been sold, 24 on the open market, the rest to States tenants. Total income out of that, £30.5 million, but now it is time to review and to perhaps pull the plug on the Property Plan and that would be one of the things I would want to do as your Minister. The whole reason for its existence was a lack of funding. There is another way to do this. One of the ways to move the Housing Department forward is to take one of the recommendations of the Whitehead Report and to look at the possibility of forming a Jersey Housing Association. There are many precedents for this in the British Isles and the Irish Republic. The public still owns the stock, still owns the housing, but places them in a new vehicle and new association or corporation. That association has a governing body and essentially uses its new status to determine its future and its ability to borrow. Our Housing Department has got 4,602, I think, houses and flats, worth somewhere between £900 million and £1 billion and the Housing Department cannot borrow a penny. We cannot do a thing without going through the Treasury and going through Property Holdings to approve our sales. So, if we want to sell a house at Grasett Park we go through a consuming and wearisome process and I cannot emphasise enough how difficult that is. That is P.6; I want to pull it. Homebuy was a Planning and Environment proposition; P.74/2008. The big issue on this one was La Providence at St. Lawrence. It was approved by the Assembly on 8th July 2008. My sub-panel then said there was insufficient data to scrutinise it and, boy, was that a prophetic statement. When I crossed the Rubicon and became the Assistant Minister for Housing I found that as a product the Jersey banking industry had no loan



machinery to deal with this. Worse was to come. We were in the middle of the worst global credit crunch we had seen since 1929, with financial meltdown everywhere. We started negotiating with Dandara on the 46 houses at La Providence and I have to tell Members, I think I have said this once in the Chamber, we had 4 months of very difficult meetings. Eventually we agreed that the department would enable the 46 homes to be bought at £260,000 each and their market value today varies between £435,000 and £505,000 and the Housing Department has about £8 million in bonds. The 46 mortgages are spread over the associated banks with Lloyds TSB being the biggest participant. I have to say to Members I am proud of the work I have done on Homebuy with the officers who worked long hours to deliver those 46 homes to first homebuyers. We need more of that product. Mark my words, I would invite any accounting audit of the Housing Department because I can tell you there is nothing but integrity and honesty in that department and I can tell you that were the result to come out today or in 2 weeks they will get a grade A performance. The Population and Migration Office in some ways is one of the most challenging parts of my work. Here is a department that was separated from the Housing Department in 2005 and moved to the Chief Minister's Department. Yet the Minister for Housing has still got responsibility for Housing Law. It is, in my opinion, a farce. The Housing structure does not work well. I have come across case after case - hardship cases, all sorts of cases - where there is no easy linkage between the Population Office and the Minister for Housing and his Assistant. That has to change and I would say to you that the Population Office sits in the Chief Minister's office rather forlornly with no proper line of communication or hierarchy. If we go to a Housing Association we need a statutory authority; we need a regulatory authority and what we would do is we would have a Jersey Housing Association sitting beside the trusts and the private rental sector and above that a new regulatory structure which would have composition from the Housing Association and the trusts. That is another piece of work that I have to do in the next 1½ if I am still in the Housing Department at 1.00 p.m. I could go on; I have got a lot of information here. I think I have said enough. I hope you understand where I am coming from. I hope you understand why I am standing and I will now conclude.

**The Bailiff:**

Thank you very much, Deputy. Then we have 20 minutes of questions to the Deputy.

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

While I certainly do not share much of the Deputy's politics, I am happy to state that I have always found the current Assistant Minister hardworking and willing to accept that some accommodation in which we ask people to live were not acceptable. However, what I would like to know from the candidate is what his stance will be, if elected, to housing trusts that abuse their privileged position and treat both residents and the States with complete contempt?

**Deputy S. Power:**

This is an easy one for me. I have had a run-in with one particular housing trust which shall remain nameless and my issue is this. Why does this particular trust cherry-pick our tenants; tenants with good credit, tenants who do not have physical disabilities and are living in ground floor fully disabled flats, and I have to confess to Deputy Pitman that I have not achieved a lot. The whole issue of the way the trusts approach tenants is a big one and of course the problem is that the trusts were set up without any regulatory function and what Deputy Pitman is giving us today, and what I have given you, is an example of what is happening because there is not a regulatory function.

**1.3.2 Deputy G.P. Southern:**

One of the prime recommendations of the Whitehead Report was that there was an ongoing deficit in funding of £7.5 million each and every year towards maintenance and refurbishment. How will the Deputy address this question and where will he get that £7.5 million from?

**Deputy S. Power:**

The first part of the answer is that the long term view is that there would be a Housing Association where the Association would be able to borrow money in its own right, whether it is £10 million, £20 million, £30 million, even though the stock is owned by the public and governed by the public. The short-term answer to the Deputy's question is that I found out when I became Chief Minister - oops. **[Laughter]** That is a Freudian slip. I found out when I became the Assistant Minister that £7.5 million - £8 million of Housing's depreciation goes on Treasury figures, so there is a lot of work to be done there with the Minister for Treasury and Resources who has to say: "Can we have our depreciation back?" because that means then that at some future role that the next £23 million or £24 million a year we give to Treasury should be adjusted by the depreciation figure. So, that is the short-term answer to your question, but there was a long-term answer as well.

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

Will the candidate please give details of who his 'running mate' will be and also what action he will take, if any, on people on high income within States accommodation - will he be means testing them - and finally will he support the new Island Plan?

[10:30]

#### **The Bailiff:**

I think that 2 out of those... ignore the third one, Deputy.

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

I think it is a bit off-pitch. I am happy to answer the first 2 questions. On States tenants who are in States accommodation there should be some means-testing because we are housing people that we should not be housing; that is a simple fact and the best way to do that is to have some form of means-testing. We are also housing people who desperately need to be housed, but we are holding up houses and flats for people who have a very comfortable income and that has got to change. With regard to who I would pick as an Assistant Minister, I did mention earlier on that we need to factor-in the supply of new affordable housing, we need to encourage the department on to bring in first homebuyers and stuff like that and I would ask the Constable of St. John to take over the whole area of affordable housing, first-time buyers, liaising with the Parishes on Parish property, on Parish over-55s accommodation, and I have worked with the Constable of St. John very effectively on Scrutiny and I would be very willing to work with him again if I was chosen to be the Minister.

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

The initiative to provide lifelong homes for the over-50s appears to have stalled. How would the candidate reinvigorate this initiative?

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

The candidate would answer as follows. The initiative to provide accommodation for the over-55s is a bit of a mess and I would be happy to work with Senator Cohen on this. For instance, we have got some developments which are 19 habitable rooms per acre and other developments which go up to 90 and 100 habitable rooms per acre. One of the big issues about over-55s accommodation is that it is very land-hungry and I think we have got to find accommodation in areas where there is higher density. My wish, therefore, if I did have a seat at the big table, would be to have a more effective, more co-ordinated Planning and Environment relationship with Housing, because that is very important, and bring forward that type of over-55s policy which, at the moment, to me, does not work as well as it could.

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

Does the candidate agree that all of the options identified in the Whitehead Report should be independently appraised from a financial perspective, and would the candidate accept that provided

the services to tenants are at least the same, the best financial option should then be actively considered?

**Deputy S. Power:**

One of the first issues I had when I came to the Housing Department was that I questioned the length of time it took to produce the Whitehead Report and I put the officers under a lot of pressure last year to produce it when it finally came out. Do I want another report to critique Whitehead? No. Do I want to get on with the job that we have got to do in Whitehead? Yes. Do I think we need any more paperwork to do that? No. Do I think the financial assumptions made in the Whitehead Report can be made to work? Yes. Thank you, Sir.

**1.3.6 Deputy R.C. Duhamel:**

What housing density does the Deputy consider to be the maximum supportable for built-up urban areas?

**Deputy S. Power:**

In built-up urban areas, we have had precedents where we have had very small room sizes and very small units of 45 square metres, which is almost 360 habitable rooms per acre as in spectrum. That simply does not work. One of the schemes that I liked was a scheme Deputy Duhamel and I saw 3 years ago now, I think, in Vienna, where we visited some Vienna City social housing. These are in what I call maisonettes, 2 floors, and the densities there were very generous. I think we were looking at between 85 and 95 square metres with amenity space and it was beautifully designed. In fact, I sent the designs and the photographs to the Minister for Planning and Environment 3 times. We still have not seen it. So I would say we can go somewhere between 120 habitable rooms per acre, possibly up to 160.

**1.3.7 Senator S.C. Ferguson:**

The Minister has responsibility for issuing (j) categories. What would be your criteria and approach relating to issuing (j) category licences? How would you assess these?

**The Bailiff:**

How would the Deputy ...

**Deputy S. Power:**

The emotional issue of (j) categories, I do not know where it comes from. One house in, I think, about 7 per cent of the population of (j) categories; I think it is one house in 20. (j) categories come to us all the time, every 2 to 3 weeks as applications, and I would say, to give Senator Le Main his credit, he has refused probably more (j) categories than he has approved. He is really tough. He has been really tough on companies and accounting firms and law firms and start-up businesses and I have to say I learnt a lot from Senator Le Main because I really did not know how the (j) category things worked. My view on (j) categories is that the way we approach it at the moment is good. If I were to be elected Minister for Housing, I would tend to follow Senator Le Main's example.

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

There have been rumours that the Chief Minister did not nominate the candidate because the candidate thwarted certain budget proposals. Did the Chief Minister advise the candidate why he was not his preferred choice and, if so, what was the reason given?

**Deputy S. Power:**

This is a very easy one to answer. The Chief Minister rang me on Friday morning. He was, I think, in Herm. The conversation was less than a minute. He told me did not want me, and I did not ask any questions. [Laughter]

**1.3.9 Deputy A.E. Jeune of St. Brelade:**

The candidate appears to have been quite vocal in the media in respect of his ideas for the Housing Department. So I would like to ask the candidate does he accept that ultimately it is this Assembly that will decide on major policy changes to the Island's Housing Department? Thank you.

**Deputy S. Power:**

Oh, my goodness. That feels like a slap on the wrist from the other Deputy of St. Brelade. The answer to Deputy Jeune is this. You have to have your own views and your own opinions. You stamp your own imprimatur on the way you do business. I said on the radio interview yesterday that anything would be subject to the approval of this Assembly.

**1.3.10 Deputy R.G. Le Hérisier:**

Given that the Minister joined the Council of Ministers, can the candidate outline areas where he is likely to find himself in disagreement with current Council of Ministers policies?

**Deputy S. Power:**

Sir, how long have I got? [Laughter]

**The Bailiff:**

A concise answer, please.

**Deputy S. Power:**

I cannot answer that. I have concentrated my full passion and wit with Housing and Population and I have given a great deal of commitment to Planning and my Parish work. There are areas of the comprehensive spending review I think are too tight. There are other areas I think I have mentioned yesterday and today. If we can turn a Housing Department into a Housing Association, what example does that give the Minister for Treasury and Resources or the Chief Minister? If we can take social rented housing and make it work as an association, that is what I would be doing with a lot of the States departments. We need to tackle parts of the government of the Island of Jersey that we should not be in.

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

Does the candidate agree that the underlying problem with housing is the endless pressure caused by the policy of more and more people in the Island, both in the country areas and in the town with respect to so-called windfall sites, which are people's gardens - many of them - and this pressure is just his problem and he will never solve it?

**Deputy S. Power:**

My answer to that is as follows: 18 per cent of the population living on the Island at the moment are over 65. By 2022 to 2025, that will increase to 35 per cent. We have to have young, able-bodied people to come or to live and to work, and lots of Jersey-born ones as well. We are going to have to have people who work here, who live here, who pay taxes and who support those who are elderly. The demographics of living in Jersey are going to change like the U.K. (United Kingdom), like Ireland, like France, like anywhere else that you care to mention in the developed world and, while we have built 7,000 new houses between 1971 and 2001, and we have built 1,000 in the last 3 years, we are looking at housing needs and saying we need another 1,200 houses. Balancing migration with population policy is a very, very careful balancing act. As I said when I spoke about the Population Office, it is one of the most difficult areas of policy that I am in and that is why I am so unhappy that the Population Office is not structured properly. So there are challenges, Deputy. I feel I have got the ability to deal with some of them. A lot of it will have to come to this Assembly for approval anyway, but that is as much as I can say on that one.

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

I believe that Jersey's home ownership is as low as anywhere in the world. I think there is 74 per cent or something, 54 per cent, 70 per cent of people do not own their own homes. Given that the cost of housing has risen now past the affordability of middle Jersey, is it not now time to restrict future purchases of housing to residents of Jersey only?

**Deputy S. Power:**

Jersey has a huge issue with affordability of housing. I have to acknowledge when I said that we have to pull P.6- the Property Plan- we have to keep more houses for social renters. We also are going to have to provide affordable housing for first-home buyers and families. People may say that the first-home buyer model may not have been perfect, it may not have worked. I do not know how this is going to be critiqued. I can tell you I am not worried about it. We have to find other models for people to get into home ownership, but what we also have to do is provide decent accommodation for people who will never be able to buy because of that gap. Jersey is very much like the British Isles, like the U.K., like Wales, Scotland and Ireland. There is an expectation that you can own your own house over a period of time. That is completely a contrast to France and Germany and Austria and places like that where the premise is that the majority of people live in rented accommodation. We have a balancing act to do. Definitely, the new Housing Department or the new Housing Association is going to have to have more stock and there is going to have to be States input to the Housing or Population Office to produce a supply of affordable housing. As to how we finally do that, in what shape or form, I do not know, but I can tell you it has to be a combination of Housing, Population and Planning, and there is no point in us all being in silos; we have got to work together, and I will say there is a case for merging, at some time in the future, Housing, Planning and Population.

**1.3.13 Deputy M. Tadier:**

For a moment I thought Deputy Le Claire had answered my question. I suspect he did, but I will ask it because it needs an answer. Could the Deputy give his stance on the buy-to-let market, particularly for those owned from outside the Island, for those who do not have 'quallies' who are able to own property and rent it to people in Jersey who they themselves may have 'quallies' but cannot afford it? Is that something he would crack down on?

**Deputy S. Power:**

My knowledge of the buy-to-let market is limited. I do know this: there are lots and lots of people living in Jersey who have got properties in Majorca, properties in France, properties in Florida, properties everywhere else, and there are people living in England, Wales, Scotland, Majorca who have got property here and some of them let their property. I did an investigation of this last year with the Population Office because they keep records, and we were surprised as to, in percentage terms, the overall property market, the property-letting market, the buy-to-let market being not that significant. In terms of my own personal opinion, as I do not have the evidence to suggest it is a problem, it is more a matter of perception than a problem. Unless the statistics of the Population Office tell me otherwise, I would not propose to interfere in the market.

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

The candidate has touched on social housing and the fact that we need more. Does the candidate have any suggestions as to current sites where this could be achieved and the number that he considers would be needed?

**Deputy S. Power:**

Yes, I do. We have one site in the middle of town that we are desperately trying to hang on to which is the Ann Court site. There are other sites on the periphery. I have had a continuing disagreement with both Property Holdings and the Planning Department over sites that can be used for affordable housing. The Belle Vue site at Les Quennevais is an Island disgrace. It has been

going on for something like 25 years and the actual density that is being proposed on that at the moment is not high enough, in my view.

[10:45]

There are other sites in town that the Island has under its control and they should be released for social housing but, at the moment, there is a philosophy, wherever it is coming from - probably high up in Treasury - that everything has to have a profit centre and a return on investment, and there are many, many sites on this Island that could be quickly shifted to the Housing Department and used for affordable and social rented housing. Just to remind you what we are doing at the moment, we have contracted £20 million worth of repairs in the last 2 years. There is £8 million that is attached to that which has now been completed with another £30 million out and tendered at the moment. So the Housing Department, at the moment, with the small team we have got - 4 people do this - is the biggest contractor on the Island, and we can do it again. The Minister for Health and Social Services has got a problem with some of her residential accommodation. We have got 4,600. It does not matter whether we have got 4,600 or 4,900. We can do it.

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

Would the candidate explain how he would strengthen and repair the relationships between Property Holdings and Housing?

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

Not easily. **[Laughter]** We regard the Property Holdings Department as obviously a competent authority in its own right, but we do not understand why every time we sell a house or a property that we need their approval. We are equally as competent as Property Holdings. I would be very happy to work with Property Holdings and the Minister for Treasury and Resources to try and sort this out because there is bad energy between the 2 departments. The Housing Department feels that they have been held up and Property Holdings feel that they are bigger experts and, in between, there is an issue. I have a reason ...

### **The Bailiff:**

I am sorry, Deputy, I have just been advised the 20 minutes has come to an end, so ...

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

It felt like 5.

### **The Bailiff:**

Very well then, Deputy, if you would once again retire and I ask that Senator Breckon be brought back into the Chamber. Very well. Members, come to order. Senator Breckon is now in the Chamber and I invite him to address the Assembly.

## **1.4 Senator A. Breckon:**

A question I would like Members to address is have I just become interested in housing and I would say that I think this election, this job, is not about me or anybody else. It is about what we can do for others and it is a very real issue. I have been interested in housing since 11th March 1973 when I came to the Island. I have been through the non-qualified bit. I know some of the pitfalls. I lived in States accommodation at Wellington Park for many years and I was President of the States Tenants Action Group, so I know the value of tenant involvement and active participation. I entered politics partly because of housing and my frustrations with some of it. The issues were then, and indeed I believe some of them still are now, about quality; it is about affordability of renting and buying, security of tenure, and there was a stigma about States rental. It is about qualified and non-qualified, need, demand, choice. These are really very important issues

for many, many people. They were then and I believe they still are today. So where are we in housing terms? Are we any better off since 11th March 1973? The other day we had the population guesstimate. So what does that mean? It means something, I believe, for all of us because there are 600 more people living in the Island than there were 12 months ago, so that means something. The last census we did was in 2001 and I believe the next one in 2011 will be very, very important and it should shape future policy. I think, although it will shape policy, there will be problems within it for us all: where do people live and where do they work. Over the last 10 years, if you look at the population, it has grown by 500 a year, on average. That puts tremendous pressure on housing. It also creates needs and demands and people also have expectations, quite rightly, within that. So, against that background I believe what we need and we have never had is a whole-Island survey of housing, properties, residential accommodation; over 38,000. We can do this through the Parishes and through the post office. What accommodation is in the Island, who lives in it, and then we can profile that against predictions and develop a policy, I believe, for the next 30 years. That is where, I believe, we need to be at a real housing plan. At the centre of it, for me, would be something that gives priority to the elderly. I have been privileged to look at some of the work the Parishes have been doing and there is some tremendous stuff going on there. I was at Trinity - I actually went twice - recently and the importance is it is needs-based from the community, not developer-led. There is a significant difference there because the quality is marked. Also within that I think we can make better use of our own assets, but I think working with the Parishes we can achieve much, especially for the elderly, and we need to recognise that some people are asset-rich but cash-poor and maybe recognise that again, and maybe the States could start housing people in those situations again on different tenancy agreements. There are over 4,500 homes for rental and I believe any plan for the future must include a significant programme for what we are going to do with that, reduce it, increase it, and work with others and look at a mix of funding options of what we may do. There will be some hard work there but I believe it is for the benefit of all of us. The States also, as Government, have a significant land bank, and I believe we can make better use of that for the population. I believe there is a significant housing gain there, especially for the elderly. Overdale would be an example of that. I believe it has been neglected, it is a waste, and we need to bring that back in with a proper, I believe, elderly scheme, based on something like the Rowntree model. I am aware of the limited time but I wanted to touch on a few other issues. I mentioned targeting the elderly. I am aware, of course, that there are 1,800 residents over 60 in States rental accommodation at the moment. Obviously their future requirements need to be looked at. Present accommodation might be inadequate for a number of reasons. I also mention the Island 30-year housing plan, and finances of Housing is a significant issue. I just want to bring this fact to Members' attention. When the private sector rent rebate started in 1990, in that first year, it paid £33,000. It is now over £10 million. By 1995, it had grown to £3.9 million and by 2005 it had grown to £8.8 million. Some of that money goes outside the Island. Also, in States rental, the subsidy element is about £13 million, and I think that is an issue that seriously needs looking at. The system needs to be re-examined. Also, we have a maintenance backlog but we should not be relying on the economic stimulus fund. There should, of course, be a properly-funded maintenance programme and again that is something that needs to be factored-in. Also there is a housing development fund in place. It was set up in 1999, but the question is what is it actually doing and could we make more of it. I would lodge a report and proposition to that effect and that would remain in place. Also from the housing development fund there has been some significant write-offs. We wrote off, for example, over £8 million at Le Coie Hotel and that is why I think we can invest more in our own stuff because of the fees that we have done in the past. There are alternative funding methods that I think we should look at. Also on the watch is rental deposits. That has been an issue for about 20 years, and I was at the Citizens Advice annual general meeting and they are still reporting about 4 cases a week. I know we have law and regulations on the way, but I believe it needs to happen sooner rather than later. The sale of properties we agreed under P.6 of 2007, 800 over 10 years and 208 sales at Le Squez raising £50 million which has meant Le Squez and Le Marais will turn face. I do not believe that is the

case any more and I think we need to look at again because the climate has changed. Lenders are requiring larger deposits and people are losing their jobs so we have to look at what is achievable and see what we can do with that, but it is a very serious question because the whole scheme virtually is based on this funding, which I am not certain about any more. I do not know what the answer is. The only thing I would say is it needs looking at in detail. However, I will not do anything on my own. I do, of course, if elected, need the co-operation of many others. Many others. Also I believe that the department itself could become an A.L.M.O., and that is to say an arm's length management organisation, and I believe that is achievable over the next 4½ years. Structures from elsewhere are available. I believe it would happen with active-tenant involvement and it would mean that there would be no Minister for Housing in 4½ years' time and some of the other things would go in other areas. So I am not trying to put myself out of a job that I have not got, but I believe that is achievable and that is to the betterment of the people. Housing is important because it affects everyone's daily lives. Whether it is a single room or a mansion, people need comfort, they need quality, and it will give them health and happiness. It is a basic human need. The reason I am standing for this post is because I want to try - and I stress "try" - and make a difference and work towards that, and I hope, if elected, I can make a difference and what I can do with the assistance of others would bring some benefit to all. Thank you, Sir.

**The Bailiff:**

Then we come to 20 minutes questions to Senator Breckon. Deputy Le Claire?

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

Given that the cost of housing has risen past the affordability of middle Jersey, is it now time to restrict future purchases of housing to residents of Jersey and introduce a capital gains tax on second homes?

[11:00]

**Senator A. Breckon:**

Affordability, of course, is an issue because if you look at the housing price index that comes out quarterly, in round terms it is about £500,000, the average price. If you look at average earnings, it is about £32,000, so the multiplier roughly is 15 to 16. So what that is saying is property is not affordable to many, many people. Of course, restricting sales to people who live in the Island would make a difference to that. So it is something that does not happen at the moment, especially on share transfer, but should definitely be looked at because if we do want to encourage youngsters to come back, live and work here, then the affordability of housing is definitely an issue.

**1.4.2 Deputy R.C. Duhamel:**

What housing density does the Senator consider to be the maximum supportable for built-up urban areas?

**Senator A. Breckon:**

Density I thought was a planning issue but, having said that, what is happening now through the Parishes is welcomed, especially the elderly schemes. We do have opportunities in and around the town but it is not specifically St. Helier's problem and that is why we are working together, but again - density - I would suggest some of the apartments that have been done are low-specification in living space, and I understand that that has been increased to 65 square metres and that certainly the Parish of Trinity scheme I have seen is much better, but we can use some height as well but not go mad.

**1.4.3 Deputy R.G. Le Hérissier:**



The Senator has made some comments now in the public domain about the home-to-buy scheme. I wonder if he could elaborate on those and whether he still sticks by the view despite what now is going to be the delayed publication of what appears to be a critical report.

**Senator A. Breckon:**

When the homebuyer scheme came before the House, we were told we were approving the principle and the devil would be in the detail. The opportunity was given to most Members to get involved. Deputy Martin did. Former Deputy Gerard Baudains did. Then-Deputy Ferguson did. This group phased-out and what happened was this proceeded. I am not sure quite where the governance was and what happened to homebuy because it certainly never came back to the States. We were told: “Agree the principle and we will have a scheme that will fit over any development where people can benefit from a discount on homes” and I have not seen that and, as chairman of the Scrutiny Panel, along with Deputy Power, we were fairly critical of this and there were legal challenges, there were financial challenges of all sorts and, to my mind, this was never satisfied and I do not know what went on behind the scenes but I have some idea.

**1.4.4 Senator S.C. Ferguson:**

The Minister has the responsibility for issuing (j) category licences. What would be your criteria and approach relating to issuing these licences and how would you assess these?

**Senator A. Breckon:**

Common sense, I think, would be the answer because (j) categories are not just about high finance. It is about people working in health, education, and there has been some need for social workers. Sometimes we have had issues recruiting people. Those would come from recommendation with certain leeway to departments. The other advice, of course, would be taken through the Population Office and where trends were; then that would continue, depending on the economic circumstances. So it is common sense each will be taken on its own merits.

**1.4.5 Deputy K.C. Lewis:**

What action would the candidate take to progress the lifelong homes for the over-50s initiative?

**Senator A. Breckon:**

I should declare an interest in that I am over 55 or 50 or whatever it is. I think the over-50 bit is a red herring. It is to stop the developers and what I think we are going to need to do is maybe change that age and concentrate perhaps on the over-70s first, especially through the Parish schemes, and then we need to look, certainly in the longer term - and that is why I mentioned the 30-year plan and the profile of the population housing that we have got and how we have progressed that - but 50, with respect, I am not quite ready for putting out to grass yet and I think it is a false standard to set 50 or 55. It should be higher than that and it should be given a bigger priority.

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

Could the Senator give details of who his running mate will be and what action would he take if he finds, if elected within the department that he has a number of people with large incomes? Will he be putting in place a means-testing system?

**Senator A. Breckon:**

When the Deputy of St. John says “within the department”, does he mean living in States housing?

**The Deputy of St. John:**

Correct.

**Senator A. Breckon:**

Okay, thank you. Well, obviously, if you look at the private sector rent rebate scheme, at the moment we have got this round-robin with social security but it is not necessarily their problem, but the funds to do this need to come from somewhere and they come from States tenants. So somebody needs to pay it. The other thing is, I would remind the Deputy, it depends where... if people are old, if people are my age and they are living in a States place, they are not going to get a mortgage from anywhere so they are in a bit of a trap and, in the private sector, there are issues about security of tenure, 3-year leases and things like that. So I would not think that funding is an issue. In fact the trusts want tenants with quality income who are reliable. So, in housing terms, it makes the wheels go around. I know Guernsey assess people more often than we do, but that is something that again could be looked at.

**The Deputy of St. John:**

And his running mate, Sir?

**The Bailiff:**

Yes. Are you willing to say who would be your Assistant Minister?

**Senator A. Breckon:**

I cannot promise anything to anybody I have not got.

**1.4.7 Deputy J.A.N. Le Fondré:**

Does the candidate agree that all of the options identified in the Whitehead Report should be independently appraised from a financial perspective and would the candidate accept that provided the service to tenants is at least the same, that the best financial option should then be actively considered?

**Senator A. Breckon:**

I do have some frustrations with the Whitehead Report. It has taken 3 years to surface and, if you ask anybody out there on the street what is the Whitehead Report and what it says, probably most people would not have a clue. That is a shameful situation because it is an important area, but it does not tell me much new. We could manage with an A.L.M.O. We could look at funding options. What it does say is you have ignored a lot of people who are not assessed for States rental accommodation but have really nowhere to go. They cannot afford to buy and they are in inappropriate situations and accommodation in the private sector. Regarding services, as I said, I am in favour of the whole department working towards an arm's length management organisation including the services and the contractors they use. That should be the management issue with people from the community, including the tenants, to have some say over that.

**1.4.8 Deputy G.P. Southern:**

One of the key elements in the fact that housing on this Island is no longer affordable to most people is the price of land. What measures will the Minister take to acquire land more cheaply than occurs at present, up to and including the possibility of compulsory purchase?

**Senator A. Breckon:**

If I could just remind the Deputy, compulsory purchase can be a nightmare. I think the negotiations at Belle Vue went on for about 5 years. So compulsory purchase is not an easy option. Regarding the affordability, part of the problem we have, when planning rezones somewhere, then I have seen it happen where a field can be scrub worth perhaps £30,000 and within days it can be worth £3 million. That is 30 houses at £100,000 a plot. What we have done in the past is we have rezoned and then got into bidding maybe, and I know that it is something that the Parish Constables are keen to do to try to acquire - and there has been some benefactors in the Parishes who have been when we do that. That might be a way to do that, but again I think sometimes in negotiation we have been weak. We have shown our hand and then said what we wanted to do when perhaps if

we acquired a land bank as we have - we have some States property that we could utilise - then that is a way forward. Compulsory purchase, I think, would be a nightmare.

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

Current housing policy is to move tenants to smaller properties whose families have grown and left, and I am aware that this can cause a great deal of distress. Does the candidate agree with this policy and, if not, what would he propose instead of it?

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

The policy is there for a reason and it is there because we have a shortage of accommodation, “we” being the Island of Jersey. The reason for that is, if you have somebody living in high-rise with 3 children in a 2-bedroom flat, and one person living in a 3-bedroom house, then there is a mismatch there and that is the reason for the moving. Having said that, also, under the previous Minister, there has been a policy where 2 beds has been a minimum and even people in their old age could have grandchildren and family or whatever else. I think that is a basic one, but the moving is something that needs to be looked at and anything that is done needs to be done with care and compassion. I think, in the main, that has happened, and it is unfortunate when people have to move but I understand why it is and indeed I would have been in that situation myself.

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

Does the Senator believe that, to meet the objectives of the Housing Department, it is necessary for the States to own properties currently valued at nearly £1 billion, or is there a better way?

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

Regarding the asset that we hold, as I said in my few words, we could perhaps make better use of them and work for the public. We could borrow against the strength of that to achieve perhaps what we want to, and with backing from the Minister for Treasury and Resources and others, I think that could be done and it is a way forward. Now, the Constable has mentioned what we hold but some of those have been sold, but having said that, we can only do that once to finance something. So perhaps we should look at all the options. At the moment we hold it, but if we had an arm’s length management organisation, we could hold it at arm’s length and somebody could perhaps manage it more proactively, with respect, than we have done in the past.

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

The Senator will be aware of substandard accommodation existing still in certain areas. Would he favour a registration scheme for all landlords, so both in the qualified and unqualified sector with a sliding scale of fees to cover regular inspections?

