

# STATES OF JERSEY

## OFFICIAL REPORT

TUESDAY, 31st JANUARY 2006

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1 The Chief Minister will table an answer to a question asked by Senator J.L. Perchard regarding the delegation of ministerial responsibilities and their reporting under Article 30 of the States of Jersey Law 2005**

Question: Would the Chief Minister inform members -

- (a) what remit or specific areas of responsibility have been assigned to the 13 Assistant Ministers within the Executive.
- (b) when he will be publishing the full list of ministerial responsibilities as required by Article 30 of the States of Jersey Law 2005?
- (c) how the list will be published and, in particular, how the States will be informed in the future of any amendments to the list, particularly in relation to the functions of the Assistant Ministers?

Answer: (a) Specific areas of responsibility are currently being assigned to Assistant Ministers, and it is envisaged that this process will be completed in the next week or so.

(b) In accordance with Article 30 of the States of Jersey Law, a list will be published as soon as the responsibilities of Assistant Ministers have been fully assigned.

(c) This list will be published in the form of an 'R' (Report). The States will be kept informed of any future amendments to the list, and this will be done by either a statement to the Assembly or the publication of a further 'R'.

#### **1.2 The Minister for Social Security will table an answer to a question asked by Deputy G.P. Southern of St. Helier regarding Health Insurance Exemption income allowances and Invalidity Benefits**

Question: Would the Minister inform members –

- (a) whether, in October 2005, Health Insurance Exemption (HIE) income allowances were up-rated in line with the RPI (3.6 per cent) whereas Invalidity Benefits were increased in line with the average earnings index (5.3 per cent), and whether this resulted in a number of recipients being rendered ineligible for HIE?
- (b) whether this process has had any effect on those who have high medical costs due to their incapacity and, if so, to what extent?
- (c) of the figures for percentage increases in HIE income allowances and Invalidity benefits for the past 5 years? and,
- (d) what measures, if any, will the Minister take to ensure that the methods of increasing HIE income allowances and Invalidity Benefits outlined in (a) above are reviewed, or, if appropriate, amended –



- (i) in the short-term under the current system?
- (ii) in the long-term under the changes proposed in the income support scheme?

Answer:

(a) The rates of all benefits are reviewed annually in October. Social Security Insurance Benefits, such as pensions and incapacity benefits, were increased by 5.3 per cent in 2005 and some non-contributory benefits such as Attendance Allowance increased by 4.45 per cent. The Parish Welfare rates were increased by 3.6 per cent and it is these that determine the basis of the HIE income allowances. However, it should be noted that the HIE assessment of means involves certain benefit disregards and allowances which, being based on percentages, are automatically increased in October as well. Therefore, although it is possible, the increase in any one benefit is unlikely to be the prime (or sole) cause of HIE claimants moving over the income level.

(b) The HIE income allowances are set at approximately 20 per cent above the Welfare rates. Where someone moves over the income allowances, an additional 5 per cent discretion on their total allowances can be applied. The actual difference to the respective rate equates to £2.70 each week, but the discretion would be a minimum amount of £7.07 and, because it is applied to all allowances, is normally more. Further, States Funded benefits such as Attendance Allowance and Disability Transport Allowance which mitigate the added cost of disability are totally disregarded and act as a buffer against the potential fall of income due to loss of benefit.

The Department would welcome any examples of difficulties caused by the loss of HIE to compare with data it now holds on individual HIE/ and non-HIE attendances by General Practitioners. The clear objective is that cost should not be a barrier to proper and necessary medical services.

(c) The rates used over the last 5 years are as published by the Statistics Unit -

<u>Jersey Index of Earnings</u>	<u>Jersey Retail Price Index</u>
%	%
8.10	3.90
4.20	4.20
4.70	4.20
3.30	4.80
5.30	3.60

However, it should be remembered that these are two separate systems, each of which have different purposes. The Social Security scheme through pension and certain Incapacity Benefits is replacing earnings and so this benefit is uprated by the Earnings Index to ensure that parity is maintained with workers.

The HIE scheme, like the Welfare system, is part of the ultimate safety net and therefore is calculated around the amount required for living. Therefore, the Retail Prices Index is the more appropriate Index to use to uplift any benefit rates.

(d) (i) as there is only one more benefit uprating in October 2006 before the Income Support system is introduced, we have no plans to review the current system of uprating. Further, no budget has been allocated to incorporate any extension to the HIE scheme for this year.

- (ii) in the longer term, Incapacity Benefits, (which are outside of the Income Support system), will continue to rise with the Earnings Index which is generally the higher index. HIE will cease to exist as a separate benefit and the Income Support components will be reviewed at least annually with due regard to economic circumstances. However, the new Income Support system will not have thresholds which can cause 'all or nothing' effects such as the ceilings and income bars that exist in current systems. So, in short, the States have already agreed this principle in the Income Support proposals and the proposals to increase subsidies to those with chronic illnesses through the Health Insurance Scheme.

### **1.3 The Minister for Economic Development will table an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the Island's ferry services**

Question: Would the Minister inform members –

- (a) what consideration, if any, has been given to the possibility of opening ferry services to the Island to a fresh tendering process? and,
- (b) what progress, if any, has there been in talks with his Guernsey counterpart regarding the possible adoption of a joint approach to ferry services on the southern route?

Answer: (a) Members are aware that towards the end of last year the former Economic Development Committee had approved a draft air, sea and transport policy to be progressed by the new Minister. As far as sea transport services were concerned, the draft stated that ferry operators wanting to operate services to and from the Island would only be granted a ramp permit if they had a service level agreement which would be issued on a non exclusive basis.

The context that faced the former Economic Development Committee in arriving at that view was that not only did competition exist on the route but it had done so for a considerable period of time. The situation that emerged in December 2005 when Emeraude Jersey Ferries withdrew its service from the Jersey/St Malo route, however, meant that it was right and proper that the options available to the Island should be reviewed in light of the changing market situation.

I confirm that a review of the full range of options available to the Island commenced late last year including a fresh look at whether it would be better to test the market in some way. The review of is ongoing and comments and/or advice have been sought on particular aspects of possible future options from the Law Officers Dept, Oxera, the JCRA and Harbours.

The Minister for Economic Development is aware of the importance of the Island's sea transport services on both the southern and northern routes for many aspects of Island life and the Council of Ministers has been asked to consider this matter at its meeting on the 9th February 2006. The States were advised on the 13th December 2005, that the intention was to make a decision on future policy on sea transport services by the end of February 2006. That is still the intention.

(b) I am pleased to inform the States that discussions have been held this week between Ministers and officers from