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

All landlords... what is happening under the lodging houses, which in the main is non-qualified, used to come under tourism. It now comes under housing and under an inspection scheme, so I would suggest that things are far better there, but again with substandard, there is something like 20 per cent of the property is pre-1970 and obviously there is some work still to be done there within the States sector, but again it is balancing the maintenance. If you look at that in, say, comparison with the trusts, the trusts set aside 18 per cent of their rental income against future maintenance, and that is against new property. Unfortunately, we have not done that. Some of the maintenance budget has gone into the Housing Development Fund or has gone to pay private sector rent rebates and that is where the black hole is developed and that is why some properties have had to wait really until they fall down to do something about, which is stupidity.

#### **1.4.12 Senator T.J. Le Main:**

In the last couple of days, the candidate has made some serious unsubstantiated allegations in the media and emails against the department. How does he propose, if elected, to repair the damage done to the staff and their morale and having to gather trust in being able to work together?

**Senator A. Breckon:**

That is not an issue. I have known some of the staff for probably about 30 years. What I am saying is there are some issues over the sales of property and, realising what was proposed in P.6 of 2007 - sales of properties - and it was estimated that £50 million would be realised from Le Squez which would make the scheme fund itself. That is not the case. That is not an allegation. They will be facts and I will look at that and I will publish the details.

[11:15]

**1.4.13 Deputy T.M. Pitman:**

I asked the previous candidate so I will ask it again. If elected, what would the candidate's stance be with regard to housing trusts who abuse their privileged position by treating residents and the States itself with complete contempt, and would he support increased regulation to put an end to some of these practices?

**Senator A. Breckon:**

I did, a number of years ago, give evidence to a Committee of Inquiry for the allocation policy of trusts. It is an issue. We did give them some sites for £10. We wrote-off site costs, we wrote-off development costs. We subsidised the tenants and we were supposed to have a service level agreement and memorandum of understanding set up under the Companies Law from whatever year, 1970-something or whatever; I am not sure of the year. Obviously it is something we need to look at because as the trust come out of their loan period, then they are going to be cash-rich. So we will need to look at what they are doing, and that could, I think, develop, with an arm's length management organisation. We are not competing with them. We are in the same market and we should, I believe, view it in that way.

**1.4.14 Deputy A.E. Jeune:**

Does the candidate believe that (j) categories, when issued, should be specifically for the duration of that contract and only while the person is holding the post, so, in the event that they departed, left, moved, whatever, the (j) category would fall away? Thank you.

**Senator A. Breckon:**

I understand there are some terms and conditions attached to (j) categories. Some would be to train somebody who has been here a bit longer to fill the post, but again I believe any of that should be looked at on its own merits. I know there have been some cases recently where (j) category employees have lost their jobs and their children have been in education and they have been given a temporary extension. So there are all sorts of issues around that, and the duration of a contract, yes, I am not convinced (j)s that come for 3 years should be allowed to buy. I do not think that is appropriate.

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

The former Minister was well-known for replying very speedily indeed to constituents and other elected Members' requests for information. Will the candidate provide that same high level of service if elected?

**Senator A. Breckon:**

It will be a difficult act to follow. Whatever sort of time of day or night it has been, I will say that Senator Le Main has responded and he has got connections within the department, and whether it

has been somebody without hot water or whatever it has been, that has been done. So, as I say, it will be a difficult act to follow but I would try if elected. Thank you.

**1.4.16 Deputy R.G. Le Hérissier:**

If the candidate were to become Minister, can he tell us the areas of policy of the Council of Ministers he would find most difficult to accept?

**Senator A. Breckon:**

I cannot think of any that jump out and either excite me or worry me.

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

Could the candidate explain what he seeks to achieve within 18 months of office should he become Minister?

**Senator A. Breckon:**

I think within 18 months - it sounds a long time but the clock is ticking - the idea is to put structure in place that gives some certainty that looks at policies, finds a way forward, I say, in the longer term, a 30-year thing. So the idea would be to do some work, to do that and also to look seriously at the finances, to look at the assets, to work with the tenants. There are all sorts of issues that need to come together in the next 18 months that give somebody, whoever it may be, a way forward for the future, which I think is probably clearer than where we are at the moment.

**1.4.18 Deputy G.P. Southern:**

What commitment does the Member have to building more social rental housing and how will he achieve that?

**Senator A. Breckon:**

Again it is a case of looking at the assets. I mean, we do have some areas which could be built on that are in public ownership. There are areas ...

**The Bailiff:**

Very well. I am sorry, Senator, I have to call that to an end then. The time for questioning has now expired. I am going to invite the other 2 candidates to return to the Chamber. Very well, so all Members are returned, so in a moment I am going to ask that ballot papers be handed out. Can I remind Members they must write the name, therefore, of their preferred candidate. They are blank ballot papers, so the name must be written down, and then they will be collected. So I now invite the ballot papers to be distributed. I now ask that the ballot papers be collected. All Members have returned their ballot papers? Then I will ask the Solicitor General and the Deputy Viscount to act as scrutineers to count the votes. Perhaps this would be a convenient moment: Senator Cohen, you raised a matter about the business later on in the Order Paper. Do you wish to raise it now?

**Senator F.E. Cohen:**

I request that P.25 be deferred until 19th July. A legal question has arisen and I need a little more time to resolve the issue. Thank you, Sir.

**PETITIONS**

**2. Deputy P.V.F. Le Claire will present a petition in relation to the closure of the Central Market Post Office**

**The Bailiff:**

So that is the first item of Public Business later on. Then I suggest we proceed with other matters while awaiting the result of the ballot. There are no matters under “G”, so we come to “H” and Deputy Le Claire will present a petition in relation to the closure of the Central Market Post Office.

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

In keeping with custom, I shall make a very brief statement that I am presenting to the States for their attention a petition containing 1,922 signatures of people who wish the sub post office in the Central Market to remain open.

#### **The Bailiff:**

Very well. Then a Standing Order is required to be referred to the relevant Minister which in this case I think is the Minister for Treasury and Resources.

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

If I may pass this to the usher, Sir. Thank you, Sir.

## **QUESTIONS**

### **3. Written Questions**

#### **3.1 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING THE STAFFING STRUCTURE OF HIS DEPARTMENT:**

##### **Question**

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of his department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant?

##### **Answer**

The Deputy's request for the detailed information listed above is similar to the question recently directed to the Chief Minister and the Ministers for Treasury and Resources, Social Security, Planning and Environment and Health and Social Services. As explained in previous responses to the Deputy, for this information to be provided on every post would take a massive amount of time to collate and present in a meaningful format. In Education, Sport and Culture we currently have over 1,500 FTE staff working across the service.

Far from attempting “to help and assist the Comprehensive Spending Review”, answering such a request would involve a vast amount of additional, time-consuming and unnecessary work, and would take attention away from the work of reviewing services provided by the department and understanding the implications of any proposed savings or transfers of functions.

Most of the information the Deputy is asking for is included in the Annex to the States Business Plan and the Department Business Plan for 2010 which is available to all States Members. In particular, I would like to draw the Deputy's attention to pages 40-42 of the Annex, which lists the number of FTE staff working in each of the ESC Department's main service areas, and which is summarised below –

- |   |       |
|---|-------|
| • Pre-School Education                    | 48.2  |
| • Primary Education (non fee-paying)      | 408.8 |
| • Secondary education (non fee-paying)    | 385.8 |
| • Fee-paying education (provided schools) | 207.1 |

• Special Educational Needs & Special Schools	147.0
• Instrumental Music Service	13.2
• Further, Vocational & Tertiary Education (incl. Highlands College)	156.7
• Public Libraries	28.6
• Youth Service	35.6
• Higher Education (Student Finance)	2.8
• Careers Jersey	12.9
• Day Care Services	3.5
• Culture	1.0
• Sports Centres	71.2
• Playing Fields and School Sports	8.4
• Sports Development (incl. Exercise Referral)	15.3
• Grants and Advisory Council	0.1
• Playschemes and Outdoor Education	3.2
• <b>TOTAL</b>	<b>1549.4</b>

In line with standard practice for manpower reporting, management posts are included within the FTE totals for the service areas for which they are accountable.

I am therefore satisfied that the Department has all of the necessary information on which to undertake an informed analysis and identify opportunities to cut spending and make efficiencies as part of the Comprehensive Spending Review.

### **3.2 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING THE STAFFING STRUCTURE OF HIS DEPARTMENT:**

#### **Question**

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of his department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant?

#### **Answer**

This same question was asked of the Chief Minister and others recently. In his response tabled on 20th April 2010, the Chief Minister outlined that collating the information to answer the question in a meaningful way would take attention away from the work of reviewing efficiency and would merely increase States expenditure with no obvious benefits.

The vast majority of the information in relation to the Economic Development Department is set out in the Departmental Business Plan and Annual Performance Report which are available on the States website (gov.je). I do not therefore intend to undertake the very time-consuming additional work necessary to collate this information.

### **3.3 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE STAFFING STRUCTURE OF HIS DEPARTMENT:**

#### **Question**

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of his department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant?

**Answer**

This same question was asked of the Chief Minister and others recently. In his response tabled on 20th April 2010, the Chief Minister outlined that collating the information to answer the question in a meaningful way would take attention away from the work of reviewing efficiency and would merely increase States expenditure with no obvious benefits.

The vast majority of the information in relation to the Home Affairs Department is set out in the Departmental Business Plan and Annual Performance Report which are available on the States website (gov.je). I do not therefore intend to undertake the very time-consuming additional work necessary to collate this information.

**3.4 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE STAFFING STRUCTURE OF HIS DEPARTMENT:**

**Question**

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of his department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant?

**Answer**

This same question was asked of the Chief Minister and others recently. In his response tabled on 20th April 2010, the Chief Minister outlined that collating the information to answer the question in a meaningful way would take attention away from the work of reviewing efficiency and would merely increase States expenditure with no obvious benefits.

The vast majority of the information in relation to the Housing Department is set out in the Departmental Business Plan and Annual Performance Report which are available on the States website (gov.je). I do not therefore intend to undertake the very time-consuming additional work necessary to collate this information.

**3.5 DEPUTY P.V.F. LE CLAIRE OF ST. HELIER OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE STAFFING STRUCTURE OF HIS DEPARTMENT:**

**Question**

To help and assist the Comprehensive Spending Review, would the Minister provide an organisation chart of his department identifying every post, the post holder's duties and responsibilities, the salary grade and whether the post is currently filled or vacant?

**Answer**

This same question was asked of the Chief Minister and others recently. In his response tabled on 20<sup>th</sup> April 2010, the Chief Minister outlined that collating the information to answer the question in



a meaningful way would take attention away from the work of reviewing efficiency and would merely increase States expenditure with no obvious benefits.

The vast majority of the information in relation to the Transport and Technical Services Department is set out in the Departmental Business Plan and Annual Performance Report which are available on the States website (gov.je). I do not therefore intend to undertake the very time-consuming additional work necessary to collate this information.

### **3.6 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING TAXI EXPENSES:**

#### **Question**

Further to the response to written question 5382 on the 25th May 2010 regarding taxi expenses, would the Minister advise why 38% of the Health and Social Services Department's total taxi bill of £93,996 was spent on travel by persons other than patients and will she provide a detailed breakdown of who made these journeys and for what purpose?

#### **Answer**

Health and Social Services has many functions and sub departments where operationally it is necessary to provide transport to a considerable number of staff and contractors so they can undertake their duties.

There are an estimated 2,200 journeys undertaken annually by the following groups either employed or associated with the Department:

- Employed staff e.g. theatre nurses called in for emergency out of hours procedures who don't have their own transport.
- Agency staff e.g. agency nurses where accommodation is not provided within walking distance or their shifts fall outside acceptable public transport timetables.
- Visiting doctors e.g. UK Medical Consultants who regularly visit for one or two days to under specialist clinical work for patients.
- Training consultants e.g. specialist experts providing staff training.
- Visiting technicians e.g. specialist UK engineers to maintain equipment and undertake specialist repairs.

Taxis are also occasionally used to collect urgent supplies from the airport for delivery to the Hospital.

On a monthly basis all invoices are checked and reviewed by the service administrators and journeys queried if they seem erroneous. A Departmental Manager then authorises the invoices for payment. Due to this monthly checking and authorisation process, the Department has not invested administration resource in maintaining a detailed register of every journey made, the individual or commodity transported and the exact cost of every journey.

If further detailed information is required a comprehensive analysis would have to be undertaken by reviewing all of the invoices received for a specific period and then summarising the detail of every journey undertaken.

An analysis in this detail could be performed, but the cost of the staff time necessary to undertake it would have to be considered against the benefit of possessing the additional detail so the staff cost could be demonstrated as achieving value for money for the States of Jersey.

### **3.7 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE COST OF SETTING UP THE CHIEF MINISTER'S DEPARTMENT:**

#### **Question**

Would the Chief Minister provide details of the original cost of setting up the Chief Minister's department in 2005, breaking down into areas such as –

Original building works costs

Original decorations costs

Original furnishings costs

Original soft furnishing costs

Would the Chief Minister advise what alterations, if any, there have been in his Department since he took over the role in 2008 and provide a detailed breakdown as appropriate?

#### **Answer**

From the Deputy's questions during my recent 'questions without notice' I am assuming that this question relates to accommodation alterations relating to the Department's Policy and International Divisions within Cyril Le Marquand House.

The significant set up costs for the Department in 2005 was the works undertaken on the 9th Floor of Cyril Le Marquand House to provide the Council of Ministers with appropriate meeting facilities. Building works were undertaken to refurbish the existing facilities including, provision of new windows and doors, replacement of mechanical & electrical systems, creation of new toilets, decoration and carpeting. I am advised that these building works cost c. £113,000. In addition, furniture was purchased (including a meeting table and 20 chairs) at a cost of c £22,000.

In 2008, before I took office, accommodation changes were made to provide fit for purpose reception facilities for the Chief Minister and co-locate the department's support team. The cost of this was £36,500.

As I stated in my response to a question from the Deputy on 25th May this year, I have not had my office or that of the Chief Executive refurbished.

Alterations that have been made since I took office have been those necessary to meet the operational requirements of the department, in particular accommodating the CSR team and relocating the Emergency Planning Office from Police within the department's existing offices at Cyril le Marquand House. This work has focused on working existing floor space harder, including converting under-utilised space to better use.

The main accommodation change made since I took the role of Chief Minister has been the conversion of the former caretaker's flat and an unused plant room into office space along with other associated changes to increase space utilisation. The cost of this was £75,200, and the cost breakdown is as follows:

Building works	£58,300
Fixtures and fittings	£7,100
Furniture	£4,300
Fees (architects, planning etc.)	£3,500
Removals	£2,000
<b>Total</b>	<b><u>£75,200</u></b>

These accommodation changes have been both necessary to provide appropriate working conditions for those located within the building and have also led to significant improvements in the utilisation of space within the department's floor space.

### **3.8 DEPUTY S.S.P.A. POWER OF ST. BRELADE OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING PERFORMANCE RESULTS OF STATES DEPARTMENTS:**

#### **Question**

Can the Minister provide a list of States Departments and their performance results in the normal internal audit for 2009 and explain the performance rating criteria under risk analysis and management performance and the respective Departmental scores on a scale of 1-4?

#### **Answer**

Yes I will provide a list as requested.

The purpose of internal audit is to ensure that the internal control environment is operated effectively. The selection of audit topics is directed either by an assessment of risk or as a result of a department requesting a review of an area they have identified for improvement.

Two ratings are used, the first being on the control environment rated 1 – 4 :

**1 Unacceptable:** Management cannot place assurance on the adequacy of the internal control environment to manage inherent risk.

**2 Inadequate:** Limited assurance can be placed on the adequacy of the internal audit control environment to manage inherent risk.

**3 Adequate:** Reasonable assurance can be placed on the adequacy of the internal control environment to manage inherent risk.

**4 Performing Well:** Management can place assurance on the adequacy of the internal control environment to manage inherent risk.

The second rating being the “effectiveness of management action designed to improve control function”. This is a considered opinion of the way management are delivering the recommendations and attitude to pro-active development of the issues raised. Again, there is a four point rating:

1 Not improving adequately or Not improving

2 Improving adequately

3 Improving well

4 Improving strongly

All internal audit reports are sent to the respective Minister, the States of Jersey Audit Committee and the Comptroller and Auditor General. I will provide a list of the reports issued and ensure that the information presented reflects both of these criteria.

### **3.9 DEPUTY T.M. PITMAN OF ST. HELIER OF THE MINISTER FOR HOME AFFAIRS REGARDING THE METROPOLITAN POLICE INTERIM REPORT:**

#### **Question**

Following his undertaking on 25th May 2010, within his response to my written question, to 'investigate and clarify' the situation concerning the 'Metropolitan Police Interim Report', will the Minister now provide written confirmation of the following information:

- (a) whether the document exists as a physical paper document and, if so, how many pages it has?
- (b) does the document exist only as an electronic document and, if so, is this electronic document simply in the form of an e-mail?
- (c) does an author's name or names appear on it?
- (d) is the document actually simply a series of preparatory notes?
- (e) do the words 'Metropolitan Police Interim Report' appear on the document as a title?
- (f) when was it requested, compiled and received?

#### **Answer**

(a) & (b)

The document consists of a cover, an index page and 17 pages of text. It was sent in electronic form as an attachment to an email at 15.27 on 10th November 2008, to the now Acting Chief Officer. It was never sent in paper form but was superseded by the full report which is dated 18th December 2008.

- (c) Yes
- (d) No. The document is in the normal police report format with an index and numbered sections and sub-sections.
- (e) The words Metropolitan Police appear on the cover above the words "Operation Rectangle Interim Report".
- (f) The ACPO Homicide Working Party recommended that a full review be conducted by an outside police force of the Historical Abuse Enquiry. Accordingly, on 6<sup>th</sup> August 2008, the now Acting Chief Officer of Police wrote to the Metropolitan Police Force requesting the

production of such a report. Subsequently, detailed terms of reference were agreed for the production of the report and work commenced. The main purposes of the report were to advise on the management of the Historical Abuse Enquiry and to provide advice and guidance in relation to the conduct of individual investigations. It soon became apparent that serious issues were arising as to the previous management of the Historical Abuse Enquiry. Details of these concerns were passed on to the now Acting Chief Officer of Police who began to raise these with the Chief Officer of Police from September 2008 onwards. The now Acting Chief Officer of Police also began to share these concerns with other senior officials and with Deputy Andrew Lewis who became the Minister for Home Affairs. By early November 2008 the report was nearly completed. By that stage it had become apparent that some of the issues were so serious that they could prejudice the fair trial of certain individuals. The concern was that serious cases might be stopped by the Royal Court because of the previous actions of the former Deputy Chief Officer of Police. For that reason the now Acting Chief Officer of Police asked the Metropolitan Police Force to produce a report on what they had found up to that point so that a press conference could be held correcting issues relating to information which had previously been given to the press. The Metropolitan Police then produced the Interim Report which they sent on 10th November 2008, to the now Acting Chief Officer of Police as an attachment to an email. The concerns of the now Acting Chief Officer of Police were fully vindicated by the judgment of the Royal Court in the matter of *The Attorney General v. Aubin and others* [2009] J.R.C. 035A.

### **3.10 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE CHIEF MINISTER REGARDING WORK COMPLETED ON INTERNATIONAL MATTERS FOR INDUSTRIES IN THE ISLAND:**

#### **Question**

As he has responsibility for international affairs for the States of Jersey, could the Chief Minister provide details of the work done by his department on an international level for all industries in the Island?

#### **Answer**

This question covers a very wide area so the following answer is only an initial summary. Further detail can be provided if required.

The responsibilities of the Chief Minister's Department include conducting Jersey's international relations. The Economic Development Department has the lead role on international matters relating to specific industries. For example, Economic Development has responsibility for the part funding of the international marketing efforts of Jersey Finance Limited.

The Chief Minister's Department leads on matters of international finance from a government perspective, which includes developing and overseeing economic strategy and representing Jersey's interest to a wide range of international institutions, regional organisations and other governments. The Department is actively taking forward media relations and political engagement with key audiences including London, Brussels and Washington.

In addition, the Chief Minister's Department is responsible for setting the strategy for tackling money laundering and combating the financing of terrorism, the extension of international conventions, for example to tackle financial crime, and the introduction of international sanctions measures against terrorists and unacceptable regimes.

Tax Information Exchange Agreements and Double Tax Agreements are negotiated and concluded by officials in my Department, who are also involved in Jersey's representation on the OECD Peer Review Group.

Separately, the International Relations section within the Chief Ministers Department provides support and advice to all other government departments and industries on international matters. This includes proactive initiatives and response to challenges across the widest possible area.

Recently, for example, they have worked closely with Jersey Tourism on initiatives such as the Tour de Bretagne cycle race and Tour des Ports yacht race; they are assisting Jersey Airport on a range of issues vital to aviation safety and security; they have agreed arrangements to enable the fishing industry to continue to trade freely with Europe; and they have been active in support of the fulfilment industry ensuring they meet international standards. In addition, they are engaged with Economic Development on key initiatives such as the further development of an intellectual property industry for Jersey.

### **3.11 THE DEPUTY OF ST. JOHN OF THE CHIEF MINISTER REGARDING THE COST OF TAXIS:**

#### **Question**

Further to the answer given to question 5382 on 25th May 2010, will the Chief Minister explain who within his department spent £3,219 on taxi fares between 1st May 2009 and 20th April 2010?

#### **Answer**

A breakdown of expenditure relating to taxi fares incurred within the Chief Minister's Department for the period 1st May 2009 to 20th April 2010 is given below. It should be noted that over half of the total expenditure relates to the cost of hiring official cars for transporting the Chief Minister and his guests and dignitaries visiting the Island for official States functions. This includes official functions such as the visits of the Russian Ambassador, the Chinese Ambassador, the Swiss Ambassador and the German Ambassador, dinner with the ex-Governors of Jersey, Guernsey and the Isle of Man, the visit of Lord Bach, the visit of the Bishop of Winchester, attendance at the Queen's Birthday celebrations, attendance at the Bailiff's retirement function, attendance at the Madeira Day celebrations and the British Irish Council Ministerial meeting.

The cost of hiring official cars on a 'when needed' basis is far less expensive than providing and maintaining a permanent official car for the Chief Minister to use on States business as is the practice in many other jurisdictions.

<b><u>Person</u></b>	<b><u>Details</u></b>	<b><u>Amount (£)</u></b>
Chief Minister	Hire of official cars for States business functions	1744
Chief Minister & French Delegation	Hire of official cars relating to French Delegation - Prefet De La Manche and President of Conseil General de la Manche visit	150
Chief Minister	Taxi expenses relating to official States business	41
Mr Foot & Party	Taxi expenses relating to the HM Treasury	300

	Review of Offshore Finance Centres	
Lord Carswell	Taxi expenses relating to the Review of Crown Officers business	62
Director International Taxation team	Taxi expenses relating to official States business	212
Other officers within Chief Minister's Department	Taxi expenses relating to official States business by officers within the Chief Minister's department. These also include those expenses incurred by departmental recruitment processes and external guests and visitors to the Island on official States business	710
		<b>3219</b>

### **3.12 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR ECONOMIC DEVELOPMENT REGARDING COMPETITION FOR THE FREIGHT MARKET:**

#### **Question**

Could the Minister advise whether there are any policies or plans in place within the Economic Development Department to increase competition for the freight market; will there be changes made over the course of the next 12 months and, if not, why?

#### **Answer**

The States Strategic Plan 2009-14 is clear. We are to "Maintain a strong, environmentally sustainable and diverse economy." (Priority 2 in the Plan)

The Department's policy is also very clear: We have not in the past, nor do we at the moment foresee, a need to interfere with the open market arrangements that have long existed in the sea freight market.

Furthermore, in 2008 the States agreed some important changes to the 1962 Harbours (Jersey) Regulations. These now lay down the way facilities and services can be authorised by the Harbour Master. Crucially, the States issued Policy Guidelines (as attached). Key amongst those are Objectives (b), (c) and (d):

- (b) to satisfy all current and prospective demands for the services and facilities;
- (c) to promote competition, efficiency, economy and effectiveness in commercial activities connected with port and shipping services;
- (d) to impose a minimum of restriction on persons engaged in commercial activities connected with port and shipping services.

There are three separate and long-established shipping companies running regular freight services to and from Jersey. These are Condor, Huelin Renouf and Channel Logistics.

In addition to increased passenger and car capacity the new Condor Rapide is able to take light freight up to 7.5 tonnes, enhancing the Island's ability to export local produce such as shellfish.

Meanwhile, Huelin Renouf now runs two ships and only extended its services this Spring to include Cherbourg and Alderney in the ports served from Jersey.

Although the current arrangements provide *more than enough* freight capacity there is no bar to other operators applying to enter the market. Having said that, there is no reason at the moment to make new plans to deliberately seek to increase competition in an already very competitive market.

## **Harbours (Jersey) Regulations 1962, as amended**

### **SCHEDULE 1 (Regulations 4, 5 and 6)**

#### **POLICY GUIDELINES TO BE FOLLOWED BY HARBOUR MASTER**

##### **1 Application**

This Schedule applies to the following functions of the Harbour Master –

- (a) the designation of a facility or service under Regulation 4(1);
- (b) the grant of a permit under Regulation 5;
- (c) the designation of a facility or a service under Regulation 6(1); and
- (d) the negotiation of an agreement under Regulation 6(7).

##### **2 Performance of function by Harbour Master**

The Harbour Master must perform a function to which this Schedule applies in a manner that is best calculated to ensure that, so far as is reasonably practicable and safe –

- (a) shipping services and facilities in the harbours and territorial waters; and
  - (b) shipping services between Jersey and other jurisdictions,
- are provided in a manner that achieves the objectives mentioned in paragraph 3.

##### **3 Objectives**

The objectives referred to in paragraph 2 are –

- (a) to protect and further the long-term interests of end-users of the services and facilities;
- (b) to satisfy all current and prospective demands for the services and facilities;
- (c) to promote competition, efficiency, economy and effectiveness in commercial activities connected with port and shipping services;
- (d) to impose a minimum of restriction on persons engaged in commercial activities connected with port and shipping services;
- (e) to ensure that persons engaged in commercial activities connected with port and shipping services have sufficient expertise and financial and other resources to conduct the activities.

##### **4 Harbour Master not to show preference or to discriminate**

The Harbour Master must not show undue preference or unfairly discriminate in exercising a function to which this Schedule applies.

#### **3.13 DEPUTY T.A. VALLOIS OF ST. SAVIOUR OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING IMPLEMENTATION OF FISCAL STIMULUS PACKAGE:**



## Question

Would the Minister provide the following details –

- how many Economic Stimulus/Fiscal Package bids have been successful and unsuccessful and what were they?
- what amount of the £44 million has been released from the Consolidated Fund to Departments and third parties as at 31st May 2010 and what for?
- what is the latest economic forecast?

Should funds be exhausted and the forecast bleak, what plans, if any, does the Minister have in fiscal terms, to ensure growth does not deteriorate?

## Answer

- How many Economic Stimulus/Fiscal Package bids have been successful and unsuccessful and what were they?

	Number	Value
		£
Successful bids	40	21,595,968

See table below for details of the successful schemes. Funds committed for the following projects as at 31st May 2010:

<b>Skills &amp; Training</b>	<b>£</b>	<b>Support for Business</b>	<b>£</b>
Advance to Work	580,200	EDD initiatives	500,000
Highlands College additional places	1,270,500	Support for the Finance Industry	2,417,000
Careers service strengthening	221,900	Small firm loan guarantee scheme	500,000
States Apprenticeships	972,750		
<b>TOTAL</b>	<b>3,045,350</b>	<b>TOTAL</b>	<b>3,417,000</b>

### Civil infrastructure

Victoria Avenue – phase 2 & 3

3,450,452

### Support for Individuals

Extension of transitional relief

1,440,000

Promenade & cycle track		Support for Citizens Advice Bureau & Mortgage Protocol	
	337,000		50,300
Railway Walk foul sewer upgrade			
	485,155	<b>TOTAL</b>	<b>1,490,000</b>
West Park-Cheapside resurface			
	228,000		
Queens Road surface water separation		Programme management total	
	346,792		<b>200,000</b>
Rozel rising mains			
	550,000		
Cheapside Urban Renewal			
	400,000		
Planning/enabling costs and fees			
	613,000		
<b>TOTAL</b>	<b>6,410,399</b>		

### Construction and maintenance

		Roof replacement - social housing	
			40,239
Support for Jersey Hospice		Minor refurb works at McKinstry (Rosewood House enabling)	
	2,600,000		235,020
Le Pouquelaye School		Window/roof replacement – 3 social housing estates	
	476,673		1,006,616
9 backlog maintenance projects – States properties		Planning/enabling costs and fees	
	1,059,930		625,200
Heating installations – 3 social housing estates			
	683,712	<b>TOTAL</b>	<b>7,032,919</b>
Window/door replacement – 4 social housing estates			
	305,529	<b>GRAND TOTAL</b>	<b>21,595,668</b>

Not awarded amber status

Not awarded green status & funding

Number

Value

Number

Value

£

£

Unsuccessful bids

In addition, 3 bids given an amber light in the original evaluation were withdrawn by departments, and another awarded a green light is pending withdrawal.

Unsuccessful bids – not awarded amber

- Home Affairs Fire Safety Training
- Police force – workforce modernisation
- Property Holdings sponsoring Jersey College for Girls – drama centre extension
- Mont A L' Abbe School phase 2
- Social security - mortgage interest and school fee support
- Jersey Harbours – Gorey Pier remediation

Unsuccessful bids – not awarded green

- Property Holdings – 4 backlog maintenance projects
- Jersey Harbours – remediation of St Aubin Pier

(b) What amount of the £44 million has been released from the Consolidated Fund to Departments and third parties as at 31st May 2010 and what for?

As shown in the table above, £21,595,968 of the £44m has been released to departments and third parties by way of public ministerial decision.

	£
Department direct spend	18,952,968
Department grant awards to non-States bodies	2,643,000
	<b>21,595,968</b>

(c) what is the latest economic forecast?

The last forecast published by the Fiscal Policy Panel (FPP) in their November 2009 update was that the economy would contract by -5% in 2009 and a further -2% in 2010. The most recent forecasts from the Economics Unit are that the outlook is largely unchanged with the economy forecast to contract by - 4% in 2009 and - 2% in 2010. A return to moderate growth is expected in 2011 although there remains significant uncertainty around these forecasts.

Should funds be exhausted and the forecast bleak, what plans, if any, does the Minister have in fiscal terms, to ensure growth does not deteriorate?"

The latest economic data and the central forecasts outlined above present an outlook very much as that previously predicted by the FPP and therefore do not suggest that we need to change the policies we have adopted on their advice. Should the forecasts change in coming months and the outlook become much worse than previously expected the Minister would seek the advice of the FPP as to whether further fiscal action was necessary, to what degree and how it should be funded. Given that we have only so far used the Stabilisation Fund to respond to the economic downturn, States finances are sufficiently sound and flexible to allow a further temporary, timely and targeted stimulus should it be necessary.

### **3.14 THE DEPUTY OF ST. JOHN OF THE MINISTER FOR HEALTH AND SOCIAL SERVICES REGARDING HEALTH COVER FOR PEOPLE NOT PAYING SOCIAL SECURITY CONTRIBUTIONS:**

#### **Question**

Can the Minister give details of what health cover, if any, exists for anybody working on the Island who does not pay Social Security and explain what happens should a patient needing extended hospital care find that their company/private insurance cover has run out? Is the cost recovered from the patient, and if not, who pays?

Of those not paying Social Security and who are treated at the General Hospital what percentage of patients are not insured and how much has to be written off by the Health and Social Services Department annually?

How much has Health and Social Services spent in supporting patients since the reciprocal health agreement was terminated?

#### **Answer**

Under the terms of the current policy, the Health and Social Services Department provides free emergency treatment to all patients providing the treatment is physically delivered in the A&E department.

To be eligible for any further treatment free of charge, a patient must have been ordinarily resident on the Island for greater than three months. In the event that the patient is not ordinarily resident i.e. a visitor or if they have not been ordinarily resident for greater than three months then the necessary treatment will always be provided, but the patient will be charged the cost of providing that treatment.

In the event that the patient has appropriate insurance then H&SS will usually charge the insurance company directly. In some instances, depending on the insurance arrangements, the patient pays the charges and they will claim amounts back from their insurance company. If the patient's insurance has lapsed or does not cover them for specific treatments then the patient remains liable for the charges.

The percentage of patients treated who have insurance is more complicated to ascertain. Public and visitors are not actually obliged to make H&SS aware if they have insurance so while the invoice for any treatment may go out to the patient it may ultimately be an insurance company that pays for the treatment. For patients who are liable for the cost of their treatment it is estimated that circa 30% are not covered by insurance.

In the twelve months April 2009 to April 2010 the department has written off bad debts of £24,000 and factored i.e. sold, risky debts of £8,000 at 5% less than the invoiced amount to a third party

debt factoring agency. Therefore the sum that has been written off in relation to chargeable patients is £24,400.

The total cost to the department of treating, or supporting, patients who are not currently eligible for free treatment can be identified as the amount that has been invoiced. The amount that has been invoiced for the twelve months April 2009 to April 2010 is £492,000.

### **3.15 SENATOR J.L. PERCHARD OF THE CHIEF MINISTER REGARDING THE FORMAL ADOPTION OF JERSEY'S ANTHEM:**

#### **Question**

Will the Chief Minister maintain the commitment given by his predecessor in an official statement to the Assembly on 30th July 2007, that, subject to the anthem competition producing something of appropriate quality, a proposition seeking the winning entry's formal adoption as Jersey's anthem would be brought to the Assembly for debate, and if not, why?

(Statement reproduced below for Members' information)

#### **STATEMENT TO BE MADE BY THE CHIEF MINISTER**

**ON TUESDAY 30th JANUARY 2007**

I would like to notify members that, with the support of the Minister for Education, Sport and Culture, Senator M.E. Vibert and the Assistant Minister with responsibility for Culture, the Deputy of Grouville, a competition is to be held to seek an anthem for Jersey.

Members will know that the number of occasions on which the Island wishes to celebrate its own distinct identity is increasing. Many of these relate to sporting occasions when islanders receive a medal, or other recognition, at events involving other islands and indeed, sometimes, other countries. The Island Games and the Commonwealth Games are well-known examples.

It has rightly been pointed out by some of those participating that there is at present uncertainty as to the anthem which should be played. *'Ma Normandie'* is often relied upon because of its association with our past but, of course, it is a piece of music which has itself no connection with Jersey; indeed, it has quite different associations for many.

Following discussion with the Assistant Minister, the Deputy of Grouville, and with the valued support of the Bailiff, it is intended to mount a competition to seek a specific Island anthem which might be suitable for such occasions. **On the assumption that the competition produces something of appropriate quality, I intend then to bring to the Assembly a proposition seeking its formal adoption as Jersey's anthem.**

I should make it quite clear that this is not to be a replacement for the National Anthem which will continue to be played in recognition of our constitutional position, and of our loyalty and affection for the Crown. I hope, however, that the opportunity for the Assembly to endorse an anthem to be used to reinforce our sense of identity in the circumstances I have mentioned will be widely welcomed.

#### **Answer**

When the anthem competition was launched in 2007 the former Chief Minister undertook to bring the chosen Jersey anthem back to the States for approval. It was agreed that this would take place

once organisations had been given the opportunity to use it, and the music has been published on the States website.

Although it has been used on a number of formal occasions both within and outside the Island, and the music circulated to all groups who might have occasion to use an anthem specific to the Island, promotion of the anthem has been poor. Furthermore, I do not believe that the general public has yet had the opportunity to get to know the anthem properly.

I shall, therefore, be taking steps to encourage its further use and awareness by schools and all other sporting and cultural organisations prior to its being brought to the States for consideration.

### **3.16 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE DESIGN OF THE TOWN PARK:**

#### **Question**

What discussions, if any, have taken place and with whom about the design of the Town Park? What measures, if any, has the Minister put in place to ensure that the Park will not only be completed quickly but will meet users' needs and expectations? What measures, if any is the Minister taking to ensure that a feeling of 'ownership' of the Park is fostered amongst the public?

#### **Answer**

Whilst the design of the Town Park cannot be commenced until the States decision on the North of Town Master plan, there has been initial work to prepare for commencement of design. Initial site appraisals and consultations with relevant organisations have been made but no detail design has commenced.

The key to the development of the park design is the planned consultation with residents of the neighbourhood, which will follow the States debate. This will include opportunities to meet with the designers and to respond to a survey for local people to say what they feel is important to include in the park design. This will start a process of neighbourhood inclusion in the park design process.

Preparations to ensure an early start on the park construction have included the agreement of the contaminated land remediation strategy and specification with the regulators and the tendering of the clean up works. A planning application for the remediation, with associated Environmental Impact Assessment and Health Impact Assessment with community representatives, is nearing completion to enable approvals to be in place to allow the park construction to proceed as soon as possible.

### **3.17 THE DEPUTY OF ST. MARY OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE USE OF OUTSIDE ADVISERS OR CONSULTANTS IN REVIEWS OF SPENDING AND TAXATION:**

#### **Question**

Will the Minister advise members whether outside advisers or consultants are being used in the current reviews of States spending and taxation and, if so, for each adviser/consultant will he inform members –

- (a) what area(s)/department(s) they are looking at;

- (b) the name of the firm/ individual consultant and what skills and experience they bring to their task;
- (c) the exact process by which they were invited, or recruited;
- (d) the cost involved, if any?

### **Answer**

External advisors will be used to undertake the major investigations into over £500 million of tax payers' expenditure as part of the Comprehensive Spending Review:

- Education, Sport and Culture
- Home Affairs
- Terms and Conditions of States employees
- Court and Case Costs
- Social Security
- Health and Social Services

Expressions of interest have been sought for the first four which are being evaluated prior to formal engagement. A budget of £410,000 has been allocated for these reviews.

For the Fiscal Strategy Review of personal taxes, most of the work has been and will be carried out in house through expertise that has been developed since the last major review of our tax system. A small amount of work has been completed by the not-for-profit organisation Involve who are independent consultation experts.

For the Business Tax Review, external have been engaged to provide international tax advice. A number of reports have been commissioned from Deloitte, KPMG and PwC in respect of various international tax matters. Formal invitations to tender were issued and the successful firm was selected based on their proposals with consideration given to both price and their ability to deliver a high quality product. A senior tax partner from Deloitte, who led the report commissioned by the Foot Review, has been retained as an independent assessor of the review. Oxera has been appointed to undertake a detailed economic impact analysis of any potential changes to our business tax regime. A total budget of £620,000 has been allocated for all of this work.

Financial Directions in regard to procurement have been, and will be, followed for the engagement of all external advisors in these reviews.

### **3.18 THE DEPUTY OF ST. MARY OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING THE ESTIMATE OF COSTS AND BENEFITS OF PARKING IN RELATION TO THE NORTH OF TOWN MASTERPLAN:**

#### **Question**

Will the Minister provide members, in advance of the North of Town Masterplan debate, with estimates of the costs and benefits of –

- (a) providing underground parking;
- (b) providing above ground parking;

(c) measures to avoid the need for the parking?

Was consideration given by Hopkins Architects Limited to the possibility of initiating a 'Park and Ride' scheme using the Parish halls or other community venues or car parks as centres and, if not, why?

Has he obtained information from the Transport and Technical Services Department regarding the Sustainable Transport Policy and its likely impact on the need for parking provision in the town, and, if so, will he share this information with members?

#### **Answer**

The relative costs of parking provision – underground and surface spaces – will be made available to Members at the briefings that will precede the Debate. At the time of responding to this question I am afraid that I am unable to give costings which are still being prepared.

The Masterplan does investigate the potential to introduce a Park and Ride scheme by recommending alternative sites for long term (commuter) parking for the north St Helier area. Ideally these sites would be located close to incoming arterial roads; however the plan recognises that this approach is somewhat limited by the availability of potential sites.

As I have previously indicated I am convinced that the best urban environments are not dominated by the presence of car parking but seek to provide it discreetly either underground or in locations that do not harm or hinder the quality of the environment. There will always be a need to accommodate parking and this issue is explored in Chapter 4 of the original Masterplan document. How that need will be met is still the subject of ongoing discussions and will be explored further at the briefing presentations and during the forthcoming States Debate.

A Masterplanning process should include the examination of all the land-use issues that compete for space and resources and should offer ideas as to how to accommodate these issues in an environmentally sustainable and financially viable manner. In particular with parking provision the Masterplan has to recognise the need for residents parking, commuter parking and short-term shopper parking so that the north of town can be vibrant, convenient and attractive. The level of parking requirements for all potential users is being advised by my Ministerial colleague for TTS and his advice has been informed amongst other things by the emerging Sustainable Transport Policy.

### **3.19 THE DEPUTY OF ST. MARY OF THE MINISTER FOR HOME AFFAIRS REGARDING EXTRACTS FROM THE WILTSHIRE POLICE REPORT:**

#### **Question**

Will the Minister provide members with a report, in advance of the debate on the appointment of the new Chief Officer of the States of Jersey Police, which includes the extracts from the Wiltshire Report into the Abuse Inquiry which address the key issues relating to the suspension of the former Chief Officer, for example in relation to the skull/coconut issue. Full details of all interviews and statements made by the then Senior Investigating Officer on the key issues should be included in chronological order, so that members can evaluate this whole matter for themselves?

#### **Answer**



I am well aware that Members of the Assembly will wish to receive further information from me prior to any debate. I will, in due course and after receiving advice, decide what form this information will take and what will be included therein.

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

##### **4.1 Deputy G.P. Southern of the Minister for Social Security regarding cuts in benefit budgets contained in his departmental C.S.R. proposals:**

Will the Minister justify the cuts in benefit budget contained in his departmental comprehensive spending review proposals and indicate to Members how he proposes to achieve 10 per cent savings within 3 years?

##### **Deputy I.J. Gorst of St. Clement (The Minister for Social Security):**

As Members are aware, all Ministers agree to put forward proposals for 2 per cent cuts for 2011 as part of the comprehensive spending review process. These proposals will ultimately be lodged and the Assembly will decide which, if any, of the proposals to accept. In respect of social security, most benefits are governed by legislation and changes to benefit entitlement will also need to be approved by the States. I will be working with my officers over the summer to identify proposals that would amount to a 10 per cent overall budget reduction if I am required to make savings at this level in 2013.

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

Does the Minister feel justified in removing something like £1.25 million from the pockets of the least well-off in our society?

##### **Deputy I.J. Gorst:**

I have made my 2 per cent proposals. As I have said, it will be for this Assembly to agree or seek to amend them in the debate in September.

[11:30]

I have endeavoured, in bringing forward those 2 per cent proposals, to limit the effect of those least well-off in society. The Deputy should be able to see that from the proposals which I have made public.

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

From the 2 answers the Minister has given, I get that he is less than enamoured with the idea of making any savings. He is going through the motions. Is he just going through the motions or does he believe in what he is saying?

##### **Deputy I.J. Gorst:**

It does not seem as if I can win. I have put forward proposals and I am prepared to make those proposals, but it is only right and proper that it will be this Assembly that decides whether they are acceptable or not. What I have done is look through my departmental budget and put forward proposals which I think are most acceptable.

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

Can the Minister state at this stage whether he has any alternative proposals to achieve 10 per cent cuts, apart from reducing the benefits of those who are the least well-off in society?

##### **Deputy I.J. Gorst:**

With my 2 per cent proposals, I have sought to mitigate the effects on the least well-off, I think that is quite clear from the proposals I have put forward. We will have a difficult piece of work to do through the summer months to see where it could be possible to make a 10 per cent saving. They will then, if I am able as Minister to accept them and bring them forward, leave this Assembly with those very difficult decisions, where would the Assembly find it appropriate to cut my budget. The Deputy is quite right, the vast majority of my budget is in benefits, there is a way that we can ensure that the most vulnerable are protected, and that is through how we look very carefully at income support. But there are other benefits which are not means-tested which also could be looked at.

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

It is said that there is quite a level of fraud within the area of benefits claimants. Has the Minister factored this into his calculations and how is his analysis of that which is going on continuing?

#### **Deputy I.J. Gorst:**

Yes, the analysis is continuing. I am proposing to employ extra people to ensure that we are capturing that. I should say, however, that it is the opinion of the department that we do not see the organised fraud that we do see in other jurisdictions, I think that would be extremely unlikely. I have asked officers to look at that and they are satisfied that that is not the case. There perhaps are elements where we can tighten that up, and that is what we are doing, that is what we are proposing to do. But if we look at other jurisdictions, the majority of fraud is around organised fraud and it is not believed that we have that level of fraud on the Island.

#### **The Bailiff:**

Final question, if you wish it, Deputy Southern.

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

Yes. Proposal SS10 to freeze rents and accommodation components of income support saving £250,000. In what way does the Minister think that that is not hurting the most vulnerable and poorest families in our society?

#### **Deputy I.J. Gorst:**

Because one would hope that the most vulnerable are being housed in States housing and the Housing Department will not be increasing their rents because I am not increasing the rental component.

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

### **Election of Minister for Housing - result of first ballot**

#### **The Bailiff:**

Very well, that brings that question to an end. I have now received the result of the ballot so I am going to ask the Greffier to stop the clock on question time and I can announce the result of the ballot as follows: Deputy Hilton received 16 votes, Deputy Power received 19 votes, Senator Breckon received 14 votes. What this means is that no candidate has received more than half the votes, therefore there is no decision on this vote. Senator Breckon has the lowest number of votes, he will therefore drop out, and what is necessary now is that there be a run-off ballot between Deputy Hilton and Deputy Power. I think that we ought to proceed to that. I see a lot of empty seats so I very much hope that Members have not all disappeared because it must have been apparent that this would be a possibility. Nevertheless, I am going to ask that new ballot papers be distributed with a view to a second ballot being held and reminding Members it is either Deputy Hilton or Deputy Power. Very well. I now ask that the ballot papers be collected. Have all the

ballot papers been collected? Then I will ask once again the Solicitor General and the Deputy Viscount to count the votes.

**Oral questions (continued)**

**The Bailiff:**

We return, therefore, to question time and the next question is one which Deputy Le Claire will ask of the Minister for Treasury and Resources.

**4.2 Deputy P.V.F. Le Claire of the Minister for Treasury and Resources regarding the revenue received for the Central Market sub-post office over the last 5 years:**

May I ask the Minister what was the annual rent received for the sub-post office in the Central Market last year and what was the revenue received for the sub-post office over the last 5 years, please?

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

Until the retirement of the sub-post mistress in June 2008, the Central Market Post Office was run on an arm's length basis and, upon her retirement, Jersey Post took over responsibilities for the providing of the service. Jersey Post had, and continues to have, different commercial arrangements with different individual post offices and, as a result, the different terms could put Jersey Post at a commercial disadvantage. However, I can advise the States that Jersey Post has not at any time received franchise revenue from the Central Market Post Office. I advised the States on 11th May that the annual direct running costs of the Central Market Post Office were in the region of £141,000 per annum. I further advised the States that the new model which will be provided at the Co-op will provide alternative access to postal services and will be at much lower cost to Jersey Post which will contribute significantly to reducing the overall loss of the network. The annual turnover of the network has reduced by £482,000 to £5.4 million since 2008. Losses are forecast to increase up to £1.2 million over the same period. Discussions are underway with a group of market traders to identify alternative suitable outlets to the market for the provision of postal product services. Property Holdings, I could also say, received a rent of £13,624 per annum each and every one of the last 5 years.

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

Can I confirm that the answer was £13,624?

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

Yes.

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

The Minister touched on the fact that if the post office was to move from the market to Homemaker it would be at a lower cost to Jersey Post. Can we have the exact cost of that to the post office?

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

The explanation is simply this: that the current operating costs, which are £141,000 to operate the post office, currently contribute a loss to the overall network. Moving it to the Co-op will reduce that loss and, faced with the significant difficulties that Jersey Post have on running a traditional sub-post office network, this is an important part of their reform programme. I realise that this is not easy but I am afraid it is a necessary evolution of an old business to a new world where post office services are declining and we need to find new ways of dealing with it.

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

The Minister did not answer my question. It was intimated that it would cost Jersey Post less to move out of the market and into Homemaker, where are those figures, what are those figures? Can we please have them?

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

I have said that there was no revenue received from the Central Market Post Office and, indeed the costs for the post office, I have explained: moving the facility to the Co-op will contribute to and make a marginal return to the post office, as I am advised, and that is going to help to reduce the overall loss of the sub-post office network. It is not easy, and I know that is not what the Deputy wants to hear, but that is the reality of a traditional business that has to change.

**4.2.2 Senator S.C. Ferguson:**

I am sorry, I may have misunderstood last time. When the Minister talks about the operating cost, does he mean that this is the net loss to the post office, because I was of the understanding that the turnover of the Central Market Post Office was something in the order of £1 million a year?

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

I know that the Senator has met with Jersey Post, and I reiterate the comments I have made on a number of occasions: that the running costs of the post office are £141,000 a year, included in that is rent and it makes no revenue return whatsoever; it incurs a loss in relation to the operation. The difficult thing, I must repeat again, is that this is expected to further decline as we see falling postal revenues as the traditional work of the post office effectively evaporates over the next subsequent years. This is a problem which is now a problem, and going to get worse, with an overall significant loss of the sub-post office network.

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

I have been in contact with the Minister for Transport and Technical Services. As many elderly and disabled people use the Central Market Post Office, as the main shareholder is the Minister for Treasury and Resources aware of any proposals to increase the safety routes to the new proposed site, as that issue has been raised with me?

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

The Deputy raises a very good question about accessing postal services in not only just the Co-op but in other places too. I am aware of discussions that the post office are holding with the Central Market to provide automated facilities for posting of parcels, *et cetera*, and to provide the postal services in other locations in the Central Market. So, yes, we need to provide additional outlets for the post office services within the Central Market at a lower cost; they will be provided at the Co-op too, which is a well-frequented site, but also in other parts of town. That is the innovative way of dealing with a problem as opposed to, I am afraid, saying that you simply must cast the post office in aspic and cannot let that business move forward. We need to help them to find solutions of which access is an important part of the consideration.

**4.2.4 Deputy J.M. Maçon:**

If I may clarify. Notwithstanding what the Minister has said, let me clarify what I mean: access as in crossings, *et cetera*, to the Co-op in order that people with disabilities and the elderly can access the service; that is more what I was questioning.

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

The Co-op is not the silver bullet to the solution to everything as far as accessing postal services, we need to do a lot more. We need to find a cheaper solution within the market and we need to provide other retail outlets for postal users which are declining across St. Helier and other places, Parish Halls, *et cetera*, which is part of the other comments that I have made in previous submissions in relation to this matter.

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

Would the Minister not agree with me that the central sub-post office in the market is valuable not only to customers but also to businesses and, given the fact that it is valuable to customers and visitors and businesses, will he undertake to take a more personal look at the costs that he has given us today? The argument he gave me in his answers was more to do with Jersey Post's corporate view rather than the question that I asked. Having researched the issue, the 3 staff are getting paid less than £500 a week each; I cannot understand, unless they have stacked the figures, that we have got £141,000 a year running costs as suggested by the Minister this morning. In actual fact, what we are seeing is if this sub post office is not viable, none of them will be.

[11:45]

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

I can only report the figures that I get from the post office, and I do question the post office on the numbers that I get. I agree that there is not only an issue that the service that is provided by Central Market Post Office is valuable for business and we need to find an alternative way of providing market traders with access to postal services, we also need to find a solution for that very important site in the market as an alternative way of generating footfall into the market. I have to agree with the Deputy, there are real problems for the sub-post office network which must be tackled. This Assembly, I do not believe, is going to provide the £1 million subsidy in keeping the sub-post office network in operation. We can find solutions, more access to postal services, but we cannot hold the business back by, if I may say, unrealistic expectations of casting a sub-post office such as the Central Market, in aspic. We need to find creative solutions, not stop them doing what I am afraid is necessary for the viability of their business.

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

#### **Election of Minister for Housing - result of second ballot**

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

Very well, then. Before coming to the next question, I will ask the Greffier again to stop the clock on question time. I can now announce the result of the second ballot for Housing Minister. The votes cast were as follows: Deputy Power, 28 votes, Deputy Hilton, 20 votes. I therefore declare that Deputy Power has been elected Minister for Housing. **[Approbation]**

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

Sir, am I allowed to say anything?

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

Yes.

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

I want to thank my friend and teacher Senator Le Main. He has taught me very well how to work in the Housing Department. I want to thank all Members in the Assembly for the fair way they have treated me. I appreciate their vote and their vote of confidence, whatever side of the Assembly you are on. I will work on Property Holdings. I have every respect for the Chief Minister, I do not always agree with what he does or what he says but he has my respect, as does the Minister for Treasury and Resources. This vote is a vote of confidence in the Housing Department; I respect and I accept the honour and the trust you have given me, and I thank you all very much. **[Approbation]**

##### **Male speaker:**

Could I just say a few words, Sir?

**The Bailiff:**

No, I do not think so. [Laughter] I think there were special grounds for Deputy Power to say a few words.

**Oral questions (continued)**

**The Bailiff:**

Very well, then. We will return to question time and question 3 is one which the Deputy of Grouville will ask of the Minister for Treasury and Resources.

**4.3 Deputy C.F. Labey of Grouville of the Minister for Treasury and Resources regarding Fiscal Stimulus support for the finance and tourism industries to date:**

Would the Minister inform Members how much money from the fiscal stimulus has gone to support the finance industry and how much has gone to support the tourism industry to date, and explain what these amounts were for?

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

I may well need to give a written answer to the detailed question but I will do my best to answer the question. The total support for the financial services sector on fiscal stimulus funding has been £2.4 million and it can be broadly broken down as follows: boosting the legislation programme £445,000; J.F.L. (Jersey Finance Limited) grant technical project, £80,000; assessment of potential for insurance opportunities, £10,000; granting for the commencement of a third office in the Middle East and Indian area of £200,000; J.F.L. grant to boost inward investment, £132,000; £100,000 for work on the alternative investment A.I.F.M. (Alternative Investment Fund Managers) difficulties; and a £750,000 allocation to be drawn-down dealing with the consequences of the pressure on the Island on Zero/Ten; and £700,000 to be drawn down for marketing and promotion by the Chief Minister's Department on inward investment. While this is not a contest between, obviously the Tourism Department and Financial Services, as far as tourism is concerned, E.D.D. (Economic Development Department), I am advised, has identified significant additional funds within their budget to boost marketing activity. They identified, I think, £500,000 in 2009. E.D.D. supports businesses through Jersey Enterprise and provides help and opportunities for all sorts of businesses and a specific example of that is the Bienvenue training. I am advised that the department is in the process of finalising its programme for 2010 and the varied amounts for tourism may well be increased during the course of the year. I can also say that I have received now a bid from E.D.D. of £500,000 for fiscal stimulus money, and I am looking at that, and I should also point out to Members that the grant for Durrell, which is yet to be completely finalised but is in the order of £1.5 million, is regarded as raising the profile of one of Jersey's most important tourism sectors, and I would also remind Members that all ministerial decisions are public in relation to fiscal stimulus funding.

**4.3.1 The Deputy of Grouville:**

It was quite difficult to follow that and I appreciate the Minister went into a lot more detail than I expected. But, from what he said, I gather £2.4 million has gone to finance but as yet, even though he has got an application for a grant in, no monies have gone to tourism. Maybe he could confirm this, please?

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

Certainly, this is not a contest between tourism and finance. It is probably worth just reminding the assembly that, in 2009, there was £6.8 million worth of funding that went into the tourism sector as opposed to financial services of £2.4 million. We did not receive specific grant applications for fiscal stimulus until now for tourism but there has been some generic funding available to Economic Development for general business support, of which tourism is a part. I am sympathetic

to the Economic Development's position in relation to now asking for some fiscal stimulus money for tourism. We are also engaged in constructive discussions about how to find solutions for the T.D.F. (Tourism Development Fund) funding. I support the tourism industry; we will do what we can when we can within the available resources.

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

Would the Minister agree that the T.D.F., for example - the Tourism Development Fund - were it to receive fiscal stimulus support would then spend the money within the Jersey economy and would therefore boost employment and so on, whereas third offices in the Middle East are less likely to do so?

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

I do not agree. All fiscal stimulus money is designed to boost economic activity and deal with the consequences of the downturn. I am afraid I need to say to the Deputy that there have been serious difficulties in relation to all sectors of the economy and financial services and we need to step-up our activity in order to get business that otherwise would not have come to Jersey as a result of increased marketing. Extending the geographical reach of financial services in Asia Pacific, in the Middle East is a key part of our growth strategy that is offsetting some of the jobs that have unfortunately been lost in financial services as a result of the downturn and the difficulties in financial markets. All of this is very carefully assessed and I would hope the Deputy would welcome Jersey as stepping-up its marketing activity, boosting activity and securing jobs for the long-term of financial services and the other parts of the economy, too.

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

Yes, I take the point about supporting marketing for the finance industry. However, does the Minister not agree that the picture painted by £2.4 million and zero is the same picture as we see in the cuts in the C.S.R. (Comprehensive Spending Review) for which he is also responsible, the spending review, where there is a reduction in funding to tourism of £300,000 and an increase in funding for financial services, I think if my memory is right, around about £600,000 or £700,000. It is the same picture, and would the Minister for Treasury and Resources like to comment on this apparent neglect of what was once our major industry?

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

It is not neglect, and I repeat again to the Deputy that tourism, as far as its share of the Economic Development support, and this Assembly's support, for business towers above that of financial services, has done for years, and I have no doubt will continue to do so for years because it is important that we support tourism. It is simply not right to simply suggest that, because there has not been specific fiscal stimulus funding for tourism, that there is a lack of support for it. There have been particular issues with financial services which, at the end of the day, drive enormous economic activity which drive the taxation receipts into the Island, and we need to deal with the consequences of the serious issues that we have been dealing with in the financial markets. This should not be interpreted as not supporting tourism; on the contrary, look at the track record.

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

Does the Minister really consider that funding towards a third office in the Middle East really does fit within the 3Ts of the stimulus package, i.e., timely, targeted, temporary? Surely, setting up a third office is a permanent thing and will incur ongoing payments.

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

It is certainly targeted as one of our key geographic areas for growth in this particular economic climate and, certainly, if it is unsuccessful in terms of delivering, and I expect it will be in terms of economic growth, then it will not continue. What is quite clear, it is for a specific period of time; if that is successful, that is going to have to be built-in by a decision of this Assembly into long-term

funding. This was the way that we could kick-start boosting activity into financial services. Opening offices is exactly what our competitors are doing and fiscal stimulus money, I think, has been very wisely done in order to achieve that.

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

Is it wise use of stimulus money, given that some of these far eastern countries do not have the same scrutiny to business as they do in the western hemisphere? Is the Minister happy that we may not be opening the door to problems in the future because of lack of scrutiny and the way of doing business in that part of the world and is that wise use of stimulus money?

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

I would be very cautious, and I do not think the Deputy is insinuating any difficulties in relation to that particular geographical region. I think the Deputy can take considerable comfort from the extremely high standards of regulation, independently assessed by the I.M.F. (International Monetary Fund), by Foot, *et cetera*, on the standard of business that comes to Jersey. We are increasing our standards, we do not accept activity or financial activity which is questionable, that is why we have a separate Financial Services Commission and, wherever that business comes from, will be given the same level of scrutiny in terms of the quality of that business. There is good business to be had in the Middle East, certainly - particular areas of the Middle East where there is significant liquidity - and that has got a good home in Jersey providing liquidity to London markets.

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

Would the Minister not concede that this is abandonment of the tourism industry and does the Minister not also agree that, with an uncertain future for financial services industries the world over, we should be investing to invigorate towards our tourism with a long-term view, not a short-term outlook?

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

Simply hurling money at sectors of the economy in the way that perhaps this Assembly did in the past with the agricultural industry, I am afraid, simply does not work. What is required is targeted and extremely well-judged attempts to boost economic activity through marketing, *et cetera*, and the work that Jersey Tourism does. I would remind the Deputy again: that it received significantly higher levels of support than other areas of the economy, including financial services, quite apart from an abandonment of tourism is a commitment of this Assembly to support it, but support it carefully and wisely in order to get investment, secure jobs and to maintain our position as a premier tourism destination with fantastic restaurants, hotels and facilities such as Durrell.

#### **The Bailiff:**

Deputy Vallois and then a final question, if she wishes, from the Deputy of Grouville.

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

Could the Minister confirm that a section of the stimulus funds for finance will be a recurring cost to Economic Development and therefore has failed his own criteria of 3Ts, namely: "Temporary."

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

The fiscal stimulus money is one-off and so, if E.D. (Economic Development) in conjunction with Jersey Finance wish to continue some of these start-up arrangements, then they will have to be paid for in their base budget but we should be under no illusion about the challenge that we face in properly communicating, in properly representing, what we do in Jersey as an off-shore centre and that is what I have made a decision on, upon advice, to put some - and only some - fiscal stimulus funding in order to secure a better future than otherwise would have been the case for financial services. If there is recurring spending, that will need to be taken in future business plans.



**The Bailiff:**

Do you wish a final question, Deputy of Grouville?

**4.3.8 The Deputy of Grouville:**

Yes, I do, Sir. Thank you. Within the E.D. budget, I realise the Minister is Treasury, but within the E.D. budget, Tourism has had £138,000 cut from their events budget and £175,000 cut from P.R. (public relations) and route development in order to comply with the C.S.R. They have put in a request for the economic stimulus funds of £500,000, which has been considered now. The way things stand, finance is getting £2.4 million and tourism, if given the grant that it is asking for, will get an increase of £187,000. Does the Minister accept this and accept why there is a certain amount of disquiet within the tourism sector?

[12:00]

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

I do not think that there is disquiet among the tourism sector, I am looking forward to Economic Development bringing forward its proposals for the Jersey Finance equivalent of Jersey Tourism so that tourism professionals, and the tourism industry as a whole, can also take part in joint funding initiatives with States support for marketing initiatives in the future. I think Jersey Tourism has come a great journey in the last few years in what they do; its activities are targeted and it delivers huge amounts of tourists into this Island. There is a debate to be had about the split of E.D.'s budget; I do not think it is right for me to comment on what are proposals within the C.S.R. programme at the moment, those are subject to scrutiny, they need to be discussed with E.D. and final proposals in the Business Plan. If they are not right, then Members will make those views clear to the Minister and changes will be made.

**4.4 Deputy D.J. De Sousa of the Minister for Education, Sport and Culture regarding the allocation of free nursery places:**

Will the Minister please inform Members if any discrepancies exist within the allocation of the free nursery places due to a child's date of birth and, if so, what steps he will take to address this issue?

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

I am not aware of any discrepancies in the allocation of free nursery places due to a child's date of birth. It is an established policy that any child who reaches his or her 4th birthday in the academic years starting 1st September is eligible for consideration for a place in a States nursery. If Deputy De Sousa has any concerns about a specific case or cases relating to a States nursery then I would welcome her to contact either myself personally or the department in order that this may be investigated.

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

If nobody wants to ask a question, I will follow up with a supplementary. I have been approached by several people, and children are missing out on nursery places due to when they are born because they do not fall within that year's criteria. Will the Minister please work and address this?

**The Deputy of St. Ouen:**

There is always going to be the issue of whatever date you pick, that there will be individuals that will fall outside of that particular date; indeed, have their birthday the day before that date. It is a difficult issue, it is, as I say, an established policy that is consistent with the education on our Island, and other islands follow similar principles. I will say, though, to Deputy De Sousa that recently a working party has been appointed by the Early Years and Childcare Partnership to carry out a review on some aspects of nursery provision in the Island. The working party is currently

surveying stakeholders for their views and will consider whether changes should be made to the criteria during the coming year, and I certainly would extend again that invitation for Deputy De Sousa to speak directly to me.

**4.5 Deputy J.M. Maçon of the Minister for Transport and Technical Services regarding the net gain or loss of car parking spaces along Victoria Avenue following the current works:**

Can the Minister please inform the Assembly what the total number of car parking spaces along Victoria Avenue was before the works took place and what the total number of car parking spaces is expected to be after the works are finished and, in doing so, identify any net gain or loss?

**Connétable M.K. Jackson St. Brelade (The Minister for Transport and Technical Services):**

The total number of spaces before the work commenced was 464; in total, 49 spaces have been removed, making the new total 415.

**Deputy J.M. Maçon:**

Sorry, I did not quite catch them, can the Minister go through those figures again?

**The Bailiff:**

Forty nine lost, I think.

**4.5.1 Deputy J.M. Maçon:**

Under whose authority did the department take instruction in order to reduce these car parking spaces?

**The Connétable of St. Brelade:**

As a key part of an independent safety audit undertaken in 2008, it was identified that all the exits from the lay-by car parks were sub-standard due to lack of visibility for vehicles leaving those car parks. The problem of parked cars close to the exit has now been removed and a visibility splay in accordance with the Jersey Highway standards has been created allowing vehicles to see 50 metres up the road to traffic in the inside lane on the avenue. In each car park, the new visibility splay has resulted in a loss of between 2 and 9 spaces, totalling 31 across all the car parks along the avenue.

**4.5.2 Deputy R.G. Le Hérissier:**

Was there no other way, indeed there has been a temporary realigning of the car park which has created lots of extra spaces, to retain these spaces by reconfiguring the car park?

**The Connétable of St. Brelade:**

Well, indeed, another feature of the improvements has seen an increase in the stacking lengths for vehicles turning right into First Tower and Rue du Galet, and the right-turn lanes constantly back-up into the 2-lane carriageway, restricting the flow of traffic west through each set of traffic lights. This was a safety concern as vehicles were slowed down or stopped from the queues turning right, and some vehicles were trying to change lanes at the last moment, so the new works have increased the length of the right-turn lane by reducing the width of the grass verge adjacent to car park 6 and by narrowing car park 4 to parallel parking, resulting in a further loss of 15 spaces. I would say that the department is faced, as we are in many places in the Island, with restricted space and we have a shared-use situation in that the avenue car parks and promenades are used by not only cyclists but pedestrians and Le Petit Train, apart from parked cars, and we have to work all these factors in and we try to get a balance and strive to satisfy all elements of the community.

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

It was just a response and a question arising from what the Minister just said; it was very interesting, and I would like him to comment on the fact that the cycle track has been made wider; I think in the region of First Tower, it is certainly noticeably wider. Will it continue at that width in order to allow for future growth in commuting by bike and leisure by bike or will it go narrower again and did it have a bearing on the car parking spaces?

**The Connétable of St. Brelade:**

I think we have retained as many car parking spaces as we possibly can but, likewise, to answer the Deputy's point specifically, we are making the cycle track as wide as we can where we can but, once again, space is very restrictive and it depends on the physical area available at the time.

**4.5.4 Deputy J.M. Maçon:**

The Minister mentioned the reason for the reduction in the car parking spaces is due to the visibility plays that this will now provide. Can the Minister please give the Assembly the number of accidents that have occurred within the past 3 years?

**The Connétable of St. Brelade:**

I am happy to do so but I cannot do that without notice, I am afraid, and I shall circulate that to the Deputy later.

**Deputy J.M. Maçon:**

I thank the Minister for that response.

**4.6 The Deputy of St. Mary of the Chairman of the Privileges and Procedures Committee regarding the Code of Conduct for Elected Members in Standing Orders:**

Concerning the Code of Conduct for elected Members in Standing Orders, and in the light of the debate and decision of the last sitting about sanctions for Members breaching the code, could the Chairman tell Members whether her committee regards some breaches of the code as more important than others and, if so, explain the committee's position?

**Connétable J. Gallichan of St. Mary (Chairman, Privileges and Procedures Committee):**

Yes, P.P.C. (Privileges and Procedures Committee) does consider that some breaches are more serious than others and considers that this is inevitable with any code of conduct of this nature. A Member may breach the code in a relatively minor way, for example by making a slightly ill-judged remark to a member of the public and thereby breaching the need to treat people with respect and courtesy, whereas another Member might commit a very serious breach such as, for example, taking a decision which resulted in a significant financial gain or another material benefit for themselves, their family or friends. While not wishing to trivialise any complaint or any breach, I am sure all Members would agree that a complaint in relation to the second example, if upheld, would constitute a far more serious breach of the code than the first example. Any proposed sanction under the code would quite rightly be very different in the 2 examples where the first might simply result in an admonishment, particularly if it was the first breach on this aspect of the code by the Member concerned, whereas the second could possibly merit a debate on suspension in the Assembly. It is important to remember that Standing Orders set out the way in which potential breaches of the Code of Conduct are investigated. P.P.C. adheres to the Standing Orders in every case and considers each case objectively and on its merits.

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

I thank the chairman for that answer and I am comforted by it. I just wanted to raise, with the question of misleading the House and where that fits in in the scale of seriousness, and there seems to be no specific reference in the Code of Conduct to the issue of misleading the House; I have

many examples which I will not go into, but the only aspect of the code that seems to cover it is integrity and the duty of maintaining the reputation of the House and I just wanted her to comment on it. I would like her to comment on this aspect of what to do about misleading statistics, statistics where figures are omitted and actual misleading statements made in reports.

**The Connétable of St. Mary:**

I have not been in receipt of any complaints of that nature so I am unable to make any comment.

**4.6.2 Deputy M. Tadier:**

The Chairman of P.P.C. just mentioned about trivial acts. What would happen if, during the hearing of P.P.C., a certain person who had, let us say, said a comment on the radio which was not wise, then misled P.P.C. by changing the reasons behind that as an excuse; would P.P.C. be willing to take further action against that?

**The Connétable of St. Mary:**

I am not able to give hypothetical answers to hypothetical questions; I can only repeat that there is a procedure for investigating complaints ...

**The Bailiff:**

I agree; these questions are all hypothetical and out of order, I think. Very well, then we will move to the next question which Deputy Pitman will ask of the Minister for Home Affairs.

**4.7 Deputy T.M. Pitman of the Minister for Home Affairs regarding the existence of the ‘Metropolitan Police Interim Report’:**

Given that, in response to my oral question on 25th May, the Minister was unable to confirm whether the *Metropolitan Police Interim Report* was a physical document in the accepted format of a paper report which had this title heading the document. Was it a collection of preparatory notes or did it even exist at all? Will the Minister now provide this information to the States verbally?

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

On 25th May I was fully confident that the *Metropolitan Police Interim Report* existed as an attachment to an email to the Acting Chief Officer of Police on 10th November 2008, but I was unable to confirm that I had looked at the contents of the document. I have now done so and I have seen it in electronic form, I have also seen it printed out, but there are some words deleted because of names of individuals and so on. There was no question whatsoever in my mind - there never really was any question in my mind - that it existed as at 10th November 2008, electronically. It was never sent in paper form because it was succeeded by the full report which arrived a month later. I can say that the document’s electronic form has a cover with the words: “Metropolitan Police” and: “Operation Rectangle Interim Report”; it is in the normal form of a police report with a cover, an index page, with numbered sections and sub-sections and consists of 17 pages. There is also, in association with it, some other documents which were attachments as annexes to it, which also existed at the time in electronic form.

**4.7.1 Deputy T.M. Pitman:**

I thank the Minister for his answer and his answer to my written question number 9; indeed, on this issue I have to observe that it is welcome to receive any substantive answer at all. It has to be said that surely Members such as myself should not have to go through this strategy to get information which leads me to the supplementary: why has it taken so long to extract this information and, consequently, will the Minister finally agree to make the content of those 17 pages of notes, with names removed if necessary, available to all States Members so that they, too, may decide for themselves whether there is anything in these notes that justify an 18-month long suspension of a

man with a long and distinguished career of community service as, I have to say, conclusions may vary?

[12:15]

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

I had, in fact, avoided looking at the contents of the document for reasons in relation to the disciplinary matter of the Chief Officer of Police. I had made a decision that I should not do so, for that purpose, and that was the reason why I did not look earlier on at the content. When a question was asked on a previous occasion by the Deputy, unfortunately the Acting Chief Officer of Police was not in the Island at that time and I simply could not get access to the document, which was in his safe, and the electronic part, which was in his private area, until he came back. As soon as he came back, I approached him in order to do so and was able to look and have therefore been able to report back, as I have done. The question as to whether or not I will be able to provide to the Members of this House the text of the core report, the 17 pages, or not is a matter which I still need to take further advice on. The position remains unclear on that but I can say to Members that I have compared the section of a letter, written by the Acting Chief Officer of Police in November 2008 in which he alludes to the report, with the report itself, and I can say that, in the sections to which he refers in that, he accurately refers to concerns which are raised in that report.

**4.7.2 Deputy F.J. Hill of St. Martin:**

I am glad the Minister has just repeated that answer. I have 2 which I would like to ask, they are very close, and I am going to ask the first one first and then we will see how the second one goes. In the Minister's written answer today, it states that: "The *Metropolitan Police Interim Report* was received at 15.27 p.m. on 10th November 2008." If that time is correct, can the Minister explain why reference to the Metropolitan Police Report is contained in the former Minister for Home Affairs' letter to the suspended police chief office dated 12th November 2008 but drafted at 8.45 a.m. on Saturday 8th November, which was over 2 days before the Acting Chief Officer says or claims he received the Metropolitan Police Report?

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

This, of course, is part of the matters which are being looked into by the Commissioner, who will report shortly, and any answer that I give in relation to this is going to only be my opinion based on what I have come across. The fact is that I am well aware that work had started in relation to the press conference which took place in November 2008 before the interim report was received. I think, as I have covered that in a written answer today, that work had already started and, indeed, that the present Acting Police Chief was waiting for the written confirmation of what he had already been told orally would exist. In relation to what was happening in parallel with that in terms of disciplinary matters, I simply am not able to comment, because I do not know exactly what was happening. But from the point of view of the Acting Police Chief, his concern was the press conference because his primary concern - well, his sole concern - was the issue of abuse of process arguments because of misleading statements which had previously been made by the former senior investigating officer.

**4.7.3 The Deputy of St. Martin:**

I am not totally convinced with the answer but, no doubt, the Minister would expect me to be. But could I also ask the second question, which is very much akin to that because also, was the Minister aware that that interim report which was received at 15.27 p.m. on 10th November, also contained detailed in the Minister for Home Affairs' letter to the suspended Chief Officer, with a copy to the Chief Executive Officer, dated 12th November but drafted at 8.48 a.m., another letter drafted at 8.48 a.m. which, again, was 2 days before the Acting Chief Officer says that he received the letter. Does the Minister consider that to be appropriate and would he not consider that there must be

some form of conspiracy here where the details are made available before the Chief Officer received the information from the Metropolitan Police; is he not that concerned about it?

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

As I say, I can only express an opinion in relation to matters as to what happened in relation to the initial suspension; I am perfectly content to await the report of the Commissioner, who is looking at this in great detail.

**4.7.4 Deputy R.G. Le Hérissier:**

I wonder if the Minister could tell us from whom he will be receiving further advice in order to go forward with the publication of the report?

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

I have to decide upon the status of the document: is it an operational document, is it not an operational document? If I decide that parts of it could be released then I would have to decide which parts, and so on. Clearly, I will take advice from the normal channels.

**4.7.5 Deputy R.G. Le Hérissier:**

Who are the normal channels? [Laughter] [Approbation]

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

Well, the normal channels I take advice from on legal matters are the Law Officers' Department.

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

I want to pick up on what the Minister said about the interim report and to explain the delay in all this: "I had avoided looking at the contents" and I just want him to answer why he avoids looking at the interim report, why he avoided looking at A.C.P.O. (Association of Chief Police Officers)... any of the reports, when conducting the hearing in, I think, March - at the first of the disciplinary hearings. It seems that the Minister took one view and all other evidence was not admissible and I find that puzzling, and I would like him to explain how he can judge this case because, effectively, that is what he was doing, without looking at the evidence?

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

There were 2 separate questions there: the first one is in relation to the Interim Met. Report. Because I was not going to be able to look at that for the purposes of the disciplinary hearing of the suspension, I expressly excluded from the relevant document, the letter of the Acting Chief Officer, all references to that report; I did so out of fairness to the Chief Officer of Police. Having done so, it is clear that it would not be wise for me, while suspension issues remained live issues, for me to be looking at the document, only because, effectively, suspension issues are not particularly live. The Chief Officer of Police has now left the Island and handed in his warrant card and so on - and he did so some months ago - so that I could be a little less cautious in relation to that area. In relation to the second question, the second question relates to the process in relation to the suspension hearing which I conducted. At that suspension hearing, I took the view that it would not be right for me to look at parts of the evidence; we simply do not do that in an interim procedure, I have vast experience of a very similar procedure in relation to bail applications and it is very clear in relation to those that you do not look in-depth at the evidence because otherwise you would be conducting a sort of mini-trial. I made the decision that I would not look at the A.C.P.O. reports because they were only a part of the evidence. The fact is I did not know in what circumstances they were produced, the fact is I did not know if they had been carried out or not; it was simply never going to be determinative, it was a small part of the overall evidence. I have to say, that was one of the grounds for judicial review which was taken before the Royal Court and the Royal Court expressly upheld the approach which I had taken. If the Royal Court had found that I was wrong in that matter and had directed me to reconsider it, I would have done so, but I have to inform

Members that, even if I had looked at it and done so, I would still have come to the same conclusion.

**4.7.7 Deputy T.M. Pitman:**

A final question: for the record, is the so-called Interim Report, and its contents, endorsed as such by the Metropolitan Police and its authors in its justification for the suspension of the Chief Police Officer?

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

I did not consider the contents of the Interim Report when I made my decision in relation to suspension. However, I believe that the report fully justifies the contents of the relevant parts of the letter written by the now Acting Chief Officer of Police.

**4.7.8 Deputy T.M. Pitman:**

The answer I would have liked is whether the Metropolitan Police share and consider that this report justifies the Chief Officer's suspension. I know the Minister's opinion; I would like to know if the Metropolitan Police share that opinion.

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

With respect to the Deputy, the question is nonsense because I have already told him that I did not consider the document for the purposes of the suspension so how can they have an opinion as to what I should have done with a document that I did not consider?

**4.7.9 Deputy T.M. Pitman:**

Have they not refused to endorse the report at all? So there we have the answer. I see no difficulty in giving it.

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

I did not hear the question.

**Deputy T.M. Pitman:**

Is it not a fact, Minister, that the Metropolitan Police have not endorsed this report at all and really do not want anything to do with it?

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

No. That is not correct at all. The position is that the Metropolitan Police have never wanted the report to be used for disciplinary purposes and I followed their wishes in that matter by not using it for disciplinary purposes which, indeed, was the reason why I had not read it until the recent line of questioning.

**4.8 Deputy R.G. Le Hérisier of the Chief Minister regarding the ongoing absence from duties of the Magistrate:**

What has been the cost to date of the absence from duties of the Magistrate and what steps, if any, are in place to review the absence regularly?

**Senator T.A. Le Sueur (The Chief Minister):**

The Magistrate Designate agreed not to sit as a judge following a discussion with the former Bailiff as a result of a criminal investigation into an alleged fraud. I am advised that the investigation still continues. The position of the Magistrate Designate is unlikely to alter until that investigation is concluded and a decision is taken on whether or not any charges should be brought and, if so, against whom. A sum of £158,614 has been paid to other parties, the necessary cover resulting from this period of absence from the court. This sum is therefore the extra cost which has been

incurred as a result of his absence. In passing, I must point out that the appointment of a magistrate is not an appointment of the States Employment Board and hence the position of the Magistrate Designate is not subject to review by the suspension panel.

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

I thank the Chief Minister and, of course, I had raised this issue when initially he told me the facts, and he has just repeated, that it is not his direct responsibility. Would he nevertheless think that it is yet another case of a suspension that appears to be running out of control and would he not, in his role as the guardian of the public purse, wish that there be a much more rigorous way of monitoring and, if possible, bringing an end to the suspension.

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

It is technically not a suspension but I do accept that it takes longer than one would like to deal with these matters. But then it is the nature of police investigations, particularly complex forensic investigations, they do take time and I am advised that, in this particular case, the period of time is not unusual.

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

I think I heard the figure given was about £158,000 by the Chief Minister to cover the absence of the Magistrate but I am assuming, therefore, is it right that the actual salary of the Magistrate is still being paid on top of that?

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

That is correct.

#### **4.9 Senator J.L. Perchard of the Chief Minister regarding the publication of the name, job title, grade and salary level of senior civil servants with salaries of more than £150,000:**

This question has been superseded a little by the events of the publication of P.73 - I think it is - overnight. But I will still ask it because there is an important supplementary to ask. Following the publication on 1st June 2010 by the U.K. Cabinet Office of the name, job title, grade and salary level of senior civil servants with salaries of more than £150,000, will the Chief Minister undertake to do the same in Jersey and, if not, why not?

#### **Senator T.A. Le Sueur (The Chief Minister):**

As Members are no doubt aware, I have now published at the same time as the annual financial report and accounts for 2009, the salaries of all post-holders with annual salaries of £100,000 and above. Members will be aware that limited information has already been provided for some years in the annual financial report. As the former Minister for Treasury and Resources, I had already decided on a greater level of detail in the accounts with the introduction of generally accepted accounting principles. I had initially been of the view that this new level of disclosure was sufficient but I am now satisfied that greater levels of disclosure are possible and they are set out in R.70 which is on our desks today. In accordance with practice in the U.K. civil service, and in the light of advice on data protection, salaries will be shown in £5,000 bands for each employee concerned.

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

The U.K. Government has recently promised to deliver a Complete Online Information Service to be known as C.O.I.N. which, I understand, will include placing online information from the whole spectrum of government business. Is the Chief Minister aware of the U.K.'s new C.O.I.N. initiative, and will he take similar action to provide transparency and open data in Jersey, and does



he agree that this open data policy is the best method for third parties to hold its government to account for the levels of public expenditure and direction?

[12:30]

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

I have to say I was not aware of C.O.I.N. but I am grateful to the Senator for bringing it to my notice. I will look at it with interest and I think it does sound a very good initiative and it may well be the best way in which to hold the Executive to account. Once I have had a look at the system, I will be in a better position to answer that, but the general answer is one of support for that.

**4.9.2 Deputy T.M. Pitman:**

I have to say, I share Senator Perchard's concern on this issue but, in this new spirit of openness and transparency that the Minister has mentioned, would he consider also moving towards revealing all details of pay-offs when senior civil servants leave the service?

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

I have said that one of the restrictions or considerations in publishing figures like this is the contractual obligation which one has to employees. The same comments would apply in relation to details of any termination payments as to whether or not they are bound by details, by clauses of commercial confidentiality. Subject to that, if there are no such restrictions, then I would accept that those details should be disclosed.

**4.9.3 Deputy M. Tadier:**

I apologise if my question has been answered but I was temporarily distracted. The question I would like to ask is what is to stop, rather than bands, just having the actual wages printed on the internet or in public access to the actual figures of everybody who is a States employee?

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

Did the Deputy refer to all employees or all employees over £100,000?

**Deputy M. Tadier:**

All employees and I would add the fact that when jobs are advertised in the paper, I think they are advertised with a specific salary. So what is the problem, seeing as they are public employees, just to print the actual salaries that everyone gets in a given year?

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

I think it is a matter of proportionality. The job advertisements are normally advertised in bands according to salary grade. The information and advice I have in respect of data protection and, as I say, in common with the U.K., is that bands are the way in which it is currently done. But it is an evolving situation. It may well be in the future that there will be more and greater specific details rather than just those £5,000 bands. But I think for the purposes of reasonable analysis of anyone's salary, that level of detail should be sufficient to make a fair judgment.

**4.9.4 Senator S.C. Ferguson:**

Is the Chief Minister aware that the United States Government has been publishing all contracts for some years? C.O.I.N. is actually now available on the U.K. Treasury website and very interesting it is too. The U.K. have published the salaries of chairmen of quangos and senior civil servants and all the council details of the Chief Executives and so on have been available for some time. Does the Chief Minister not think that it is perhaps time for some transparency as to how taxpayers' money is being spent?

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

I think it is and that is why, in R.70 here, we have more transparency than we previously had. We have had disclosure in the past. We have greater disclosure now and I am happy to have further disclosure if it is appropriate in the future. As to the salaries of people involved in quangos, they are normally provided within the accounts of those particular organisations.

**4.9.5 Deputy J.A. Hilton:**

I do not believe this question has been asked but the report has been published today, R.70. The question I really wanted to ask was we have the salary bands in the report but it is excluding pensions. Also, I was wondering why it did not give the whole picture, including pensions and housing, any housing benefits or relocation benefits that some employees might be in receipt of.

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

It really depends for what purposes the report is intended to be used. In terms of comparisons, it is very difficult and dangerous if we are not careful to make comparisons which are misleading. If one, for example, is comparing with salaries in the U.K., then pension contributions in Jersey differ from those in the U.K. If one is comparing salaries in Jersey in the public service and the private sector, again, there are different elements of pension contributions and other benefits. So it is very difficult to make adequate, meaningful comparisons. By publishing what we have published today, which is just the bare salaries, they are capable of comparing on a like for like basis with other organisations, both in the private and public sector, and hence, I believe, more meaningful and less susceptible to misunderstandings.

**4.9.6 Deputy J.A. Hilton:**

Sorry, just a follow-on question. I think for the sake of openness and transparency, the total package should be in the public domain. I think taxpayers have a right to know exactly how much public servants are being paid.

**The Bailiff:**

Is that a question, Deputy?

**Deputy J.A. Hilton:**

Yes, sorry. Would the Chief Minister consider publishing the whole package so the public are aware of exactly the total amount?

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

Yes, I think I made it clear earlier that it is an ongoing discussion and I am happy to consider further details for further levels of disclosure of these matters in conjunction with appropriate advice and appropriate constraints.

**4.9.7 Senator J.L. Perchard:**

I would like to follow up on Deputy Trevor Pitman's supplementary which I thought was a very, very good one. The Chief Minister said confidentiality clauses exist as a part of the contractual agreements between the States of Jersey Employment Board and the employee and consequently the employee is entitled to some confidentiality over settlement agreements should they terminate their employment early, otherwise known as "payoffs". Can I remind the Chief Minister that he is the Chairman of the States Employment Board who will draft the agreement with any employee? Can I ask him, from now on, to take seriously the need for the public to be able to access this type of information and no longer include, as a part of a contractual agreement with any future employee, a confidentiality agreement that allows them to disappear with a large sum of money that no Member of the States or member of the public who pay their taxes for these types of agreements to be made to ensure that this contractual agreement no longer exists in any future arrangement with any public employee.

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

As a fellow Jerseyman, I share the Senator's probable distaste for paying money for work which has not been done or not been properly done and if there are elements of payment in terms of termination settlements which seem to be unusual, then I share that desire to keep that to a minimum. But in achieving that desire of keeping it to a minimum, there are sometimes compromises which are necessary and it may well be that in going for total openness and revealing details of the payoff, the negotiations may take the form of a higher level of payoff. If that is a consequence, then my primary objective is to limit that to a minimum. It would be nice to think that one could terminate an employment without any costs whatsoever. Where that could possibly happen, that would be certainly very much my policy and the S.E.B.'s (States Employment Board) policy and, I am sure, all our policies. The nature of terminations varies from one to the other and so it is hard to give a blanket answer for all of them but I do indicate that confidentiality may be something which is a way of saving the States significant monies.

**4.10 The Deputy of St. John of the Chairman of the Privileges and Procedures Committee regarding a complaint made about him to the Privileges and Procedures Committee by the Chief Minister:**

Having been notified of a complaint made to the Privileges and Procedures Committee by the Chief Minister regarding comments I made about a civil servant in the Chamber and the Royal Square, will the Chairman advise whether a hearing is to be held and, if so, when will she state whether any hearing will be in camera?

**The Connétable of St. Mary (Chairman of the Privileges and Procedures Committee):**

At its meeting on 1st June 2010, P.P.C. considered the complaint submitted against the Deputy and concluded that it did not merit investigation. The answer to the question is therefore that no hearing is necessary.

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

On 12th and 13th May, I asked the chair of P.P.C. if any further paperwork had been received reference a complaint against me. I was told none. Can the chairman explain why, on 3rd June, a bundle of emails and letters dated 26th April were sent to me, while at the same time as being notified that the evidence that I breached the Code of Conduct of Members had not been broken, the Committee went on to say in both instances my comments constituted reasonable political criticism of the emergency planning exercise and the committee does not consider that paragraph 6 of the Code of Conduct should be construed in such a way as to prevent a Member from expressing reasonable political views, *et cetera*. Why, then, did the chair hold back documents which showed that the person who made the original complaint had changed from the E.P.O. (Emergency Planning Officer) States Employment Board, to that of the Chief Minister? This information is dated received on 26th April by her department and yet had not been forwarded to me although I had requested if there was anybody else. Can she explain, please?

**The Connétable of St. Mary:**

It is not the committee's normal procedure to comment on any complaint or investigation into a potential complaint. Obviously, however, that does not include liaising with the parties who are concerned. My understanding was that the Deputy of St. John had been kept aware of all the relevant developments. Certainly, I had spoken to the Deputy and advised him that I was waiting for additional information to come forward and that he would, of course, at any time when a complaint was deemed to merit investigation if that did arise, be provided with all necessary documentation.

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

On 12th May, I wrote to P.P.C. asking ... in fact, I gave the letter across the Chamber asking if any hearing to be held could be held in public. As yet from that letter I did not get a response. Will the chair please explain, does she consider any reasonable request from a Member who is under investigation not to be given that kind of information from P.P.C. and the chair as to whether or not a complaint in this case could be heard in public instead of in camera. I asked the question because it affects all Members here if a complaint is made. We should be kept up to speed on who is making the complaint like in the case that it was changed from the E.P.O. to the Chief Minister, and I have not had any response to that letter and I need to know why we are not getting a response from P.P.C.

**The Connétable of St. Mary:**

I must admit I am slightly confused by the Deputy's sequence of events because certainly he raised questions with me initially concerning the complaint and told me he had received correspondence directly from the Chief Minister. So therefore I do not understand why he is saying he did not know that. I would obviously need to look at the file to ascertain the chronology but I can only repeat, at the time when P.P.C. determines whether or not there is a complaint which merits investigation, then all parties are advised. I have explained that on 1st June, P.P.C. met and considered the complaint and concluded that it did not merit investigation and the Deputy has been informed of that.

**The Bailiff:**

Given that there is no investigation, I am going to limit questions here but Deputy Pitman, do you wish to ask a question?

**4.10.3 Deputy T.M. Pitman:**

I hope I am not stretching the boundaries too far, and I am sure the Deputy of St. John comes into this category, but if a Member wishes any hearing to be held in public, then what justification can the chairman of P.P.C. give for maintaining secrecy of a behind closed doors hearing?

**The Connétable of St. Mary:**

I would point out to the Deputy that where any complaint is made, there is often more than just the Member concerned who is a party to that complaint. P.P.C.'s current policy is that hearings are in camera. This is not secrecy, it is confidentiality and considered that that is the fair way to deal with complaints. A complaint may be dismissed and every Member is deemed to be innocent until a breach has been found. A public hearing would allow media and others to speculate about complaints before the investigation process was complete and, indeed, there may be parties involved in the complaint who would not be present at that meeting. P.P.C. has nevertheless initiated a review of the whole investigation process in relation to the code, as I have already stated previously, and the issue of public versus private hearings is one matter that will be considered as part of that review.

[12:45]

**4.10.4 Deputy M. Tadier:**

There are clearly issues that need to be looked at and I am sure P.P.C. are looking at the whole process that takes place but I think I am confused along with other Members. Can I just ask for clarification? Was the Deputy of St. John kept informed at all points of where his complaint was, including the comment that no further action was going to be taken? Was the Deputy of St. John kept informed? If not, then I think he certainly should have been but if he was, then I cannot see why this question is being asked at all, even why it is in order. So some clarification, please.

**The Connétable of St. Mary:**

The procedure is that when a complaint is received - and I say this is before it is investigated and whether it is found to have merit or whatever - it is normal practice to advise the parties involved that there is a complaint on the table and this would have happened when the complaint was originally received. The Member concerned is always then informed that when the committee has reached a decision as to whether the complaint will require investigation and whether it merits investigation, they will be kept updated at that point. Again, as I have said, this happened on 1st June and I am confident the Deputy will have received communication of that result.

**The Bailiff**

A final question, Deputy?

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

Given that the chair seems so confused that she is not aware - and I would ask her to check her records - that the original complaint came via the Chief Minister on behalf of the States Employment Board and the E.P.O., can she please confirm that she is aware that that complaint was changed from the E.P.O. States Employment Board into the name of the Chief Minister and I never received that document. Can she confirm that is exactly what happened on 26th April because I have the document here, which happened on 26th April?

**The Connétable of St. Mary:**

As I say, this is something that falls outside the exact remit of the question but certainly I would need to check what had happened. I am aware that the complaint under investigation remained the same and, as I say, that complaint was looked at on 1st June only by the committee. I would say that the committee was not the first avenue to be investigated in this. Part of the delay involved in this case was the fact that by the time the complaint in whatever form came to P.P.C., the actual media availability of the subject matter was not available to the committee and there had to be some considerable work in gathering together the right information.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

The adjournment is proposed, then, so we will continue with question time after the adjournment at 2.15 p.m.

**LUNCHEON ADJOURNMENT**

[12:48]

[14:16]

**The Bailiff:**

So we continue with oral questions and we come next to a question which the Deputy of St. Martin will ask of the Minister for Home Affairs.

**4.11 The Deputy of St. Martin of the Minister for Home Affairs regarding the employment of the former Senior Investigating Officer by the States of Jersey Police:**

Will the Minister inform Members whether the former senior investigating officer who, on his departure from Jersey, made remarks in relation to the historic abuse investigation which the Minister considered to be inappropriate and unprofessional, is he currently employed by the States of Jersey Police and, if so, in what capacity, on whose authority, and was the Minister informed of the appointment?

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

The person concerned has, since leaving the Island, continued to give some assistance in relation to the tidying-up of loose ends in relation to the historic abuse inquiry. He was paid for a period of 4 days' work in this area during which, among other things, he assisted in the documentation - that is setting out in writing - of certain information in relation to the inquiry. This was authorised by the Acting Chief Officer and is quite a normal occurrence when an officer has been involved with a major investigation, particularly a senior officer, that there will be loose ends to be tidied-up. I was not informed that this was happening and do not consider that there was any need for me to be informed, this being merely the sort of matter that will be dealt with at an operational level by senior officers. If I had been so informed, I would have supported this decision because the importance of the inquiry is paramount.

**4.11.1 The Deputy of St. Martin:**

I do not have a problem with the officer coming back because I agree with the Minister that he has to finish the job there but when an officer comes back, as he did, would it be necessary for them to sign some Official Secrets Act and also then be compliant with any particular code when they do come back after retirement? Would they be required to sign some Official Secrets Act?

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

I do not know the answer to that question. If it is a temporary appointment and they are no longer an officer, I am afraid I do not know the technical answer to that.

**4.11.2 The Deputy of St. Martin:**

Just to finish off, given that the officer did make what the Minister himself considers to be inappropriate and unprofessional comments when he left, was he given suitable words of advice to ensure that when he left this time that he was not going to make unprofessional and inappropriate remarks?

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

That I do not know. I must hasten to mention that my comments were in relation to the professionalism of an officer who went public in the way in which he did. My comments were not in any way or should not in any way be interpreted to mean that I either agree or disagree with his comments. All these matters will come out in the fullness of time. But I would not have expected that there would have been a further process. He was purely coming to finish off aspects of a particularly important job which needed to be finished-off.

**4.11.3 Deputy T.M. Pitman:**

Could the Minister advise whether the former senior investigating officer's brief return is in any way linked to the fact that I am advised that the author of the Metropolitan Police Interim Report is himself under investigation following a complaint lodged in the U.K. Are the 2 in any way linked?

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

I cannot see any link there. I cannot see any link whatsoever and, of course, I do not know who has made a complaint against this person or for what purpose.

**The Bailiff:**

A brief final question, Deputy of St. Martin?

**The Deputy of Grouville:**

Could I ask a supplementary question?

**The Bailiff:**

Yes.

**4.11.4 The Deputy of Grouville:**

Yes, it was in answer to a question that I asked whereby the Minister remarked that the officer's comments were inappropriate and unprofessional yet today are we to understand that he is not making comment one way or another? Surely if a comment is unprofessional and inappropriate, the Minister cannot agree with these comments. It sounds to me as if he wants to remain neutral now. Could he comment?

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

No, I do not agree with that. The comments that I made on that occasion were criticism of an officer who, quite frankly, gave way to the human weakness of being baited for a long time with unfair criticism of him on blog sites and elsewhere and lost his cool, as it were, and decided that he was going to have his say before he left the Island. Now, I do not think that is a professional thing to do but that is no reflection whatsoever. I have commented neither way on the accuracy of what he said. I am perfectly able to hold an opinion that an officer should exercise more self-restraint although I do understand his frustration in this without my in any way criticising the contents of what he said.

**The Bailiff:**

Very well. We will move to the next question, then, which the Deputy of St. John will ask of the Chief Minister. Oh, no he will not, because he is not here. Then we will move to question 13 which Deputy De Sousa will ask of the Minister for Social Security. I should say, I think, to be fair, the Deputy of St. John had sent me a note saying he had been called away on a personal matter which makes it clear why he is not here. Then we come to Deputy De Sousa who will ask a question of the Minister for Social Security.

**4.12 Deputy D.J. De Sousa of the Minister for Social Security regarding the effect of C.S.R. proposals on the most vulnerable in society:**

Following the announcement of the C.S.R. proposals such as those relating to the G.S.T. bonus, the reduction in housing adaptations by 50 per cent and the removal of Christmas bonus to certain groups, what steps, if any, is the Minister taking to ensure that those most vulnerable in our society will not be affected by the C.S.R. cuts?

**Deputy I.J. Gorst (The Minister for Social Security):**

My department's comprehensive spending review proposals have been carefully chosen, as I said earlier this morning in answer to Deputy Southern, to minimise any impact on the most vulnerable in society. For example, the Christmas bonus is currently paid to local pensioners aged over 65 and to low income individuals of all ages with disabilities. These groups will continue to receive their full Christmas bonus which is likely to be just under £100 this year. However, it will no longer be available to other groups, including overseas residents and people who have chosen to retire early.

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

The Minister has only mentioned one of those that I listed. There are several. The 50 per cent adaptations to homes. These are usually for disabled people or people that have had strokes. Why is this included in this cut? Surely this is a vulnerable group.

**Deputy I.J. Gorst:**

Yes, I did only pick up on one of those points because I am aware that I am limited in the amount that I can say in response to an answer. That particular proposal is a reduction in the budget. The previous 5-year spends have been under what I am now proposing the budget will be and therefore I cannot see that it will affect this group. If it were the case that I were cutting the spend, which I am not, the Deputy would have a fair point. What I am doing is realigning the budget to become slightly above what the spend has been on average for the last 5 years.

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

In a recent debate, the Minister agreed with me that it was preposterous that he had £70-odd million sitting in a bank account for Health purposes when the Minister for Health and Social Services, 4 seats away from him, had no money. Has the Minister begun to look at the suggestions which he agreed with at devolving some responsibilities in his own department, particularly in pensions and health issues, to those other Ministries to cut down the size of his Ministry to save money rather than cutting away in these important areas of our most vulnerable in society?

#### **The Bailiff:**

Deputy, that is a perfectly legitimate question but not as a supplementary to the question which was asked.

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

I thought I would try my arm. You spotted it.

#### **Deputy I.J. Gorst:**

I am happy to answer it.

#### **The Bailiff:**

No, I know, I think not. We have other questions which are legitimate. Deputy Southern?

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

Two-pronged, if you like. One following up from Deputy De Sousa's question directly. The housing adaptation budget has not been spent. Does the Minister not consider that that is because he does not actively go out to seek people who need adaptations but do not approach him because they are unaware it is possible. Secondly, will he state on what grounds he believes that people in receipt of survivors allowance, i.e. widows and widowers, somehow do not qualify or should not have a Christmas bonus and why, in particular, 100 per cent long term incapacity allowance- those with a serious disability - do not deserve a Christmas bonus. On what grounds does he justify that?

#### **Deputy I.J. Gorst:**

As I said in answer to Deputy De Sousa, it is simply for the housing adaptations which is the social fund; it is a realignment of the budget. For the last 5 years the spend has been under the budget. I am realigning the budget and therefore I do not believe that actual individuals will stop having any adaptations, because I have not been spending the budget that I have been allocated. It could not be more straightforward. No vulnerable individual should be affected. In relation to the second part with regard to Christmas bonus, yes, for those under 65, what I am proposing is a change to the eligibility criteria, and that will take out some of those who are currently eligible to a Christmas bonus; they will no longer be eligible. That will be people who might have been in receipt of survivors allowance or survivors pension. What we must remember, that receipt of that particular benefit from the Social Security Fund is in relation to someone who has to weigh if they themselves are over 65 and in receipt of pension, they will receive a Christmas bonus. It is a refinement, as it were, of eligibility criteria. Sorry to keep going, but he did ask 3 questions in one. He also referred to 100 per cent L.T.I.A. (Long Term Incapacity Allowance): if an individual is a low-income individual - that is they are on income support - they are in receipt of PC2 or 3, that means they have impairment requirements, even under these redefined eligibility criteria they will still receive a business bonus. So it is not fair for the Deputy to make the accusation that he does.

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

If I may request politely that the Minister answer the question on what grounds were these particular groups chosen? What differentiates them from the rest of recipients of Christmas bonus?

#### **Deputy I.J. Gorst:**



I quite clearly looked through my benefits, as I stated earlier in answer to the Deputy, and tried to look at where I could make savings for those individuals among those benefits which were not means-tested, and perhaps went slightly further than was the initial intention when they were introduced. I must reiterate, 14,000 people will continue to receive a Christmas bonus. Even if we as a States agree with my refined eligibility criteria, everyone over 65 in receipt of a Jersey pension living in Jersey, and those individuals in receipt of income support who are in receipt of PC2 and PC3.

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

The Minister has not fully answered all the questions. We have not even had an answer on G.S.T. bonus yet. The removal of the G.S.T. bonus budget is one.

[14:30]

The people that qualify for this are people that do not pay tax, therefore low earners. Why is this being removed, and how can the Minister say that vulnerable people are not being disadvantaged?

#### **Deputy I.J. Gorst:**

It is quite important that we do understand what the eligibility criteria are for each benefit that I administer. They are currently different. The Deputy is right; G.S.T. bonus is currently payable to those who do not pay income tax, but it is for those who have income above that that they would require in order to fall into income support. So, income support has been up-rated for the effects of G.S.T. twice in the past. It was also up-rated again for the effects of deciding to not zero-rate food in G.S.T. Therefore those individuals have been protected and will continue to be protected in the income support that they receive. They are the most vulnerable. Income support within our society is targeted at the most vulnerable. This is a benefit which is not targeted at the most vulnerable, and therefore it is one that I felt that it was appropriate to look at. What I should also remind Members is that that benefit was introduced under - I have to get this word right - Triennial Regulations, and therefore would be falling away anyway, which is why I have not removed the full budget in 2011. There will be a small amount for individuals who perhaps did not claim at the end of 2010 and will be able to continue to claim in 2011, therefore not hitting the most vulnerable within our society.

#### **4.13 Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding files released to former clients of the Children's Service and former residents of Children's Homes:**

Is the Minister satisfied with the process by which files are released to former clients of the Children's Service and former residents of Children's Homes?

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

There has unfortunately been a delay in providing some former clients of the Children's Service and former residents of Children's Homes with their files. Where files were provided to the police to assist them with the historical abuse investigation, requests were not able to be dealt with as they were received, but my department is working hard to provide these individuals with copies of their files and I am reassured that in the majority of cases individuals will receive copies of their files within the next 2 to 3 months.

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

Could the Minister confirm that she has issued new guidelines to ensure that none of these excessive delays is repeated?

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

I have not issued any new guidelines because the guidelines are very much there, and some of the issues with the files which go to the police do take an awful long time. Also, when the files come back some of those files can be up to 1,500 plus pages long. But I am concerned, and I would like after discussions with the Deputy, that perhaps we can update these clients fairly regularly rather than leave them in the dark.

**4.14 Deputy G.P. Southern of the Minister for Health and Social Services regarding the impact of C.S.R. proposals on the delivery of front-line services:**

Will the Minister explain to Members how the reduction of 5.4 staff in Physiotherapy, Occupational Therapy and Mental Health Services as set out in the C.S.R. proposals will impact on delivery of these front-line services?

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

As we all know, the C.S.R. process has been a very long and difficult one, and the same applies in my department. Wherever possible I have tried to protect front-line services from cuts, but reductions in any area of health spending are difficult. The changes to Physiotherapy Services will mean that the hydrotherapy pool at the hospital will close and treatment will be offered in the gym. Other hydrotherapy facilities do exist in Jersey and we will be exploring how these may be used for patients, one of which is within Health and Social Services itself. Job reduction will be achieved by redeployment and voluntary redundancy in this area. I anticipate that the reduction in Occupational Therapy Service will not have an adverse effect on patient care as we are restructuring the service and the patients will be offered alternative supportive work placements. The 0.5 full-time staff reduction will be managed by retirement of that present post-holder. The Mental Health Service posts are currently vacant and therefore will be lost without impact upon the current service levels or existing staff.

**4.14.1 Deputy G.P. Southern:**

Is the Minister suggesting that somehow overnight hydrotherapy has become a therapy which is not to be used for particular patients, and can she state categorically that this will not be a reduction in front-line services to those in need of it?

**The Deputy of Trinity:**

The hydrotherapy pool, as I said, will be closed but there are other hydrotherapy services provided, one by a charitable sector who has a pool and in fact one within Health and Social Services itself. So it will not just stop overnight as the Deputy thinks it might do. It will be a phased approach and is still to be worked-up.

**4.14.2 Deputy G.P. Southern:**

Is the demand for Mental Health Services under pressure at present, and is one of the reasons for that pressure the absence of 2 posts being filled, and whether or not that results in a redundancy, is it not again a reduction in much needed front-line services? Mental Health is surely under pressure.

**The Deputy of Trinity:**

As I said, at the Mental Health Service, that post has been vacant and has been vacant for quite a while, and it is important that we look at the services that we offer and within existing staff and existing levels.

**4.14.3 Deputy G.P. Southern:**

Supplementary if I may. Will the Minister come to the House with details of the waiting list for Mental Health counselling and C.A.M.H.S. (Child and Adolescent Mental Health Services) in the near future?

**The Deputy of Trinity:**

Regarding C.A.M.H.S. services, as I have said, it is going to be restructured and within its proposal itself there is some investment, right investment, that is there.

**4.14.4 Deputy G.P. Southern:**

Will the Minister come to the House with the waiting lists for these services and state whether she is satisfied or dissatisfied with that length of waiting?

**The Deputy of Trinity:**

If the Deputy could be more specific, because Mental Health Service occurs right across the board from Children's Services to elderly care, and trying to assist him in giving him the answer that he requires, if he could be more specific about the waiting area and the waiting time, I will oblige.

**Deputy G.P. Southern:**

If I may, so as not to return to it again. Right: the waiting list for counselling would be a start. Can the Minister provide that?

**The Deputy of Trinity:**

Yes, I can provide it.

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

Is the Minister aware that there is a possibility of an increase in mental health illnesses and injuries, and does she really consider that because a post is vacant that it is relevant to take that post away in a cut?

**The Deputy of Trinity:**

Mental health is increasing the problems but it depends on which area that we are talking about. I am trying to understand. It is one post which has been vacant for a small area, for about a year, and it is important that we relook at every service and restructure it in a way that it provides the area that is most needed.

**4.14.6 Deputy J.M. Maçon:**

Can the Minister please explain that the one place that has been cut, what is the role, what does it entail, and what area is it providing to? I think that would help with this issue.

**The Deputy of Trinity:**

I think it is a team assistant in incomes and, as I said, that there is some investment in willingness to restructure that so that it is more appropriate to the needs of today.

**4.14.7 Deputy G.P. Southern:**

Is the Minister aware that in these times of recession and job loss, mental health problems go through the roof, and is she anticipating additional demand in these straightened times?

**The Deputy of Trinity:**

Demand is ... the whole service also needs to be looked at. Of course mental health is a big issue with Health and Social Services. It is an important issue and once we have got the data we will look at it as we do with every service within Health and Social Services.

**4.14.8 Deputy G.P. Southern:**

If I may, a supplementary. Once we have the data, is the Minister suggesting that she is making cuts in these particular services without referring to the data and is awaiting data to see what the demand is, because if so, then this is sheer folly?

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

No; this is forward planning.

### **4.15 The Deputy of St. Martin of the Chief Minister regarding the States Employment Board's role in respect of the welfare of suspended States employees:**

In relation to the 3-year suspension of the hospital consultant, will the Chief Minister inform Members of the States Employment Board's role in respect of the welfare of suspended States employees, why it permitted the unprecedented suspension, and given the stress and injustice suffered by the consultant, will the Chief Minister give a full and unequivocal apology to him and tender his resignation?

#### **Senator T.A. Le Sueur (The Chief Minister):**

The States Employment Board does have a welfare role in respect of suspended States employees. Employees who are suspended pending disciplinary investigations and hearings are currently paid throughout the duration of that suspension. The States Employment Board is the dedicated authority for disciplinary matters - the departmental chief officers - and expects them to ensure that contact is made with employees throughout the period of suspension. The States Human Resources Department now has a Suspension Review Panel consisting of a cross-section of public employees, and this panel reviews all suspensions of more than one month's duration on a monthly basis. Suspended employees with representatives are entitled to and do attend panel meetings. The Employment Board receives monthly reports from the panel and gives consideration to these. The length of the hospital consultant's exclusion was indeed very unfortunate and we have all learnt lessons. I was given to understand that the exclusion had been made on the advice of senior medical officers at the hospital on grounds of patient safety rather than contractual employment matters, and I personally find it very difficult as a medically non-qualified person to challenge such grounds. Clearly in the light of the exclusion report, human resource practitioners and the States Employment Board will need to be more prepared in future to make such challenges. This was clearly an exceptional case involving a police investigation, a criminal trial and an independent external investigation. Clear legal advice was received not to commence disciplinary proceedings while the police investigation and court case were in train. But as I say, we have all learnt valuable lessons and I have personally written to the hospital consultant in question apologising for the manner in which his exclusion was handled. Given the exceptional circumstances of this case, I have no intention of resigning.

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

I am grateful that the Minister has made reference to the Review Panel because he was reminding us it was my proposition that came to the States which was opposed by the Council of Ministers, and thank goodness there is common sense of this House that we have now have a Review Panel and I am grateful to fellow Members for supporting the proposition. I put it to the Minister really that the fact is that ... was he aware of the terms of reference which GoodwinHannah had to carry out, and will he explain why the GoodwinHannah Limited, the consultants, did not fulfil its terms of reference in looking as to whether there were any procedural errors or conflicts of interest for the States Employment Board? In other words, why was the role of the States Employment Board not reviewed by GoodwinHannah Limited?

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

The terms of reference of GoodwinHannah were notified to all States Members and are a matter of public record. I believe that they have carried out the terms of reference of their inquiry. The Deputy may not be satisfied with their report, but that is another matter.

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

I am heartened to hear the Chief Minister say lessons have been learnt, but could he confirm that doctors currently excluded from their posts are having their cases dealt with efficiently and effectively to ensure that we do not have a repeat of what has been shown by independent review to be a regrettable case of gross mismanagement?

[14:45]

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

To the best of my knowledge there is only one medical practitioner currently under review. Our procedures have been amended to reflect that and I believe that the doctor in question has now been treated in accordance with the recommendations of the GoodwinHannah report.

**4.15.3 The Deputy of Grouville:**

Did Solace receive any evidence of bullying and harassment of the excluded gynaecologist, and why were so few of the managers responsible for the exclusion interviewed?

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

The consultants were given free range in the terms of reference to ask whatever questions they wanted of whomever they wished or wanted to. I cannot speak as to why they chose certain people or did not ask other people, but they have confirmed that they have received all the information that they required in order to complete their report.

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

I think it may be possible to get this one in. The question asked would the Chief Minister inform the States Employment Board's role in respect of the welfare of suspended employees, and the Chief Minister stood up to give us a long answer on what has happened, what is changing and what will happen in the future in regards to the Employment Board. But what I would like to know is what role do they have once the suspension has ceased, in making sure and ensuring that the welfare of those that have been suspended, and in particular people such as this that have been suspended for an inordinate period of time; what role do they have in making sure and ensuring that the welfare of those that have now been unsuspended is best met, and that they are not continuing to experience hard times, which I am hearing some noises on.

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

If the Deputy has cases where he thinks there may be hard times or poor treatment of people who are no longer ...

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

May I ask the Chief Minister to give way for a second, Sir, and I maybe elucidate ... no, that is the wrong word: elaborate a little? In particular to the suspension of the employee that was suspended for 3 years and went back to the hospital whose name shall remain ... I understand that that employee and another employee are having difficulties even though suspensions have ceased or are being looked into. What role does the States Employment Board have in ensuring that once suspensions have finished that those employees have returned to a workplace that is workable for them?

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

That is a key matter of policy for the States Employment Board that staff who are cleared and no longer suspended should be entitled to and expected to go back to work as if nothing else had happened. That is the matter which is the duty of management to deliver within the policy set out by the States Employment Board. If there is evidence that the management is not adhering to those policies then I should like to know about it.

**4.15.5 Senator J.L. Perchard:**

Will the Chief Minister agree with me that one of the problems, certainly in the case of this suspended consultant, was that the advice being given to the States Employment Board came from the same legal advisers that of course are representing not only the States but the judicial process against any ... in case there was any criminality or legal case against that very same person. Does the Chief Minister agree that it does put Crown Officers and legal advisers in a difficult position when they represent the States and they represent a judicial process, and is that one of the reasons why this gentleman was suspended for an unacceptably long period of time?

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

Certainly I agree that the legal advice which the States Employment Board receives, we seek from the Law Officers' Department. It is the Attorney General, a member of that department, who is responsible for deciding on prosecutions and to that extent the Law Officers' Department has to fulfil various roles. I am satisfied that there are procedures within the Law Officers' Department to ensure that there is sufficient segregation of duties to minimise any conflict between those 2, or sometimes more than 2, roles which they have to play, but that is an inevitable part of the system. I am not able to comment on whether that made a position more difficult or otherwise, other than to say that I have every confidence in the Law Officers' Department.

**4.15.6 Senator J.L. Perchard:**

If I may give a supplementary, I am not suggesting that for any moment that I do not have confidence in the Law Officers' Department; far from it. But why does then the Chief Minister not ... can the Chief Minister explain why we do not see these type of lengthy suspensions in the private sector when there are 2 distinct lines of political advice being given, one about the judicial process through the Law Officers' Department and another from private sector lawyers? Why do we not see that in the private sector? Why is it only the States ... the public sector that seems to be able to come up with 3-year suspension?

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

I cannot be categorical about every situation. I suggest, and it is pure surmise, that in many cases the private sector will take a commercial view and simply terminate a person's employment, rightly or wrongly, and even face claim for unfair dismissal. That is the commercial decision which the private sector may well choose to take, and I cannot comment on whether that is an appropriate decision for them to do so. For my sake, as a person responsible for the employment of public sector staff, I believe they were right to be treated as innocent until proved otherwise, and therefore that is why they remained employed on full pay. I accept that I would like to see a far swifter end to the investigations which take place in the prosecution which may or may not subsequently happen. But that is a matter outside my control. It is a matter primarily of the police investigation, because these all relate to police investigatory matters, and the subsequent Law Officer's analysis of the outcomes of that investigation.

**4.15.7 Senator S.C. Ferguson:**

What evidence has the Chief Minister and, through him, the S.E.B. and the Suspension Review Panel got to support the fact that the submissions by the department during and after the suspension are accurate?

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

One starts, I think, from a presumption of honesty, openness and full disclosure. One can use one's common sense to see whether the reported outcomes would appear reasonable, realistic and rational, but one cannot, I think, try to second-guess every decision made by every officer when there are procedures being laid out. Officers know and officers are accountable if policies are not properly carried out, and I believe that officers and accounting officers will do all in their power to ensure that policies are properly adhered to; and so that is as far as I can go in giving that reassurance.

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

Supplementary. Has the Chief Minister and the Review Panel spoken to the consultant who was suspended for 3 years in a formal Review Panel setting?

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

Since the outcome of this particular situation, although I have written to the consultant concerned, I have had no personal contact with him whatsoever, nor will I particularly expect that to happen. I would expect that to happen from management staff at the hospital, and I understand that that has and is an ongoing discussion.

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

I would remind the Chief Minister that had he read the Verita report it was quite clear that after the Prince review it was suggested that the consultant could have gone back to work, I think it was, in February 2007. So in other words it is 2 years unnecessary suspension. I am very disappointed, in fact I am appalled, that the Chief Minister cannot issue a public apology, and I think the fact that the Minister for Health and Social Services also cannot give a public apology I think is most disappointing. In fact I think appalled. Could I ask the Chief Minister, he says now he has written a letter of apology? Could I ask when that letter was written, and was it written after my question was lodged?

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

The letter was written by me after the outcome of the GoodwinHannah report was published, 2 weeks ago.

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

Before my question was lodged?

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

It was drafted before the question was lodged. It was signed-off by me after the question had been lodged.

### **5. Questions to Ministers without notice - The Minister for Economic Development**

#### **The Bailiff:**

Very well. That concludes question time, and we now come to questions to Ministers without notice. The first period is to the Minister for Economic Development

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

Has the Minister given up on the idea of diversification of the economy since he has removed a third of a million pounds from grants to tourism, £100,000 or thereabouts from area grants and area payments to agriculture, while boosting additional support to J.F.L., and will the Minister state how much extra money is going to Jersey Finance Limited?

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

No, I have not given up on diversification at all, and what the Deputy fails to mention is that we have also increased funding for Jersey Enterprise, which is a key function in terms of delivering support and the ability for businesses locally to diversify within the economy. That is what I call an important move, additional funding for Jersey Finance is absolutely right at the moment to ensure that we can maintain our vitally important finance industry, to ensure that we can maintain jobs and build for the recovery which will no doubt come.

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

Why do identical arguments not apply to tourism which is seeing its budgets or support cut by a third of a million pounds?

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

We do continue to support tourism in many different ways. We have a limited budget however, and we have to ensure that where we put our budget is in the most productive fashion that we can. Now to be fair to the Deputy, he raises the issue about tourism and suggests that because we are cutting the headline figure we were not supporting them. That is not the case at all. Some of the money that has been taken from tourism, put into Jersey Enterprise, is to help local businesses be more effective, more productive within the tourism sector.

**5.2 Deputy T.M. Pitman:**

Really to follow on from my colleague to the centre left, sorry to do that. Contrary to the suggestion of the Minister for Treasury and Resources earlier today, rather than advocating throwing money at problems, like many other Members, I believe that in increasingly uncertain times when jurisdictions are relying all too heavily on a single finance industry, we should be taking a long-term view and investing to invigorate our tourism industry. Yet his fiscal stimulus figures given reveal ...

**The Bailiff:**

Is this a question, please?

**Deputy T.M. Pitman:**

Yes ... what can only be called tokenistic support from his department; does the Minister see any value in tourism having a separate Minister to fight its corner and ensure the support necessary to grow rather than wither and die, which will surely happen under his stewardship?

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

I am not sure if there was a question in there? Is he asking me if I am supportive of tourism? The answer is yes. Indeed we have made an application to the Treasury for stimulus funding on the back of, in particular, the volcanic ash incident which has obviously hit the tourism industry and various strikes such as the British Airways strike, which has also had an impact. We work closely with the industry. We have set up a Tourism Marketing Panel which includes a wide and diverse professional range of individuals to support the marketing of tourism. It is an important industry and it has my 100 per cent support.

**5.2.1 Deputy T.M. Pitman:**

To be fair the question was long, but it was in English. Does the Minister see any benefit in having a separate Tourism Minister who would fight this far better than he is?

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

I object to that. I disagree that I am not supporting the tourism sector. As I have already said, I support tourism 100 per cent and will continue to work closely with the industry to ensure that it has the support that it deserves and needs.

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

In the light of what the Minister has just said, from 2007 to 2009 - in those 3 years - the overall budget for tourism has gone up £1.5 million, down £800,000 and down £1.7 million in 3 successive years. Can the Minister explain his words of support for the industry in the light of these massive cuts?

[15:00]



I would say that the figures for the last 2 years include money given for special ... the Child Abuse inquiry and the economic downturn. So it would have been £1.5 million up, £1.5 million down, £2.5 million down. That is the extent of the cuts. Please can the Minister explain how he can say he supports the industry?

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

The Deputy of St. Mary and some of the Members are confusing headline spend with productivity and effectiveness in terms of the support that we deliver to the tourism industry. The Deputy of St. Mary is also overlooking the fact in 2009 in recognition of the difficult economic climate that the Island was facing; we managed to inject a further £850,000 into tourism. Part of that, £50,000, was very welcome and it came from the Jersey Hospitality Association. What that demonstrated for the first time was that both my department and the industry are working closer and closer. That is the way we are going to support tourism, by working closely with them to ensure that we target our spend in the most effective way possible; and in fact, if the Deputy and others look closely at the statistics, what we can see is that the Island has been performing quite well in comparison to many other destinations. I am not satisfied with quite well; I am satisfied with very well, and we have to continue to work hard in partnership with the industry.

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

May I ask a related question? The last line of the C.S.R. cuts under Economic Development is “terminate employment of a U.K. representative, £44,000.” Would the Minister explain to the House what that means?

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

Yes. A representative is employed in the U.K. that delivers services, but that post is one that was proving to be less and less productive in terms of outcome, and it was identified as an obvious case of stopping that particular service. I think the point that I am making, and it is demonstrated in that particular area, is that what money and funds we have, we have to ensure we get a maximum return possible for.

**The Deputy of St. Mary:**

Would the Minister clarify which service? He has not said which service.

**The Bailiff:**

No, no. Deputy, please do not continue speaking when I am speaking. You have asked your questions; you have had your time. Other Members wish to ask and you have to take your turn.

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

As much as I am aware for the need to make savings, the removal of the lifeguard service at Havre des Pas pool, which is a front-line service, for reasons of health and safety is surely a step too far. Does the Minister not agree?

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

I understand the difficulty with regard to the lifeguard service. There is however a difference here. The service at Havre des Pas is Education, Sport and Culture, not Economic Development.

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

I can help the Minister make some savings. Given that the Director of the J.C.R.A. (Jersey Competition Regulatory Authority) has announced his resignation, is this not an ideal time to close down the department with a saving of around £400,000 a year [**Approbation**], and if not why not?

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

I am afraid I missed the end of the question. There was some banging of feet to my left. But to answer the first part of the question, no, I do not.

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

Second part of the question was if not why not?

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

Because the J.C.R.A. fulfil a valuable service within the Island. Since they have been in the post I think there is no question that we have a more competitive economy, we have seen better value for consumers, we have seen downward price pressure in a number of areas, Telecom being one in particular. I think they have a valuable role both from a competition and a regulatory standpoint, and they have my full support.

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

Telecom in particular - perhaps the Minister could tell us in round figures, although this is questions without notice, how much money we have got as a result of selling the licences to Telecom's competitors.

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

The value in terms of the J.C.R.A. and the telecoms market and the liberalisation of the telecoms market in bringing in new operators has been to the consumer largely. Consumers have greater choice, consumers have lower prices. In that respect I think it is positive. We should also bear in mind, and this is an important point, that as far as employment is concerned there are more people employed in the telecoms sector now than there was previously. There has just been redistribution in that regard. With regard to the Deputy's question on the exact figure, I do not have the figure but I am more than happy to supply him with it.

**5.5 Connétable K.P. Vibert of St. Ouen:**

Would the Minister agree with me that the recent 2010 Tour de Bretagne event in Jersey was not only a great success as far as Islanders were concerned, but a very positive promotion of the Island across the whole of France through the use of the French T.V. (television) sports channels?  
**[Approbation]**

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

Yes, I would agree with the Constable. Not only would I agree with him, I would thank him for his considerable input into the event. The event was hugely successful. I think it developed great relationships with the region of Brittany. We were honoured to have the President of Brittany in the Island, and he is going to return towards the end of the year to develop closer economic, educational and other links. He sees great benefit, and I think all round it demonstrates how sport can feed into many other areas of society. So it was a great success, and I thank the Constable.

**5.6 Senator S.C. Ferguson:**

When Members have had a look at their annex to the Accounts, Appendix 2 on page 179 is a very useful list of all grant monies paid by the States. However, under the Economic Development Sector there is the Tourism Development Fund, and I wonder if the Minister could explain why the biggest beneficiary, something like £260,000 out of the £416,000 allocated, is to the Tourism Department?

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

Well, I think indeed one can see, and Members can see perhaps, how the Tourism Development Fund, although the fund is now quite low, has been used to substitute funding for tourism. We have an issue with regard to the Tourism Development Fund insofar as it is to provide funding for largely or effectively non-profit making organisations as such. I am keen to come to the House as

soon as is possible to open up a remit for the Tourism Development Fund to allow private sector investment; to do that we will be able to leverage far greater benefits for the tourism sector. The Senator asks specifically why the funding was put towards the Tourism Department. Well, because the Tourism Department came forward with projects that met the criteria of the Tourism Development Fund, and enhanced and benefited the tourism industry.

**5.6.1 Senator S.C. Ferguson:**

But does the Minister not realise that it is really a bit like moving it from one government pocket to another government pocket? Is this really the way we should be using taxpayers' money?

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

If the funding is going to the appropriate end recipient, in other words the support of the tourism industry which is what the T.D.F. (Tourism Development Fund) was set up for, then I think it is absolutely right and proper. However I am not satisfied with the criteria and restrictions, if you like, that the Tourism Development Fund currently has. It needs more funding. I am working to try and see if we can get more funding into it and open it up by bringing a proposition to this House for Members to vote on. I think that is a positive way forward for the Tourism Development Fund.

**5.7 Senator B.E. Shenton:**

In the Annual Report the Rural Sector of Policy and Regulation had a Business Plan budget of £290,000, yet in 2009 managed to spend £466,000, which was £175,000 over budget, which is well over 60 per cent over budget. Could the Minister explain why?

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

I cannot explain why but I am more than happy to get back to the Senator with the detail and exact breakdown.

**5.7.1 Senator B.E. Shenton:**

Does the Minister know how money is spent within his department?

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

Yes, but if the Senator wants detail I think it is appropriate I should get back to him on a separate occasion.

**5.8 Senator J.L. Perchard:**

The Jersey Hospitality Association held a presentation recently to which the Minister and many Members attended. At this presentation, the Association spoke enthusiastically about the proposal to establish a public-private partnership to advertise, promote and administer the tourism industry. Will the Minister, as he did on that occasion, offer his support for the plan to establish a public-private partnership and explain to Members how he intends to advance this good cause?

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

Yes, I can confirm to the Senator as he is aware, that I am supportive of the concept of moving to a P.P.P. (Private-Public Partnership), as indeed I said at the time, and I should record that both my department and the industry have worked very closely together on these particular proposals for a number of years. We are, however, in a different economic climate at the moment, and therefore discussions are ongoing with the industry as to the exact timing of this particular proposal coming forward. But the principle behind it I am fully supportive of and, in fact, we are in fact moving within the department to introduce a number of the benefits that would come ultimately from formal P.P.P. One of those is the introduction of a Tourism Marketing Panel which has already been put in place in recent months.

**5.8.1 Senator J.L. Perchard:**

I feel bound to ask a supplementary of the Minister. The industry representatives at that presentation were extremely enthusiastic about the possibility of forming a P.P.P. with Economic Development to promote and advertise tourism. From their end any hold up is from Economic Development's end. Will the Minister please explain why he cannot fast-track this plan? The industry is very enthusiastic. Is the Minister not really enthusiastic?

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

What the Senator is saying I am afraid is incorrect. We are working closely and collaboratively with the industry to progress a P.P.P. and in fact any delays are in full agreement of the industry themselves. We are having ongoing discussions with them and I think the position is positive and it is right that we should work collaboratively with the industry in order to bring forward these proposals, which I do support, for the avoidance of any doubt.

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

**The Bailiff:**

Very well. That brings questions to the Minister for Economic Development to an end, although I know there are a number of other Members who wanted to ask questions. We come to the second period, which is to the Minister for Treasury and Resources.

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

Will the Minister for Treasury and Resources update Members as to the position of the E.U. (European Union) code of conduct in looking at Zero/Ten? I understand Guernsey has got off of the investigation that is likely to be coming our way in the autumn and it is going the Isle of Man's way as well, given that we were assured that it was acceptable.

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

Yes, I can confirm that an assessment of Zero/Ten has been signalled by the code group. This is not unexpected. The Isle of Man and Jersey are both to be assessed. Guernsey is not, following their statements that they would be moving to a normalised 10 per cent corporate tax rate. I think that I can say that we look forward to this assessment. We will, of course, be making our own recommendations. We want to understand what the concern is with Zero/Ten. We believe that Zero/Ten complies with the code and I should also say that there is nothing new in this particular development, which happened last week. We, I think, had expected there to be a review, and, as far as our position on Zero/Ten is concerned, the position continues to be that we are not ruling anything in or out about the future of Zero/Ten. We are open to change Zero/Ten but we need to understand the issues concerning Zero/Ten. Jersey will demand a level playing field. While we accept that there are some disadvantages with Zero/Ten, we remain of the view that Zero/Ten - not knowing anything else or any other developments - we think that Zero/Ten remains the right option for Jersey but we want to hear exactly what the opposition for Zero/Ten is and we will be making representations. I will also be publishing on 21st June a series of option papers of potential alternatives to Zero/Ten in order to get public and industry feedback.

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

Does the Minister agree that the debate we are having as we go along on the C.S.R. by asking questions here, there and everywhere of different Ministers, is totally unsatisfactory, and will the Minister, via the Council of Ministers, allow for a proper debate before the recess of the C.S.R. before all this is set in stone and there is really nothing left to debate?

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

There are many discussions to be had on the Comprehensive Spending Review in the following weeks and months. Certainly, I have described the first step last week of announcing the proposals

from individual Ministers. I would remind the Deputy that it is this Assembly that will make decisions about the C.S.R. in the Business Plan debate. We have published, I think, in almost quite unprecedented transparency, exactly what individual proposals are, to get feedback from Scrutiny, to get feedback from the public in order that the Council of Ministers can make final decisions.

[15:15]

I will say that nothing has given me any reason to doubt the need to deliver the savings over the 3-year period, 2 per cent next year, 3 per cent the year after and 5 per cent the year after that.

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

May I ask a supplementary after that? In April we were promised the names, even, just of reviewers who would do the in-depth reviews which would look at the deep issues. We were also promised in April the tax proposals, to be published in May. We do not have either. Yet we are discussing cuts in an apparent vacuum. I do ask again the Minister: how can we discuss these things and get to grips with these serious issues in this manner?

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

Ultimately the cuts will be a matter for this Assembly. We have weeks of work, we have detailed examination of cuts to make in the next few weeks. I will say that I in the last week have been confirming with the individuals that have come forward and offered their services leading the review to the 4 major reviews and I am hopeful to be in a position next week of announcing exactly who will be chairing those reviews, the Ministers who are involved in the terms of reference, *et cetera*. They are going to be vital to doing a line-by-line analysis of all of the individual services. We need a constructive debate, a positive debate about how we change our public services and meeting our expenditure with available resources. The tax proposals: I can confirm that the F.S.R. (Fiscal Strategy Review) on fiscal strategy is being published on 21st June. That has been delayed because of the Senatorial election. It would be inappropriate for a major public initiative in relation to tax to be published in the middle of a Senatorial election. It will be published on 21st June; that is the business tax review and the personal tax review.

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

Would the Minister please advise when he is going to go public with the fiscal strategy review, how much he wants to raise and whether he can indicate what the options might be?

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

I think I answered the first part of that question in the previous one. The fiscal strategy review will put forward options - and I hesitate to say they are "options" - to raise between £50 million and £60 million within a 2 to 3-year period. We want the community's, we want businesses' reaction to what if we did raise different forms of taxation? We have worked on 4 different options. I do not think it is entirely appropriate for me to say what those options are because that is going to be announced on 21st June. There will be a detailed paper examining all the different options for taxes also published. There will be 2 documents, a thick document and a slim-line version of the proposals, and we look forward to getting feedback on the detail of those proposals. The community has to recognise that we are dealing with a situation... that we have to deliver cuts as well as tax increases in order to safeguard and fund public services in the future.

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

Would that include a higher rate of tax?

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

The Deputy is pressing me. I can say that under consideration are all revenue-raisers of the States of Jersey, looking at the way Social Security works, of course looking at G.S.T and, yes, income tax and property taxes, and, yes, a higher rate of tax - not something that I agree with, I have to

say - but certainly all options of tax should be consulted upon and feedback from the community and competitiveness of Jersey, *et cetera*. But Members are going to have to wait for the detail until 21st June.

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

I know the Minister does not like Deputy Jeune pressing him but if I could pump him a little harder. Progressive taxation: could he at least indicate how much he is willing to commit to that as a likely reality, a necessity? Could he also explain the logic of why these proposals should be put on hold just because there is an election because, I am sorry, I just do not really understand that reasoning?

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

Certainly, I want genuine feedback from the community in relation to potential tax changes and we will be engaging in Parish meetings, we will be engaging in a widespread consultation, genuinely to listen to the community and businesses' reaction to 'what ifs' in relation to tax. I think there is a view in this Assembly that progressive tax should be an important component of the future fiscal strategy of the Island. I agree with that but I am very concerned that we remain competitive as an Island and we do need to look at the effect of changing tax rates in terms of our competitiveness in the longer term. We are in a global market in terms of the ability of finance industries and others to move and I am determined to maintain that competitive position. But I am also committed to having a fair taxation system. There will be many debates in the next few months about exactly how we achieve that.

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

Can we assume, with the good start made in publishing salaries, that this will be continued in terms of contract details and benefit details? Can we further assume that this represents the Minister's first commitment and continuing commitment to bringing in freedom of information legislation?

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

The Chief Minister was asked earlier whether or not he agreed with the recent U.K. announcements in relation to publishing of C.O.I.N.s, which is putting into the public domain a massive amount of information: local councils - up to £500 for each additional spend. I think that the more information that is out into the public domain about how taxpayers' money is spent, the better. In that regard, that means that everybody thinking about spending money in the public sector needs to think: what if that ended up on the front page of the *J.E.P.* test, which is a useful test. There is fierce scrutiny of public expenditure in Jersey. I will be looking at what the U.K. disclosures have been and to see whether or not we can put more information in. As far as that sort of freedom of information, I am absolutely committed to it. I cannot really comment on the other issues as I am not really briefed on them. As far as salaries are concerned, the previous Minister for Treasury and Resources committed - against the standards of financial reporting - to publish higher salaries, and that is what has been done. It is a result of his decision that was made some 18 months ago.

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

Could the Minister, given his deep knowledge, now confirm that he is in total support of an extension of freedom of information and will be pushing for that with all his considerable energies?

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

I agree with freedom of information. I am always worried about the cost of it and as far as financial information, the more information that there is out in the public domain about what the States of Jersey spends, the high level of public scrutiny ... I dare to say that the U.K. is following Jersey's example, but much of what I have been seeing about scrutiny by the new coalition government, about spending, putting information in the public domain, we have already been doing. But where we can do more I am committed to do so.

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

Assuming that P.73/2010 - the most recent proposition for the formation of the Jersey Development Company - is approved by the States, will the Minister confirm that it would be him or his successor who will be ultimately responsible for and can be held directly accountable for the levels of remuneration paid to the executive and non-executive members of the board of the Jersey Development Company?

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

I think that this may not be well known but as far as the discharging of the shareholder function of wholly-owned entities which are under the direction of the Treasury, we already, at the annual general meeting, sign-off on the remuneration of all executives, of all non-executive and directors. That is a procedure which will be mirrored for W.E.B. (Waterfront Enterprise Board) and indeed the new proposition for S.o.J.D.C. (States of Jersey Development Company), which strengthens the old W.E.B., puts in a huge amount of changes, will require remuneration for all the board of directors to be approved at the A.G.M. (Annual General Meeting).

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

The position at W.E.B. is not as described by the Minister and he knows it. Will he confirm that he, as the Minister for Treasury and Resources, or his successor, will be ultimately responsible for the levels of remuneration paid to the executives of the Jersey Property Company, should the States adopt P.73/2010?

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

It is quite correct to say that W.E.B. do not currently operate under the guidelines of the other owned entities run by Treasury. If it comes to Treasury and it is within the report and proposition, as I believe the Mem. and Arts. (Memorandum and Articles of Association) are also being amended to reflect that, it will also be in the Memorandum of Understanding between the Treasury and the company. Yes, they will be signed-off. Does that mean that we will be accountable for them to the extent that an approval at the A.G.M. is accountability? Then, yes. But it will be up to the board to recommend remuneration within appropriate structure of a remuneration committee.

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

Economists recommend an 80:20 ratio of public expenditure cuts to tax increases, following the Canadian and Swedish models. Has the Minister consulted the F.P.P. (Fiscal Policy Panel) on this and what ratio has he got in mind?

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

I am working on the basis that this year we need to find, effectively, between £80 million and £100 million worth of revenue to deal with the structural deficit of £50 million and what I expect to be necessary investment in services, particularly in health, in the future. So I am working on the basis of needing to find a total of £80 million to £100 million. I have said, and I have just said in an answer to Deputy Pitman, that the fiscal strategy review will put forward suggestions of raising around £50 million to £60 million in terms of tax, I hope that is not going to be necessary but that is what I am working on in order to inform this Assembly to deal with all of our public finance issues, which are small compared to various other places. We do not have the hangover of debt but we have got a track record of predicting issues and dealing with them before they happen and being honest with the public about it. I will consult the F.P.P. on that balance and I look forward to their comments on it.

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

Is the Minister ...

### **The Bailiff:**

I am sorry, Senator. I know that you and others wish to ask questions still but it appears the time has still run out. Very well. Before we move on to other matters, there are 3 lodgings I should inform Members of. The first one is Projet 75 - Jersey Heritage Trust: service level agreement and funding requirements - lodged by the Minister for Education, Sport and Culture. I think that is on Members' desks. The other 2 are in the pigeonholes: Projet 76 - Vote of No Confidence: Chief Minister - lodged by Deputy Southern; and Projet 77 - Draft Income Support (Amendment No. 5) (Jersey) Regulations - lodged by the Minister for Social Security. There are no matters under "J" or "K" so we come to Public Business.

## **PUBLIC BUSINESS**

### **7. Ratification of a Double Taxation Agreement between the States of Jersey and the Government of Malta (P.50/2010)**

#### **The Bailiff:**

The first matter, Projet 25, has been deferred by the Minister for Planning and Environment. We therefore come to Projet 50 - Ratification of a Double Taxation Agreement between the States of Jersey and the Government of Malta - lodged by the Chief Minister. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion to ratify the Double Taxation Agreement between the States of Jersey and the Government of Malta, as set out in Appendix 1 to the report of the Chief Minister, dated 14th April 2010.

#### **7.1 Senator T.A. Le Sueur (The Chief Minister):**

Over the past 18 months I have come to this House on several occasions to present draft taxation information exchange agreements with various countries around the world in pursuance of our objective of becoming better international players. Those tax information exchange agreements have been brought forward because it was often quicker and simpler and more acceptable to countries to take that route rather than the alternative route of a double taxation agreement. However, a double taxation agreement remains very much an objective that we have and one which we would like to use whenever possible. I am pleased to say that this **[Interruption]** marks the first of a series of double taxation agreements in modern form which we hope we will be able to continue with very many more countries. Malta has several things in common with the Island. It has some differences, of course. Malta is a member of the E.U. and it is good that an E.U. State is taking the lead in having a double taxation agreement with us. Between taxation agreements and double tax agreements we strengthen our reputation, our position in international matters. I am very pleased that I was able earlier this year to visit the Maltese High Commission in London and to discuss with the Commissioner and ultimately sign this double taxation agreement on behalf of the Island. With it, it brings to a total of, I think, 15 or 16 arrangements that we have, and there are further arrangements in the pipeline, both the D.T.A.s (Double Taxation Agreement) and with T.I.E.A.s (Tax Information Exchange Agreements).

[15:30]

The fact we may have achieved our dozen or so that was first target, does not mean we stop here. We very much want to proceed and have further agreements with all the countries with whom we might have relationships. On that basis I am happy to propose the principles of the ratification of a double taxation agreement between the Island and Malta.

#### **The Bailiff:**

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



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

The principles of a double taxation agreement, which is what we are debating, are that jurisdictions such as Malta, a member of the European Union and Jersey, adopt a more responsible approach in terms of their business in the modern world. I am just wondering what, if any, reflection will the E.U. Code of Conduct have in relation to what we are doing when they come to investigate Zero/Ten, that we were told implicitly by the Chief Minister was compliant, when we are now being told this afternoon by the Minister for Treasury and Resources that it is on the rocks.

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

If I may just respond to ... it is not directly related to this proposition but for the avoidance of doubt, let me just say to Deputy Le Claire ...

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

I was being mischievous.

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

... that Zero/Ten is compliant. We look forward to the adjudication and to confirmation that it is.

### **The Bailiff:**

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

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

I thank Deputy Le Claire for his comments. Certainly it is evidence of a responsible attitude on behalf of the Island and on behalf of Malta. I do not think it should be taken in the converse that T.I.E.A. has suggested an irresponsible attitude. Whichever way we go about it, we are anxious to demonstrate that we are responsible, we are well regulated and well governed. I thank Members for their support and I maintain the proposition.

### **The Bailiff:**

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

## **8. Draft Taxation (Double Taxation) (Jersey) Regulations 201- (P.51/2010)**

### **The Bailiff:**

We come then to Draft Taxation (Double Taxation) (Jersey) Regulations - Projet 51 - lodged by the Chief Minister. I will ask the Greffier to read the citation.

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

Draft Taxation (Double Taxation) (Jersey) Regulations 201-. The States, in pursuance of Article 2(1) of the Taxation (Implementation) (Jersey) Law 2004 and following the decision of the States, taken on the day these Regulations were made, to adopt P.50/2010, have made the following Regulations.

### **The Bailiff:**

I call upon the Chief Minister to propose the principles.

### **8.1 Senator T.A. Le Sueur (The Chief Minister):**

Yes. While we have in place Regulations in respect of taxation information exchange agreements, we do not have a similar structure in place in respect of double taxation agreements, of which the Maltese one we have just approved is the first. These Regulations set out to remedy that deficiency and provide a standard framework for both the Maltese and all subsequent D.T.A.s that we may

want to enter into. So the Regulations are very much in generic form, applying to any country or any territory with whom we enter into such an agreement. The important part of the Regulations are therefore probably contained in the schedules, where there are reference to the specific agreements with individual countries, and, as I said, the first of those is with Malta. But this is a general principle for Regulations that we need to adopt in order to implement any D.T.A.s which we subsequently enter into. I maintain the principles of the Regulations.

**The Bailiff:**

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

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

Here I am again. A little bit mischievous today, I am afraid. But I do think it is important. Senator Ozouf quite rightly stood up, as a good Minister for Treasury and Resources should do, and I commend him for that, to put into the correct context what I was being a bit mischievous over. But nevertheless, while I do congratulate the Chief Minister on these moves, I would still like to get back to the point that I would like to see - I am sure other Members would like to see - the actual paper that says Zero/Ten is okay from the E.U. because it is my understanding Guernsey is not going to have the review because they have agreed to pull their Zero/Ten, and Jersey and the Isle of Man are going to have their review. So while we get into these agreements, it is all very well signing these documents, moving new tax structures into place, but where is the evidence that supports that these moves are going to be E.U. compliant or O.E.C.D. (Organisation for Economic Co-operation and Development) compliant, if we need those? So in general obviously we support these things. They are very much no-brainers because they come forwards as they should. But I am very worried this afternoon that we are being told ... and I am predicting Zero/Ten is on the rocks. So where is the written evidence that it was ever okay, and, when these things come before us in the future, I have asked before: where is the written evidence that these kinds of legislative pieces of work that come before us for agreement, where is the evidence that they stand the test? Because constant reviews of this jurisdiction are not beneficial to the Island and nor is it beneficial for the Island for me to stand up and have to keep saying these things.

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

If I may just respond to Deputy Le Claire. He says that Zero/Ten is on the rocks. There are questions concerning Zero/Ten and we recognise in Jersey that we live in a changing world where there is a changing international climate and we will respond to that, as we have always done. I am very confident that we are going to find solutions. Malta, which is the subject of this debate, is an interesting entity. They have an interesting tax system which we are going to be obviously now agreeing a double tax arrangement with. They achieve tax neutrality in a different way than we do. We have been examining the Maltese tax system. It is something that we have been looking at with Gibraltar, Hong Kong and other places that have important financial services, and Malta is a good example of a nation within the E.U. that achieves tax neutrality by a different way. That is what we have been working very hard at in order to look at potential options for the change around Zero/Ten. We should not be in any way negative about looking at options. There are disadvantages in relation to Zero/Ten which we all do not like: taxing of foreign companies in Jersey, *et cetera*. If we can find solutions which meet the requirement to continue good quality international financial services with a different tax system, then we should be open to do so.

**8.1.3 Deputy R.G. Le Hérissier:**

I wonder if the Chief Minister could say whether progress has been made with double taxation in regard to 2 countries I have often been asked about: Canada and France?

**8.1.4 Deputy M. Tadier:**

I would also like to speak to Deputy Le Claire's comments. I think that in spite of the very smooth response we got from the Minister for Treasury and Resources, Deputy Le Claire has really hit the

nail on the head. We know that Zero/Ten definitely is not sustainable. It never was within the keeping of the spirit of the law. Basically the problem is, of course, that it goes against any kind of natural justice. It is a scam. We know that it was a scam before. You have companies here effectively paying no tax. The Zero/Ten was an intricate way to try and get round that. We were told in the past it would not be acceptable to Europe and that is exactly what is happening now. So Deputy Le Claire is quite right to raise this. It is basically also the opposition will not simply come from Europe. The opposition is now coming from within the Island because people realise that it is unacceptable that companies who are based in Jersey trading or otherwise but who make money from their very presence in Jersey, it is only right and just that they should pay some form of ground rent in Jersey, be it in the form of an actual tax or some kind of other contribution. I am also disturbed when I hear the talk of euphemisms like “tax neutrality”. It is somewhat reminiscent of a Bond baddy, is it not, when we say: “We want you to neutralise this person” indicates something a lot more sinister. So let us sometimes dig beneath the rhetoric and realise this is unacceptable. It is unacceptable to Europe but it is unacceptable to anybody who has got a conscience, and I believe it is unacceptable to our own people in Jersey. So let us shelve Zero/Ten and let us just move on.

**The Bailiff:**

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

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

I can see this drifting into a debate on corporate taxation and options, which will be, of course, the subject of a consultation paper shortly coming out from the Treasury. But the Minister for Treasury and Resources makes an important point, without wishing to say too much, in terms of the whole ethos of double taxation agreements, and that is very much of tax neutrality. Tax neutrality is not a new concept. It is a concept which is in existence and has been in existence for a long, long time, and is one which is adopted by most countries throughout the world in some form or another. In most cases tax neutrality is achieved by means of double taxation agreements, whereby if you pay tax in one jurisdiction you do not suffer tax subsequently on the same income in a second jurisdiction. That principle of tax neutrality can be achieved in different ways and the zero per cent way is one way of doing that, where you do not have double taxation agreements. But, as I say, there are different ways, and those ways can be considered in due course. What the D.T.A. does is give us, firstly, another weapon in that armoury, and, secondly, it gives us the added weight of a responsible international community able to enter into such agreements with other responsible international communities. So, irrespective of any arguments about Zero/Ten or tax neutrality, I welcome the fact that we are able to enter into double taxation agreements and I hope this will be the first of many more to come. I think Deputy Le Hérissier asks about progress with potential D.T.A.s with France and another country whose name I did not catch? Canada. Well, France, of course, we have taken the alternative with taxation and information exchange agreements because the French prefer to go that way. Basically, although I prefer D.T.A.s, I am happier that we at least have some form of agreement between all the countries with whom we do business, particularly those in the E.U. Canada is a particular concern. All of the documentation in respect of Canada and the T.I.E.A. with Canada have been available now for a couple of years. There are procedural difficulties because, as the Deputy may be aware, Canada is one country made up of several states, not all of which think exactly alike, and that is perhaps inhibiting the conclusion of those documents. But that is outside the scope of these particular Regulations, which I have now formally proposed.

**The Bailiff:**

Very well. All those in favour of adopting the principles of the Regulations kindly show. The appel is called for in relation to the principles of the Draft Taxation (Double Taxation) (Jersey) Regulations Projet 51. I invite Members to return to their seats. The Greffier will open the voting.

<b>POUR: 36</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Then the question of the Scrutiny Panel. Senator Ferguson, do you wish this matter referred to a Scrutiny Panel?

**Senator S.C. Ferguson (Chairman, Corporate Services Scrutiny Panel):**

No, thank you.

**The Bailiff:**

Then, Chief Minister, how do you wish to propose the individual Regulations?

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

These Regulations do not make particularly light reading. They are quite technical in nature. I think what Members may be reassured about is that the articles do allow for mutual arrangements. Article 24 talks about a mutual agreement procedure and Article 28 suggests that if either side is unhappy with the Regulations, with these double taxation agreements, they can give notice of

termination to do so. So if we decided that Malta was an unsuitable country with whom to have a D.T.A., we could subsequently withdraw from it. I have no suggestion that Malta or any other country with whom we have negotiated a D.T.A. would put us in that position but we do have a safeguard should it be required. The remaining Regulations, as I say, are fairly standard sort of Regulations for this sort of double taxation agreement and I think it is easier for me to propose them *en bloc* and ask Members if they would like to raise any questions on them. I propose Regulations 1 to 21 and Schedules 1 and 2.

**The Bailiff:**

Regulations 1 to 21 with the Schedules. Very well. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations or Schedules?

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

I would like to congratulate the Chief Minister and the Minister for Treasury and Resources for bringing these forward and not bringing into this contribution anything other than that on a Zero/Ten basis. I think really it is a responsible step and I do congratulate them for that. Just as an aside, I have tabled some amendments for us to consider establishing a Legislation Committee because, with the greatest of respect to most Members, I do not believe that for a very long time we have done service to the legislation that has come before us in these types of propositions.

[15:45]

If we pass this *en bloc*, which I am sure we are going to, because we are taking the lead that it is okay, I think, hand on hearts, at least I am not going to be as 100 per cent on this as perhaps I might have been when I first came to the States. There is at present a hole missing in what we do. I think we do need to introduce a Legislative Committee to the States Assembly and I am going to be bringing that amendment soon. I do not wish that to detract from the work that is occurring or for the congratulations I pass but I do think that, hand on heart, we need to do some of the boring stuff sometimes. It is not very exciting but it is important.

**The Bailiff:**

Does any Member wish to speak on any individual Regulations? Very well. Do you wish to reply, Chief Minister?

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

I do not want to get dragged into a discussion on a proposal from Deputy Le Claire which I have not yet seen about a Legislation Committee. I would point out that even with a Legislation Committee it is still the obligation of every Member to look at propositions before them and to decide whether they think they are acceptable or not. Indeed, we have a Scrutiny Panel which also has the opportunity, should it so choose, to look at the Regulations and to make comments on them. So I think we have got safeguards in place already. If we choose to strengthen them with Deputy Le Claire's proposition, so be it. But that is not before us today. What is before us today are these Regulations, which I maintain in Second Reading.

**The Bailiff:**

Very well. All those in favour of adopting the Regulations. The appel is called for in relation to Regulations 1 to 21 and the 2 Schedules. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 36</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator T.A. Le Sueur				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				

Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
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Connétable of St. Peter				
Connétable of St. Lawrence				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Do you propose the Regulations for Third Reading, Chief Minister? **[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in Third Reading kindly show. Those against. The Regulations are adopted in Third Reading.

**9. Field 633, St. Peter and procedure for Island Plan H3 sites (P.52/2010)**

**The Bailiff:**

We come next to Projet 52 - Field 633, St. Peter and Procedure for the Island Plan H3 Sites - lodged by the Minister for Planning and Environment. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion (a) to confirm the procedural requirement that to enable the granting of permission for Category A housing purposes for any of the sites listed under policy H3, sites for further consideration for Category A housing of the 2002 Island Plan the States Assembly must have agreed their rezoning for development, and (b) to endorse the intention of the Minister for Planning and Environment to grant planning permission

under reference P/2009/2082, the development of 14 Parish homes for the elderly and a caretaker's dwelling at Field 633 St. Peter.

**Senator B.E. Shenton:**

Before we debate this could I just ask a point of order? I am not sure whether it is correct as a base of proposition that is factually incorrect. It says at paragraph (b): "to endorse the intention of the Minister for Planning and Environment to grant planning permission" yet planning permission was granted on 7th April 2010. It states this within the report. Furthermore, it says that there are no financial implications, whereas, of course, if planning permission has already been granted on 7th April 2010 there would be claims for compensation. So the proposition as it stands: "to endorse the intention of the Minister for Planning and Environment" is totally wrong.

**Senator F.E. Cohen:**

Could I comment that the consent has not been issued? We have established the principle that a consent will be issued but we have not issued the consent.

**Senator B.E. Shenton:**

The report says that the Minister considered the application at his meeting of 7th April 2010 when he decided to grant planning permission. I have been informed that compensation will be sought if that is reversed.

**The Bailiff:**

I think it is difficult for the Chair to rule on that. No consent has been issued. Is that right, Senator?

**Senator F.E. Cohen:**

No consent has been issued. Very clearly the principle has been confirmed at a planning hearing.

**The Bailiff:**

Have you taken advice on whether, if the States were to not agree with you, there could be a claim for compensation?

**Senator F.E. Cohen:**

I think there probably could be a claim for compensation.

**The Bailiff:**

Would that not be something then which ought to be stated as possible financial or manpower implications?

**Senator F.E. Cohen:**

On reflection, possibly so, but unfortunately it has not been.

**Senator B.E. Shenton:**

Could I ask for a reference back on this proposition? It is flawed, in my opinion.

**Deputy M. Tadier:**

Can I ask for clarification about the last point? Presumably the financial and manpower implications are only if the proposition is adopted?

**The Bailiff:**

No, if the proposition is rejected, I think.

**Deputy M. Tadier:**

That is right. Yes. But I think the financial statement only is in the case of if the proposition is successful and there is no requirement under Standing Orders for it state the opposite.

**The Bailiff:**

Yes, thank you, Deputy. The Deputy has very correctly pointed out the requirement of Standing Orders is that the proposer must state whether the proposition, if adopted, would have any implications for manpower and resources for the States. If adopted, as I understand it, there would not be. I must confess, I would have thought, in the interests of full disclosure and transparency, it would be right normally to say if it is not adopted there may be a claim for compensation.

**Senator F.E. Cohen:**

I think that is correct. But unfortunately we have not done that.

**The Bailiff:**

I do not think we can reference back yet, Senator, as we have not even started the debate. But you could, as an alternative, ask for the debate on this to be deferred.

**Senator B.E. Shenton:**

No, it was just to make the point, primarily, not to bring forward propositions that say to endorse the intention of the Minister when the Minister has already granted planning permission. I think that is misleading. I will not ask for reference back at this stage but I think it is a valid point that needed pointing out.

**The Bailiff:**

Very well, thank you. So then I call upon the Minister to make the proposition.

**9.1 Senator F.E. Cohen (The Minister for Planning and Environment):**

My proposition is founded on 2 issues. I have, for expedience, included both issues in this proposition, as they are linked. The first issue relates to the current 2002 Island Plan and specifically the procedural requirements behind H3 sites as listed in the 2002 Island Plan. In this proposition I am seeking to ensure that before any planning permission can be formally granted on any of the sites listed under Policy H3, the States Assembly must have first agreed to their rezoning for development. This clearly was the procedure implied in the Island Plan. However, the wording of the 2002 Island Plan is regarded by some as not being sufficiently clear. Any Member who was present for the Island Plan debate 2002 would clearly confirm this expectation. This expectation has also been confirmed recently in a Royal Court judgment and it was a principle followed by my predecessor, Senator Ozouf, when he took a previous H3 site to the States during his term as President of Planning and Environment. Accordingly, in the interests of absolute clarity, I ask this Assembly to support the confirmation of this principle and to support part (a) of the proposition. The second part of my proposition is seeking the endorsement of this Assembly for my intention to grant planning permission for the development of 14 Parish homes for the elderly and a caretaker's dwelling at Field 633 St. Peter, which is a current H3 site and a proposed site designated in the new draft Island Plan. I heard this application at a public hearing but I made an error in not bringing the sites to this Assembly for rezoning first. Accordingly, while I have approved the application, I have not issued a physical consent yet. The application is made by the Parish of St. Peter for the construction of 14 social rented homes for the elderly and one caretaker's home on land it owns at Field 633 St. Peter. The proposal is to meet a proven need for this type of accommodation in the Parish of St. Peter and is worthy of approval. From a wider policy perspective I am striving to ensure that new development to meet the Island's housing needs should be accommodated as far as practicable within the urban areas and some brownfield sites, as in this case. This, indeed, is the whole thrust of policies for the new housing development under the draft Island Plan review, which was published in September 2009 for public consultation. I consider there is reasonable and sufficient justification to approve the proposed development at Field 633 for the following reasons.



Firstly, Field 633 is a small irregular-shaped site comprising approximately one vergée of land. Before its clearance the site included a number of small sheds plus hard standing areas and was therefore a brownfield site. It has no effective use for agricultural purposes. Secondly, the application proposal for Field 633 has been submitted by the Parish itself to provide social rented homes for the elderly or disabled of the Parish to meet a specific need that could only be satisfied in St. Peter. There was no suitable or alternative site so close to the village centre, shops or bus route. To this extent, its development accords with Policy H12 of the 2002 Island Plan, titled “Development to meet special requirements”. Thirdly, the site has been approved for acquisition and development by a Parish Assembly. Fourthly, the planning application for the proposed development attracted just one objection letter, from the occupiers of a neighbouring property, but their concerns were deemed not to affect the approval. Lastly, the Draft Island Plan Review proposes the zoning of Field 633 for Category A housing, and, following the recent public consultation exercise, which ended on 31st March 2010, no objections were received to this proposal. As I said, I considered the application at a public meeting on 7th April 2010 when I decided in principle to grant planning consent but did not issue a permit. I am satisfied that consultation on the application is sufficient to prove that the site is suitable for development, as required under Policy H3. Accordingly, I request this House to endorse my intention to grant planning consent on this H3 site and to confirm the process for all other H3 sites and that the States must first agree to their zoning before planning permission can be granted.

**The Bailiff:**

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

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

Some Members will be aware that the issues concerning the rezoning of the various parcels of land in the 2002 Island Plan have been problematic, to say the least. There were numerous debates in this Assembly about rezonings, and H3 sites, which, in my view, were definitely not rezoned. I think there are only 16 Members of the Assembly today that were in the Assembly in 2002. I had absolutely no doubts when I was Planning President that they were not rezoned and I was surprised to learn that there has been some ambiguity about that issue. If there was a doubt, then today the Minister is quite right in confirming that beyond all reasonable doubt. I believe that we will today confirm that H3 sites were not rezoned, that they were safeguarded sites and this is the right process to do and I congratulate the Minister on having done this. I would say that in relation to (b), and, indeed, I should just say that the Court, as I understand, has also said that there is some criticism perhaps about the advice that the department gave the Minister in relation to whether or not H3 sites would be rezoned. Not a matter for today but clearly there has been some problematic issues around H3, which is why we are here today. I would just say in relation to the wording of (b), I understand the difficulty that the Minister has been in in relation to whether or not sites are rezoned or not: (b) effectively turns that parcel of land into an H2 site and effectively I do not think that he is creating a precedent in relation to this Assembly making planning decisions. The Assembly today is, in my view, making a decision on rezoning, confirming the process for rezoning, and effectively *de facto* rezoning the second parcel of land.

**9.1.2 Deputy A.E. Jeune:**

In the proposition they refer to the reason for wanting to rezone it is in order to build houses for the elderly. While we all feel that we have a responsibility to care for our elderly, what does the Minister believe that “elderly” is? Because so often we hear about over 55 and I do not believe in this day and age that over 55 is elderly, especially when I am past that.

**The Bailiff:**

I think, looking around, probably you would get a lot of support for that. [**Laughter**]

**Deputy A.E. Jeune:**

Thank you, Sir. So, while rezoning for the elderly is one thing, has the Parish of St. Peter identified to the Minister what “elderly” is?

[16:00]

### **9.1.3 Senator B.E. Shenton:**

It is just to point out to Members that this proposition is just a part of a much wider picture which also includes Field 1248, which Deputy Hilton has been so vociferous about. In the Royal Court of Appeal relating to Field 1248, it was mentioned that the Minister had approved the development of social rented homes on Field 633, which is an H3 site, just like Field 1248. There are a number of parallels with Field 1248. Neither field has been used for agricultural purposes for many years, neither field will be used for agricultural purposes in the future. Both sites have been approved for development by the Parish authorities. Both sites are H3 sites lying in the Built-Up Zone and there is no similar site in St. Helier which would allow for a development of this kind in the same way as that is suggested in respect of the St. Peter site. Obviously the States Assembly and the Minister today will probably decide that they can approve Field 633. Certainly I do not feel within the Chamber that there is much opposition to it, and, as I pointed out, that there would be financial implications if the Chamber were to turn around today and not approve this proposition. However, I would just like to point out to Members that this may well have implications for Field 1248, which was down for debate today but is not being debated. Given the similarity of the sites, any inconsistency in planning approval may be deemed to be unreasonable. There is no doubt that there is continued demand for the type of housing proposed in Field 633 and in Field 1248. As the Royal Court and the planning officers both found out, Field 1248 is well placed to receive all main services and is in close proximity to a bus route and shops. It is a site which could be readily developed for residential accommodation. The reason I am bringing this to Members’ attention is because of the old phrase “unintended consequences”. I think we will all support this proposition today but I would just like to point out to the House that it may indeed have unintended consequences going forward.

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

Because Field 1248 has been mentioned I felt that I had to stand and say something. For those Members who do not know, Field 1248 is in the 2002 Island Plan as an H3 site and it has been subject to the Planning Applications Panel, a Ministerial Decision - both turned down - and went to the Royal Court on appeal. The appeal was dismissed by the court and the court directed that, indeed, as an H3 site, it should have come back to the States to be rezoned before any application should have been considered. I understand what Senator Shenton is saying here and he said he has drawn parallels with Field 1248. I have been given an absolute assurance by the Minister for Planning and Environment that he will not be bringing a rezoning proposition back to this House for Field 1248. In the Draft Island Plan the field is in the Green Zone. The Minister for Planning has assured me that the court decision has been given and he has absolutely no intentions of bringing Field 1248 back to this House to be rezoned. The Planning Applications Panel refused it; the Minister refused it under Ministerial powers. The court has made a decision and it is currently in the Draft Island Plan in the Green Zone. I support this proposition today. It has been through a process which has been thorough. Nobody was objecting to it in St. Peter. I think it is mentioned as a brownfield site. The housing is needed by the elderly in St. Peter. Although understanding the concern of Senator Shenton, I am happy to support this proposition today.

### **9.1.5 Deputy J.M. Maçon:**

I completely support part (a) but part (b): “To endorse the intention of the Minister for Planning and Environment to grant planning permission”, I would just like the Minister for Planning and Environment to confirm that I know on some other elderly care sites on the Planning Applications Panel we have had to have some of these permissions re-looked at regarding road crossing places for elderly so that they can access nearby amenity spaces. If the Minister can just give me the

reassurance that within this planning permission he has made the appropriate planning gains in order to facilitate adequate access, then he shall be gaining my support.

#### **9.1.6 The Deputy of Grouville:**

I would just like to make a similar point to my colleague on my right, Deputy Jeune. The sheltered housing, in my proposition P.33/2008 I asked the Comité des Connétables to bring forward a criteria for sheltered housing so that we know that the sort of people that are going to live here, if it is over-55s or in Trinity it is slightly different, I gather, but if we are to rezone these sites for sheltered housing or social rented for the elderly, I think there ought to be Island-wide consistent criteria. Now, that particular clause of the proposition went through yet 2 years on, and despite several questions in this Assembly, there has still been nothing forthcoming from the Comité des Connétables. While this is a brownfield site; it is not like greenfields - as we rezoned in 2008 - I believe it high time this criteria was brought forward, as was agreed by this Assembly.

#### **9.1.7 Connétable J.M. Refault of St. Peter:**

Thank you to everyone who has been talking earlier on. Perhaps I can add a little bit more background to this. In 2008 the Parish of St. Peter was approached by a developer who wished to develop a greenfield site in the Parish, almost the same distance from the centre of the Parish, and put up Category A housing and would offer the Parish a number of units free of charge as lifelong homes to encourage us to go with that. The Parish refused that very generous offer and went with another offer from a Parish resident with a small site which has been described as a brownfield site. Before we purchased we entered into a lot of negotiations with the Minister for Housing of the time and also the Minister for Planning and Environment to see whether this was suitable for their requirements for use as a lifelong home. We received a tremendous amount of assistance from both the Ministers of Housing and Planning and Environment and their officers in helping to develop up the plans that we currently have today. Some questions have been asked of me earlier on. I would like to answer, if I could possibly put them to the Assembly now, regarding the site. You have all got the plan in the back of the proposition. It is approximately equidistant between the St. Peter's Co-op and the Marks & Spencer stores, both less than 300 metres walking distance. A new pavement is planned to go alongside Field 633 and an adjacent bus lay-by will be built into that pavement area as well, right outside so as the elderly can mount the bus immediately from the site and not have to walk up the road to existing bus stops. That has all been provided as part of the development. I also intend to put a recommendation to St. Peter's Parish Assembly for a 30 mile an hour extension of the 20 mile an hour zone going northwest to St. Ouen to reduce the traffic speed coming round past the M.&S. (Marks & Spencer) area as well. The footpath has already been increased on the other side going towards Marks & Spencer, and, in talking with the previous Minister for Housing a couple of days ago, I believe they have got on their books 333 applicants waiting for ground floor lifelong homes. St. Peter... and we have not officially opened our list yet, have applications from 43 people to satisfy a requirement for 14 homes. So we have well in excess of a requirement. Picking up on the comment from the Deputies opposite: there is a planning requirement for elderly homes which is based on the Rowntree Homes for lifelong homes, which is very specific in the way the homes have to be built, to provide for people to stay in there, in other words, the ceilings must be strengthened to be able to take hoists that carry people from their bed through to the wet rooms, in our case, and the door openings need to be wide, the light switches need to be lower, plugs need to be higher, all those things so somebody can live in them for as long as possible, even if they become wheelchair bound. Those are requirements that are provided for homes and the planning permission is given subject to only being used for people over 55. It is my wish that in St. Peter we will put the criteria being people over 60 because there was an incident that I am aware of down at La Hermitage where a resident there had a younger wife and when he passed away his wife was under the age but occupying the 55 unit and she had to move out. So I think by putting 60 it gives that extra little bit of a buffer. Another comment was made regarding Field 1248 La Pouquelaye. In my view it is very different because Field 1248 La Pouquelaye I

believe, and I may be corrected, was for Category A housing and lifelong homes. We rejected that option at St. Peter and we went for this site based on lifelong homes only, as that supported the need for lifelong homes in this position close to shops in the heart of the Parish and 63 will be just for lifelong homes. What are being referred to as brownfield sites, certainly the test holes that we have dug recently to determine the ground conditions for drainage have shown the site as mainly clay and it appears that the top soil had been harvested many years ago and now there is probably a couple of inches of top soil so it would be of no use whatsoever for agricultural purposes and, certainly in my knowledge - and that goes back 30 or 40 years- that site has been used predominantly for vehicle storage and general storage and not used for agricultural purposes other than a very small orchard at the top end where there was a little bit more soil in the top corner.

**9.1.8 Deputy M. Tadier:**

Can I just say it is very commendable and we have had this debate about the age limit and I would just like to say is there any possibility of maybe getting some housing for under-35s?

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

If Deputy Tadier had read the *Daily Mirror* today, I believe there is gentleman who is 83 who has married a 35 year-old lady who has had a baby so I think that is one way of getting into a house. So if he would care to find himself an 80 year-old lady, I am sure he would qualify. [Laughter]

**Deputy M. Tadier:**

I will respond, Sir. I do not usually read the *Daily Mirror* but I have no intention of waiting until I am 83 to marry a 35 year-old just to have housing.

**The Bailiff:**

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

**9.1.10 Senator F.E. Cohen:**

To be clear, the part (b) of this proposition resulted from a mistake that I made and that was that I should not have heard the planning application for Field 633 without going to this Assembly to rezone the site. However, I quickly realised the error and did not issue the consent and, to repeat, no consent has been issued. In some ways, it was fortuitous that I made the mistake because it enabled me to bring forward to this Assembly confirmation once and for all of the status of H3 sites and that is what I have endeavoured to do in part (a) of the proposition. To deal with the points raised by those who spoke, Senator Ozouf raised a number of issues but the key point is that Senator Ozouf really was single-handedly responsible for preserving the protection of H3 sites and without his determination we would certainly have lost the ability to protect H3 sites from development that we consider to be inappropriate and we should be grateful to him for his efforts in this area. Deputy Jeune raised the issue of what is the elderly, and I suppose it depends on where you stand, or if you stand. The principle is that any consent is conditioned for over-55s but there is clearly some upward flexibility in relation to the allocation but that, in this case, would largely depend on the Parish's wishes.

[16:15]

Senator Shenton raised issues of the similarity with Field 1248. I think he has fundamentally misunderstood the 2 sites. Field 1248 is proposed in the new Island Plan as Green Zone and Field 633 is proposed in the new Island Plan for Category A housing and, therefore, they are fundamentally different. Deputy Hilton gave history of 1248 for which I am grateful and do not need to re-recite. Deputy Maçon wanted to know if adequate access provisions have been made and I believe that they have. The application has been carefully screened by officers and they are entirely satisfied in this direction. The Deputy of Grouville raised the issue, again, of the allocation of over-55s and I have already cleared that point. The Connétable of St. Peter outlined the site and the history of the site and he outlined the issues of the Rowntree rules or Rowntree standards. We

have further developed the Rowntree standards and we have developed what we call informally the Deputy Pryke specification because in the time that Deputy Pryke was the Assistant Minister, she worked very hard to develop our own standards in relation to assessing this form of housing. Deputy Tadier raised issues in relation to his marital status and I wish him good luck in his aspirations in that direction. May I make the point, before I conclude, to thank the Solicitor General for all his efforts in advising me in relation to this complex issue and for the fact that he gave me such clear advice and the confidence to move forward in this direction and I commend the proposition to the House and trust Members will support both parts (a) and (b).

**The Bailiff:**

How do you wish the vote to be taken?

**Senator F.E. Cohen:**

I think we should take them separately.

**The Bailiff:**

The appel is called for and the Assembly will vote separately. So the first vote will be on paragraph (a), which is the procedural requirement and I invite Members to return to their seats and the Greffier will now open the voting.

<b>POUR: 41</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 0</b>
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy M. Tadier (B)				
Deputy A.E. Jeune (B)				

Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy A.T. Dupré (C)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

The Greffier will then reset the machine in order that a vote can be taken on paragraph (b) which is the endorsement of the intention to grant permission for Field 633 and the Greffier will now open the voting.

<b>POUR: 36</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 4</b>
Senator P.F.C. Ozouf				Deputy M. Tadier (B)
Senator B.E. Shenton				Deputy A.E. Jeune (B)
Senator F.E. Cohen				Deputy of St. Mary
Senator J.L. Perchard				Deputy A.T. Dupré (C)
Senator A. Breckon				
Senator S.C. Ferguson				
Senator A.J.D. Maclean				
Senator B.I. Le Marquand				
Connétable of St. Ouen				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of St. Saviour				
Connétable of St. Clement				
Connétable of St. Peter				
Connétable of St. Mary				
Deputy R.C. Duhamel (S)				
Deputy of St. Martin				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy of St. Ouen				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy T.M. Pitman (H)				
Deputy E.J. Noel (L)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**10. Field 530A: re-designation as a Green Zone site (P.62/2010)**

**The Bailiff:**

We come next to Field 530A: re-designation as a green zone site - Projet 62 - lodged by Deputy Le Hérissier and I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Planning and Environment not to approve any developments in Field 530A, St. Saviour, and subject to the results of the consultation process to take the necessary steps to bring forward for approval a revision of the Island Plan 2002 or to make provision in the new Island Plan to provide that Field 530A be rezoned as part of the Green Zone.

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

May I declare an interest? First of all, I inherited a potential interest in the former Jersey Marketing Board as my father was a dairy farmer and there is potentially an issue in relation to an overage payment - potentially - and secondly, I am an immediate neighbour to the site and would not wish to take part in the debate.

**Senator J.L. Perchard:**

I need to declare an interest. I was about to ask if there was any possibility of an overage payment being involved. If there is, I am bound to declare an interest because I have a direct financial interest.

**The Bailiff:**

Very well, thank you. Then I call upon Deputy Le Hérissier to make the proposition.

**10.1 Deputy R.G. Le Hérissier:**

It was indeed inspiring to hear the Minister for Planning and Environment say how much he is searching for clarity because this is another area where, quite frankly, there has been fog and I am not sure it has lifted. People know the site. It is the main dairy site but the twist is the fact that having approved the main dairy site for the building of 65 houses there is another field attached to that site - a smaller field - which is illustrated at the end of the proposition. That has now come in a strange sort of way which I will discuss, to be part of the application. Certainly, when it was discussed and the letter that the objectors have received said, notwithstanding the details, *et cetera*: “This permission does not purport to grant consent for any part of the development to be provided on Field 530A. The development should be provided wholly within the Built-Up Area as defined on the adopted Island Plan 2002.” So how, then, has Field 530A all of a sudden appeared? Why, indeed, did the architect state at the Ministerial hearing that Field 530A was not in his remit whereas now we are being told that the design is such that Field 530A is to be put into the application. One of the reasons is that there appears to have occurred this rather strange idea of swapping. Because the architect has devised a green lung within Field 530, this apparently has been seen as providing the basis for moving into Field 530A. That in other words, it is okay to swallow up a bit of greenery in Field 530A because a bit of greenery has now been granted in Field 530 which is the main building site. Now, I ask Members to consider if that is to become a principle and you are faced with an application for building and somebody says: “Well, I am going to carve out a nice little mini-park on this estate. Oh, then you can move into the next field as a result of creating that mini-park”, and that essentially is what seems to have happened. There is also the issue, and Senator Perchard mentioned it, of overage, that the more houses that are built the more the seller and the developer will benefit. There was a rather unfortunate thing with a person who did comment on the quality of the field was, indeed, the chairman of the Jersey Milk Marketing Board who was able to appraise the planning panel of the quality of Field 530A which is rather strange in the circumstances. Furthermore, there is the whole issue of precedent. There is one application already in the works for parking adjacent to a lodging house which in itself is

adjacent to the dairy site, and there is a gentleman who has been waiting for a long time in the so-called wetland that is associated with Field 530 to build and will no doubt revive the application dependent upon the outcome of the Minister's determination. So as we can see, here we have an application that appeared to focus on one field. It then subtly moved to embrace the 2 fields and the design proposal was such, we were told, that it could only work in the 2 fields, which seems very strange, and then the Minister, to be fair, said: "Well, look, they want 8 houses in the next field in order to keep the line of vision and to create this green lung. Maybe we can compromise on 3 or 4?" Obviously, that has not been decided but I know words have been spoken to that effect. We now come to look at the Minister's case and, of course, apropos what we have just discussed, the Minister is indeed proposing to break one of his fundamental principles without proper consultation. He is saying in his comments that he has the right to move ahead with granting permission if he feels he can justify this deviation from the Island Plan. Now, it is Countryside Zone as opposed to Green Zone. I was always under the understanding that every Green Zone change had to come to this Assembly and given that we are about to merge, probably, Green and Countryside Zone in the new Island Plan, to my mind it is equally important that we do not let countryside decisions slip through. So why then has the Minister not come back and engaged in broader consultation? Why has he said it is his decision to make and his alone? Surely this is outside the spirit of the way he normally operates? Indeed, if we see Article 12(b) of the Island's Planning and Building (Jersey) Law 2002 where it says that there should be a public inquiry where the development would be a departure from the Island Plan. The Minister, and I am grateful to another Member for alerting me to this, is operating under Article 19(3): "That the Minister may grant planning permission that is inconsistent with the Island Plan but shall not do so unless the Minister is satisfied that there is sufficient justification for doing so." If one reads the Minister's comments, we now read that in that hearing, the Minister has come to the conclusion that the applicant had a justifiable expectation. But I do not think anybody when putting in their comments on the original Field 530 application realised that the Minister was going to make a pronouncement at the hearing on Field 530 that there was a justifiable expectation in regard to Field 530A. He then moves on to describe the justifiable expectation as he feels he is now facing a decision by which he is bound. But this was only a planning matter to consider Field 530 but all of a sudden it has moved very quickly, according to the Minister's comments, that he is now bound by a decision about Field 530A which was never at the beginning an integral part of this application. But all of a sudden, the Minister is now bound by a decision. He then says the States, this Assembly, has no legal role to play. Surely it must be very worried about the way the Minister appears to have made what can only be termed a premature decision with which he has boxed himself in. It represents such a deviation from settled policy, why is he trying to force it through? He then says further in his comments that he is bound to determine the matter under the planning policies of 2009. That is the point. He is bound to determine it with due consultation and in a fully, freestanding and separate application, not in some kind of application riding on the back of Field 530. It has all, in my view, come about because yes, there has been an integrated architectural plan. Yes, it has been, and I hesitate to utter the words "designed by an architect of international repute", but it is, and we were privileged to meet the said gentleman and so forth. But how on earth did this said architect, having said at the Ministerial meeting that it was not his remit to plan for Field 530A, why then have we suddenly become faced with a proposal which can only stand or fall if the architect can move into Field 530A as opposed to confining himself to Field 530. This is all some of the mystery that surrounds this. What it must worry Members about is that here we have one application that went through and then all of a sudden another comes forward which will conveniently add more houses to the previous application. Another comes forward and, therefore, it denies the Minister the chance to look at things in the whole at the first and what should have been the sole hearing, at the first and sole hearing. So what I am saying is, this is all terribly unsatisfactory. Field 530A is not a massive field. Yes, you will hear stories that it has been top-filled but you will also hopefully hear that cows have been grazing upon that field until very recently. There is all sorts of work planned for other fields in the surrounding area. It is in an area where we have to admit growth has



developed like Topsy. It would be nice to have stopped the world, so to speak, and redesigned it all so that there were proper amenity areas, proper parkettes, *et cetera* and, obviously, we are faced with a bit of a rescue situation here. The sad thing is that it is planning by the back door. We are trying to do planning by the back door and although it is a comparatively small field and people may say: "Well, it is adjacent to the dairy site. It is, indeed, owned by the dairy. It was bought by them years and years ago as a possible site for expansion so, therefore, why not just throw it into the mix?" But surely, that is the whole issue we face time after time, of planning creep where sites start growing, where houses start getting added and where all of a sudden in this situation there is the particularly important issue that it was Countryside Zone and it cannot just be sacrificed. There is no need for it to be sacrificed. It is already a very big site. There are already a considerable number of large houses designated for it. I ask the Minister because he is an honourable man, I ask him to reconsider. Thank you, I move the proposition.

**The Bailiff:**

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

[16:30]

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

I will not speak for very long but I would like to urge Members to support this proposition because we are always going to have a reason to move to the field next door. It has to stop and it has to stop now. If we carry on, first we will end up with ribbon development like we have in Guernsey. We will not be able to see fields as we are going along our roads and then we will between them cover the whole Island in concrete. You carry on bringing people to the Island, you carry on building houses. It has to stop. Let us make it stop with this field. I was very torn on the St. Peter's one. It was only because I was assured it was a brownfield site that I went for that. I urge Members to support this proposition to stop the rot. This is about greed. This is not about quality of life. This is about greed and let us stop this now and support the proposition.

**10.1.2 Deputy J.A.N. Le Fondré:**

I, too, support this proposition. I was on Planning and on the original 2002 Island Plan and one of the main things there is to have everything done in balance and in order and enough of these add-on, *ad hoc* little developments, and when you get a field on either side, you can see the temptation for filling that field with more houses and the arguments that will come in for desperate need for additional housing, *et cetera*. But I am aware that in this particular area for some years now, the Housing Department especially has been crying out to find additional recreational space for our young people up there and community space and by adding more houses without having appropriate community space within the area, I do not think it is an appropriate way forward. It should be looked at in its entirety. This is part of that but this particular proposition is rightly saying this is not appropriate at this moment in time. It needs to be looked at in the round and in the whole.

**10.1.3 Senator B.E. Shenton:**

I, too, ask Members to support this proposition. It is all about looking after the Island and making sure we do have green lungs on the Island and also making sure that we put our Island ahead of developer's profits. I do not mean any disrespect to Deputy Le Hérisier but it was the comments of the Minister for Planning and Environment that struck me more than the original proposition. In the comments, the Minister for Planning and Environment says if Field 530A, which is part of the designated Countryside Zone and which there is a presumption against development, however Article 19(3) indicates that: "A Minister may grant permission that is inconsistent with the Island Plan if he considers that there is sufficient justification to do so." My first question there is well, why do we have an Island Plan if the Minister can invoke Article 19(3) and just ignore it at whim?

It goes on to say that the Minister believes there was a justifiable expectation for the scheme and goes on about having a world-class architect and so on but then he goes on to say: “The Planning and Building (Jersey) (Law) 2002 under Article 9 confers the power to make planning application decisions on the Minister for Planning and Environment.” The States Assembly has expressly entrusted the Minister for Planning and Environment with the task of carrying out this function. With the greatest respect to Members, they have already decided through the Planning and Building Law that the States Assembly will have no legal role in determining planning applications. The Minister goes on to write: “The States Assembly carries out the vital role of amending, debating and determining the Island Plan.” But once the plan is approved, it has vested the delivery of the plan in the Minister for the Planning and Environment and yes, we, as a States Assembly, did pass the Island Plan and we, as a States Assembly, said no to building on this field. It is the Planning Minister that has invoked an Article in the Planning and Building Law which basically says: “I will follow the Island Plan until I do not want to and then I will do whatever I like.” For this reason, a proposition has been lodged by myself to revoke Article 19(3) and to make sure that going forward the Minister for Planning and Environment delivers to the Planning Law that is passed by the States Assembly and that we have an Island that is designed around the Planning Law and not designed around the whims of the Minister for Planning and Environment or titled architects living abroad.

**Senator F.E. Cohen:**

The architect is not titled.

**Senator B.E. Shenton:**

Therefore, as a States Assembly, we should stick to the Island Plan. We should support Deputy Le Hérissier. We should make sure that we have some green fields for our children and not be swayed by the fact that the development would be far more profitable to the developer if he is allowed to build in this area.

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

Just 3 points. I think it is going to be 3 points. Just to ask the Minister for Planning and Environment, what is to stop the housing and park idea without spreading into Field 53A? Why does it depend on his discretion on the Field 53A? Is it just that it is really a matter of: “Well, we could get some more extra houses if we go the extra field?” So that is the first point. The second arises out of something that Deputy Le Hérissier says in his report about associated issues around the provision of open space but also incessant traffic, and we have that problem in St. Mary as well. I just want to let Members know that I have sent a memo on the whole issue of parking and how it relates to traffic and it does impact on the whole Island to the Minister, and Members will shortly be having that. I think it is important that we see that part of the quality of life is not just housing, it is also traffic in a big way and we do have to grasp that nettle as well although it is not absolutely spot-on relevant to this proposition. The third point which may be the most important is in the comments of the Minister in paragraph 3 at the end, the last sentence says: “The Minister is bound by his decision.” I wrote to the Minister with a copy to his Chief Officer asking for the reference in the law to that statement because I am not sure that it is true and I have not had a reply, which I feel is not quite right before debate of this nature so I am stuck. I do not know and have no way of testing what he will say no doubt when he speaks. So I do not know whether other Members will want to pick that up or how we deal with that. But the fact is, it says here: “The Minister is bound by his decision.” I have real doubts that that is true. On another occasion on another matter I found that the Minister did mislead the House and said that something was irreversible when it was not. So I just urge Members to be very cautious about that statement. So I think I will be supporting this. I will listen to the rest of the debate but that point... and also the point about why cannot we have just the dairy and would not that suffice?

**10.1.5 Deputy T.M. Pitman:**

On the past 18 months' experience, any developments sold on the spin of having a world-class architect should be rejected on this alone, I would suggest. But another Member whose name escapes me said that why have a plan if the Minister can just side-step it as he wishes and that has to be correct. In solidarity with another urban Parish representative, I will support this proposition and ask only that such Members act similarly when the life quality of St. Helier residents is at stake because such things seem to be forgotten. Green space is to breathe and for our children; this must outweigh property developer's profits and let us not forget that more fields means more fences and this would surely provide more room for my esteemed colleague to get off the fence much more easily.

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

I am sure that many Members have already made up their minds that this is an incursion into a greenfield site and it is contrary to the Island Plan. Of course, one has to take the Island Plan in conjunction with the Planning and Building Law and, at the end of the day, it is the Law that the Minister has to apply and he uses the Island Plan as a tool in applying that Law; the Law which the States passed just as the States passed the Island Plan. I accept that Article 19(3) of the Law gives the Minister some degree of discretion in that he may grant permission if it is consistent, he is not necessarily obliged to, and had we been at an earlier stage in the proceedings, it is possible that he would have been more influenced by the decisions. But I think from what I understand of this situation, there is now a presumption that some development on this site could be permitted within Article 19(3) and it is for the Minister for Planning and Environment to decide the extent of that. It may be, as my colleagues suggested, that it is rubbish. I think that is a matter of interpretation. But I think more importantly the suggestion that we can change the ground rules for the Minister in the middle of an application - I think a question which was raised by the Deputy of St. Mary - is one which I have absolutely no doubt at all. Any application has to be dealt with under the law currently in place or the law in place at the time the application was made. But it may be that the Solicitor General would need to rule more definitely on that one that I and I happily bow to his legal expertise if required. The same in respect of Senator Shenton's proposal that Article 19(3) ought to be rescinded. Well, that may well be but at the moment the application is there under the current rules and it falls to be determined under the current rules. So I give that caveat to Members because, at the end of the day I think - and I am not coming to a conclusion - that the Minister could be requested not to approve the development, he nonetheless has to be bound by the determinants of the law and, in that situation, he may have to listen to the request and balance that against other needs. So I think in summary, what I am saying is that this proposition by itself, whether approved or not, does not remove from the Minister for Planning and Environment the obligation to carry out his duty under the terms of the Law.

**10.1.7 Deputy K.C. Lewis:**

I will be brief. This is a beautiful part of St. Saviour. It is part of the district which belongs to Deputy Le Hérisier. I did walk the field with him and I think at all costs it should be preserved. We had to walk around the area because, obviously, the old dairy site is a sealed unit and I did fall in the ditch on the way back and I thank Deputy Le Hérisier and a local farmer for rescuing me but it is a wonderful piece of St. Saviour and should be preserved. I will be supporting the proposition.

**10.1.8 Deputy A.E. Jeune:**

I will defend Green Zone. I think it is terribly important that we, as an Assembly, do that. But I am getting the feeling on this particular proposition that we are rather closing the door after the horse has bolted. It seems to me, and I would be grateful for anybody else who can throw better light on this, that this piece of land had been designated in the past to build on and it has only more recently been rezoned. So I am open to people to clarify exactly because that is the way it is appearing to me at the minute.

[16:45]

**The Deputy of St. Mary:**

May I ask that in the interest of clarity that we ask the Solicitor General on this matter of the Minister being bound by his decision because it is critical. We have now had 2 speeches which relate to precisely this point as to what rules the Minister is operating under.

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

Yes, the position is that pursuant to the 2002 Law, a Minister may revoke or modify planning permission at any time before the building or operation has been completed. So a decision is not binding for evermore but, obviously, in terms of the Minister being appealed in the courts if he changes his mind about something he will need a good reason for doing so.

**The Deputy of St. Mary:**

Could a good reason for doing so be a States decision?

**The Solicitor General:**

It depends what the States decision is about. There is a difference, is there not, between (1) rezoning land for a particular purpose and (2) the Minister taking a decision in respect of a particular application. As the law presently stands the States of course get involved in zoning decisions but as the law presently stands it is entirely a matter for the Minister what he does in respect of a particular application and the views expressed by the States as a whole one way or another do not fetter his discretion in respect of a particular case.

**Senator B.E. Shenton:**

May I ask you a question? We have spoken about Article 19(3) which is the ability for the Minister to grant planning permission contrary to the Island Plan. Within the Articles, there is also Article 12(1)(b) which says the Minister should have a public inquiry if he is going to go down this route. Surely the 2 Articles are interlinked and you cannot have one without the other.

**The Solicitor General:**

It depends again on the facts of each case. Article 12 is concerned with what are described as significant or substantial developments which will have an impact on a significant portion of the population. So it depends on the particular application and the particular effect it might have on society. So it follows that sometimes Article 12 will be engaged and other times it will not.

**Senator B.E. Shenton:**

Can I just say that I disagree with your answer. Article 12(1)(b) says that the development would be a departure other than an insubstantial one from the Island Plan.

**The Solicitor General:**

So in other words, it has to be a substantial departure.

**Deputy R.G. Le Hérissier:**

If I could ask the Solicitor General, at the hearing the Minister did not say, as far as I am aware, that he was going to be bound by a decision. He said he was “minded to consider”. Surely that does not commit him to what the comments now say he is committed to?

**The Solicitor General:**

I am still putting away my papers from the 1248 case so you will forgive me, I am not fully up to speed on the facts of this particular field. I would need to see what was said in some detail. You can give rise to a legitimate expectation to an applicant in planning cases. It really depends on the particular facts and I am sorry I cannot comment at the present time on where that comment lies. It could go either way on what I know. I am sorry.

**Deputy K.C. Lewis:**

Just one more question. With the greatest respect to the Minister for Planning and Environment, is the will of the States not paramount?

**The Bailiff:**

I think the Solicitor General has advised not in relation to particular applications. Very well, does any other Member wish to speak?

**10.1.9 Senator F.E. Cohen:**

The unpopular Minister for Planning and Environment. I would like to make some preliminary remarks before entering into the main content of the principles of my speech. Firstly, Deputy Wimberley said I did not reply to him on the point he made in relation to why I had said I am bound. I did reply to him and I will forward a copy of the email, timed, later on this evening when I get home. Furthermore, I think I copied it to the Chief Officer of Planning and Environment. I will check that. I certainly know I sent it to Deputy Wimberley. He also stated that I had previously misled the House. I am not aware that I previously misled the House and I would like details of when and how he thinks I misled the House. Deputy Pitman made some comments in relation to we could well do without world-class architects. Well, I think that is somewhat disingenuous. We have in the last few years in the Planning and Environment Department delivered a complete restructure of the way we assess planning applications and we now stress the importance of high quality architecture. We are delivering buildings which are absolutely first class both by international architects and by local architects and I would say that some of the recent successes, particularly 50 Colomberie and the new Ogier Building, both by a local firm, are probably the best we have delivered. That would not have happened without a reassessment of the way we approach architecture and as far as international architects working in Jersey, already a major international award has been achieved by a local scheme under construction and I would not be surprised if you see significant international awards in the coming months and years. So I reject his comments. Senator Shenton seems to have taken on the task of focusing on me and constantly criticising my planning decisions. He is welcome to do so but he knows the appropriate process to do that and the way the States of Jersey Law is structured and that is entirely up to him, but it would be helpful if he indicated to me in advance of debates what his concerns are and I can perhaps provide him with information and correct him where he is wrong or indeed correct myself where I am wrong. The principle being debated is of great importance as it strikes at the heart of how our planning system has been designed by this Assembly. The Planning and Building (Jersey) Law 2002 under Article 9 confirms the power to make planning application decisions on the Minister for Planning and Environment. The Planning Law is designed by this Assembly and specifically lays out the hierarchy of decision-making. The States Assembly carries out the primary role of creating and amending the Planning Law and amending, debating and determining the Island Plan. I have sought to maintain this primary framework setting out function by only recently bringing forward a proposition to allow States Members to lodge amendments to the Island Plan. The second element in planning is that the States Assembly has specifically entrusted the Minister for Planning and Environment with the task of implementing the Island Plan and the Planning Law. Prior to the implementation of Ministerial government that power was vested in the Planning and Environment Committee. This is the system that this Assembly has created and for better or worse it is the system that prevails at the present time. It is therefore left to the Minister for Planning and Environment to determine individual applications, either personally or through the Planning Applications Panel or through officers under delegated authority. The decisions made by the Minister or under his delegated authority are his responsibility and he stands or falls by these decisions. The States Assembly decided in setting up the present system that it would not have a direct involvement in the determination of live individual planning applications. Any decision by the Minister for Planning and Environment must be made in accordance with the Island Plan as approved by this Assembly and that is the method of control. The Minister for Planning and

Environment's decisions are subject to appeal by an aggrieved applicant and also now through a system I introduced by third party appeal in the case of an aggrieved neighbour. Therefore, there are controls that exist in few other jurisdictions. Dealing with the central element of the current proposition it is important to appreciate the facts of the application. As we have heard, Article 19(3) of the Planning Law empowers the Minister to approve development in the countryside area as an exception where the Minister considers there is sufficient justification to do so. Members may disagree with this decision or any other decision that I have made but it is a lawful decision. It is fundamentally important to understand the current circumstances in relation to this application and it has been the subject of a public hearing and it is partly determined. It is therefore a live application. To be clear, I have heard the application at a public hearing and have heard representations, both for and against. I have also met Deputy Le Hérisier on site and discussed the issues with him and others. Specifically, at the public hearing I approved the 65 houses proposed in the Built-Up Area but I did not approve the 8 houses proposed in the Countryside Zone. Most importantly, I made it clear that because I considered it improved the scheme I would in principle consider granting consent for a significantly fewer number of houses in the countryside area and significantly fewer means 2, 3, possibly 4. I want to make it clear that I regard this scheme by Professor Robert Adam as probably the best village scheme to be proposed in Jersey since the 19th century. It has the potential to be as significant for Jersey as Poundbury was for traditional village creation in the countryside on the mainland. I have for a long time wanted to see a significant, immaculately designed classical scheme delivered to our Island and I have no doubt that it will change the standard of our future housing for the better. The architect has based the scheme around the principle of establishing a vista through the scheme that opens up to the country views. I do not want to see the scheme closed-off which will be the direct result if the proposer's report and proposition were to prevail. This is not a prime agricultural field. The line delineating the countryside area from the Built-Up Area is simply the line where the development of the dairy site as an industrial site finished in the 1960s. It is a jagged line. The rubble was dumped in the area comprising Field 630A and a layer of topsoil placed on top. While cows were with difficulty grazed there for a period it is therefore by no stretch of the imagination a prime agricultural field. It has no access other than through the already approved Built-Up Area development, and it is unlikely ever to be used again for agriculture. It is important to point out that a decision by the States Assembly to re-designate the land to Green Zone can have no effect on how the current application is determined as the application must be considered under the planning policies that existed at the time the application was submitted in October 2009. Therefore, my commitment to consider a significantly smaller number of houses on Field 630A is something that the developer is reasonably entitled to rely upon. I have little doubt that were I to change my position fundamentally there could be an appeal. Importantly, the area being protected against future development is being increased as I have stated that the consent will ensure protection from any further development of 2 areas, being the remaining part of Field 530A - being the majority of the field - together with a proposed new area of open space that is being created within the Built-Up Area of the development. This permanent protection will be included in a planning obligation agreement. There is no question of further development in Field 530A or the Built-Up Area and I have reinforced this by removing permitted development rights. I have done this to ensure that the detailed architecture will not be compromised by inappropriate conservatories, fences or sheds. I therefore urge Members to allow me as Minister to determine this application in an unfettered manner as envisaged when this Assembly established the current planning system. I urge Members therefore to reject the proposition.

#### **10.1.10 Connétable P.F.M. Hanning of St. Saviour:**

I would like to start by supporting the Minister because from the beginning with this site he has argued for high quality architecture and that I think has been achieved with this scheme. It is a very good scheme indeed. The scheme which involves the 65 houses on the dairy site I think is outstanding and I would like to see it in the Parish. I know we have had people saying: "Oh, it is

extra cars, too much housing.” There is going to be some development there. It is a replacement of an industrial site. This scheme is really good and I do not want to see it compromised. I would go on to say that that relates to the dairy site. The additional field which we have got alongside is not actually needed for this scheme. The architects have made great play of the fact that they have a vista and, in fact, the Minister has mentioned it that there is this vista from the entrance looking down towards the countryside. That is quite true. They have formed a green lung down the middle of the scheme and that really does enhance the scheme, but I would say that these additional houses, if you look at it from the entrance, which is where this vista is supposed to be seen from, you cannot see any of these additional houses because of the angle of the curve of the green lung.

[17:00]

Therefore, it cannot be argued that these additional houses are necessary to maintain the integrity of the architectural scheme. They are there purely to add to the profit of the scheme and I would argue that this scheme is first class. We do want to maintain it but I do not believe it should be extended into this field purely for profit. It will create a precedent. I will not go into it in too much detail because the proposer has already mentioned the details of what may well happen either side. St. Saviour has had a lot of creeping development over the years, a lot of creeping development, and there is a feeling certainly by residents of the area and also of other members of the Parish - parishioners - that enough is enough. We need to put a stop to the gradual extension of the town and it is felt that the area of Swiss Valley and this part just below Five Oaks is where we should stop. Play has been made of using this good quality architecture as a feature for people coming in towards town to define the start of Five Oaks. I could not agree more. The architect was talking to us about this when we were discussing the site. He is absolutely right. It is fine architecture and it will make a good entrance to Five Oaks. It will raise the whole area, but we do not want gradual, creeping development behind and I would hate to see a little bit of increase in an area of this site. It is not necessary on the main scheme but that would provide an incentive for people to try and apply beyond it. As I say, I have a lot of sympathy for the Minister with this. I think he has done a fine job in getting really good architecture. I believe it can be stopped with the decision that he has made on the dairy site. I do not believe it is necessary to go further, and I think realistically that is about all I need to say on it because the proposer has given all the other details. So, I would ask Members to balance what we have here which is a really good scheme limited by the countryside against the possible extension of it realistically to increase the developer's profit.

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

This is another case of a proposition which has been brought before this Assembly which seeks to request the Minister for Planning and Environment to do something which will affect a live planning application. Now, I have very grave concerns in relation to that, and those concerns exist completely irrespective of the merits of the individual case, the merits of the individual application or non-application. Firstly, in law the Minister for Planning and Environment is the planning authority and not this Assembly. That is the legal position established by this Assembly by law. The Minister therefore has the duty to consider the application in accordance with proper planning principles. Part of those principles are that he must act consistently. He cannot give one indication one day and another the next day. If he does then he will be wide open to an attack by way of appeal. I was involved as counsel some years ago in relation to just such an appeal in which the Planning Committee of the day had given a very clear indication that they were going to grant something, then subsequently my client had delayed and in fact the Island Plan, I believe from memory, had changed in the meanwhile, but nevertheless the court held that they were bound by the indication which had been given previously. I believe that the Solicitor General has confirmed that. This creates a real problem. If the Minister has indeed, as he said, given an indication of an intention to do something and then seeks to go back on that he will be in my view wide open to appeal on such a matter. Now, he may be at fault for having done so but nevertheless that would, in my view, be the position. Secondly, there is also the issue as to whether the application must be

dealt with as the situation was at the date of the application. In the case that I recall the court said that things must be looked at at the date when the matter was originally decided, the initial decision was made; that is my recollection of the case. I believe that to be correct. That is the position. Even if we now seek to rezone in order to shut the stable door after the horse has bolted, as it were, that would not change the position in law in any way. In my view there is also a very dangerous principle for the States to seek to intervene in live applications, to intervene or to try to tell the Minister for Planning and Environment how he should exercise his discretion in an individual case. This is, in my view, very close to an abuse of political power and I caution Members very much against this. This is very dangerous ground that we are treading on here. The role of the Minister is not political in relation to such matters. As a Minister for Planning and Environment it is what I would call quasi-judicial; it is semi-judicial in the sense that he has to apply appropriately in a structured and logical manner. If the House is to seek to intervene in that matter it fundamentally cuts across the principles underlying such matters and such applications. There is also a danger of the States seeking to set itself up as an appeals body against decisions made by the Minister. Now, the majority of us here may feel that the indication given by the Minister was a mistake and that he should not have done it. Nevertheless, we are not constituted as an appeals body; that simply is not correct. I understand the concerns of members in relation to the maintenance of agricultural lands, Green Zone - although this is not at this moment, as I understand it, Green Zone. We are being asked to make it Green Zone although that will have no effect on this application. I fully understand those considerations. I fully support those considerations. I agree with those issues. I understand the concern about creeping development, and I understand that Members may well be unhappy to see the extension of development into Field 530A but I would caution Members of this Assembly not to allow their enthusiasm of the countryside to take us into the very dangerous constitutional areas which I have highlighted. For those reasons I am unable to support the proposition because I think it is constitutionally wrong, if I may put it as strongly as that.

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

Normally I stand to support the environment where I think that the environment needs supporting but I think that we do need to make certain that we do not do what most people have said in the past is constitute ourselves as a 53 member planning applications panel in debates such as this. I am concerned that when there is development in the countryside Members stand up and talk about the loss of green fields, when I am seeing houses getting crammed into little less than a goal mouth that represent 3 new dwellings in town. I am sorry to say if Members want to keep Jersey green then they have got to adopt a more robust immigration policy and to put the kybosh on the first quality housing scheme that has come along in Jersey in decades is not going to set down a very good marker for what is required in the future. In this scheme we have an opportunity to develop a scheme where people will enjoy living. What is it at the moment? What was it before? If there was such a desire to keep Jersey green then the Members that have spoken out in favour of the greenfield sites and the Constables and the Deputies, with the greatest respect, should be bringing more robust immigration policies supporting things like work permits, resident permits. We have got no housing for the people in Jersey that live in Jersey. Housing is extremely unaffordable. We have heard about this is going to be strictly a profitable element of the development. Well, maybe it is. Maybe it is not. But one thing is for certain developers will want to and need to and like to make a profit. So, if they snip this bit out of the plan then the rest of it or the next development will make up the profit that they seek to make. There is also, in my view, a concern the scheme as currently placed before us will not retain its current make-up and we will be left with another dross scheme like many of the others that we see that the Minister is trying to do away with. So, I am going to on this occasion support the Minister. I think there is a case about him being allowed to do his job, and if there are such grave concerns about him and his decision-making that warrant us interfering with those decisions then bring a vote of no confidence. This is 3 or 4 houses in the countryside. It is going to mess up a progressive high standard scheme. The Minister said 3 to 4 additional houses.



### **The Bailiff:**

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

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

I thank Members. It has been a very good debate. I will not be able to go into everybody's comments. Deputy Green: 'creepage' is quite right. Deputy Fox: *ad hoc* developments. Senator Shenton: where is the real Island Plan as opposed to the highly discretionary part of the Island Plan? Deputy Wimberley, which answers in a sense Deputy Le Claire's point: why not make it smaller? We asked the architect that several times and it was quite clear, I suppose, for profit reasons that there had to be a certain minimum number, because that was the obvious solution. Simply keep those excellent design principles but use them within the confines of the main dairy site. That was the obvious answer, and as the Constable of St. Saviour has said, there is in fact no benefit to going outside of the site because the houses that are outside the original boundary do not necessarily spoil the vista in any case on the site, so I do not see what the issue is. Deputy Jeune asked about designation. No, it has never been designated to build on. It has always been a country field, albeit, as the Minister said, cows having difficulty according to his advice in grazing, but there have been years of grazing on that field, so there have been obviously years of difficult grazing it seems. But, they manage to stagger to the milking parlour and obviously provide the requisite milk. Senator Le Marquand and other people like Deputy Le Claire again have said: "How dare we interfere with a live planning application?" They are quite right, and obviously we can only send a message to the Minister. We certainly cannot give him a direction, we know that. But, the point is, when this was originally considered and the architect was asked whether he was considering Field 530A he said: "No" and then Field 530A appeared on the agenda. That is the real issue and that is why it was felt, albeit only on advisement, it was necessary to send a message if possible to the Minister, because all of a sudden the application was taking on a form which had not been certainly fully appreciated when it was advertised. The other issue about the nature of housing, I should add to Deputy Le Claire, he said: "It is going to put the kybosh on the first good housing scheme", it can as the Constable of St. Saviour said, and others have said, it can easily be re-designed within the confines of the very big original site. We are talking about squeezing in more houses because the seller and the developer basically are going to profit from that. So, this is not a move to destroy the scheme. The other option I would have put, and I was hoping that the Minister may have bitten on this, was whether he was prepared to proceed with a public inquiry. We have heard from the Solicitor General that much will turn upon what was said and, as I said, what I thought had been said I am minded to consider has now hardened into: "I am bound by a decision", and hopefully that ambiguity can be explored further and it may give the Minister an opportunity to rethink the matter or to reconsider the matter.

[17:15]

I think there are basic principles. I do apologise for interfering, as Senator Le Marquand says, with a live application. I think there are valid reasons that the thing grew in a way we had not anticipated it would grow and we had not anticipated that the Minister, according to his comments - but not according necessarily to what happened at the hearing itself - that the Minister would see himself at this point as bound by a decision, that he was still able to go to the developer and discuss changes and so forth. So, I would ask Members, I think it is worth sending a strong message to the Minister. He is a reasonable man and a good man, I hope, and I am sure he will take it under advisement- and it is only under advisement - but we have seen, as with the town park debate, that when rational and reasonable arguments are presented he is quite prepared to face up to them. I move the proposition, thank you.

### **The Bailiff**

Very, well, the appel is called for then in relation to the proposition of Deputy Le Hérissier, Projet 62, I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 26</b>		<b>CONTRE: 13</b>		<b>ABSTAIN: 2</b>
Senator B.E. Shenton		Senator T.A. Le Sueur		Deputy of St. Peter
Senator A. Breckon		Senator F.E. Cohen		Deputy S.S.P.A. Power (B)
Connétable of St. Ouen		Senator S.C. Ferguson		
Connétable of St. Helier		Senator A.J.D. Maclean		
Connétable of Grouville		Senator B.I. Le Marquand		
Connétable of St. Brelade		Connétable of Trinity		
Connétable of St. John		Connétable of St. Mary		
Connétable of St. Saviour		Deputy R.C. Duhamel (S)		
Connétable of St. Clement		Deputy of St. Ouen		
Connétable of St. Peter		Deputy P.V.F. Le Claire (H)		
Connétable of St. Lawrence		Deputy of Trinity		
Deputy of St. Martin		Deputy A.E. Jeune (B)		
Deputy R.G. Le Hérisier (S)		Deputy A.T. Dupré (C)		
Deputy J.B. Fox (H)				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy M. Tadier (B)				
Deputy of St. Mary				
Deputy T.M. Pitman (H)				
Deputy T.A. Vallois (S)				
Deputy A.K.F. Green (H)				
Deputy D.J. De Sousa (H)				
Deputy J.M. Maçon (S)				

**The Bailiff:**

Very well. Now, the one remaining matter is the Draft Supply of Goods and Services (Amendment) (Jersey) Regulations, Projet 53, lodged by the Minister for Economic Development but that cannot be debated today, I understand Minister? It is the only outstanding matter. Does it have to be dealt with this session? Can you defer it to the next session?

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

If I may, could I ask the leave of the House to debate this matter? We have still got a short time to go. I believe it is important and it would be helpful if this small amendment could be dealt with this evening. I am happy to give a brief explanation if Members would find that useful.

**The Bailiff:**

Minister, it has not been lodged for the requisite period, has it?

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

I appreciate that, Sir, which is why I would ask Members if they would give leave to debate it.

**The Bailiff:**

Can I remind you of the wording? You will have to satisfy Members that - I am just trying to find the exact wording. What Standing Order is it? 26. Thank you. Yes, you will have to satisfy Members that the proposition relates to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. **[Laughter]**

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

Seeing you put it like that [**Laughter**] in all reality, Sir, it does not have that level of weight behind it although it is important from the business community point of view. The Supply of Goods and Services (Jersey) Law relates primarily to contract between businesses and consumers. However, it has been discovered that there is quite a serious effect on business to business transactions, in particular in the professional area such as lawyers, surveyors, and so on that they cannot get insurance, their liability is unlimited at the moment, and we are concerned that clearly business could be lost to the Island on the back of that, Sir. Again, I would defer to Members if they would like me to push this off until the next sitting, I will do so.

**The Bailiff:**

I think it is your decision, Minister. Either you defer it or you ask Members to decide that it is of such importance to Jersey's interest that it must be debated. The choice is yours, but it is certainly not for me to tell which you should do.

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

I will defer it until the next sitting.

## **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

Very well, so that is deferred and will be added to the Order Paper for next time. Very well, so that concludes Public Business. So, we then come to the Arrangement of Public Business for the next meeting and I call upon the Chairman of P.P.C. to speak to it.

### **11. The Connétable of St. Mary (Chairman, Privileges and Procedures Committee):**

Arrangement for Public Business will be as per the lavender sheets with the following additions and amendments. As we have just heard the Draft Supply of Goods and Services (Amendment) (Jersey) Regulations - Projet 53 - in the name of the Minister for Economic Development moves to 22nd June, but the first item of business that day will be the Vote of No Confidence: Chief Minister, lodged by Deputy Southern as Projet 76. On 19th July we have the following additions. Firstly, the User Pays Charges: issuing of animal health export and associated certificates, in the name of the Minister for Planning and Environment - Projet 25. Then Projet 75 - Jersey Heritage Trust Service Level Agreement and Funding Requirements - from the Minister for Education, Sport and Culture; and Projet 77 - the Draft Income Support (Amendment No. 5) (Jersey) Regulations - from the Minister for Social Security, and I think that is all.

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

I apologise yet again to put back yet again P.30, I wish to put that back with leave of the Assembly to 19th July.

**The Bailiff:**

P.30, which is at the moment on 22nd June, you wish to move to 19th July?

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

Yes. 19th July. I do not know, Sir, if Deputy Hill will wish to follow me in the customary manner.

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

I will pass it over as well. I will defer, thank you.

**The Bailiff:**

So, that is Projet 33 as well. Very well, does anyone else wish to say anything?

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

I would just to like to raise a point if I may that perhaps the Chair of P.P.C. would consider for the future. It concerns me that Senator - a fraudulent slip - Deputy Southern is potentially using his position in the House during the course of the current Senatorial elections to bring forward a string of votes of no confidence [**Approbation**] which of course will give him advantage over other candidates from the publicity that he will no doubt get from that and I just think that in the future in elections, obviously election candidates have to put forward expenses and clearly he is getting a significant advantage from his position currently in the House. [**Laughter**] I am delighted he has stepped in just to be able to listen to the remainder of my comments which I have just about finished.

**The Bailiff:**

I think, Senator, if I may, this is a matter you ought to take up with the Chairman of P.P.C. outside the Assembly. I do not think we can have Members popping up to say anything they feel like at any given moment in the Assembly. No doubt you can take it up with the Chairman.

**Deputy G.P. Southern:**

If I may say, Sir, the Minister should be careful of impugning my motives.

**Deputy T.M. Pitman:**

I could ask for a speech on behalf of his sponsored candidates.

**The Bailiff:**

I think that is enough of that. Does the Assembly agree then to adopt the Arrangements for Public Business with the amendments listed by the Chairman? Very well, now there is one other matter before we rise. There has been lodged a third amendment by Deputy Le Claire to the North of Town Masterplan - Projet 57 - and that will be in Members' pigeon holes. So, that concludes the business of the Assembly and we will therefore reconvene on 22nd June.

**ADJOURNMENT**

[17:23]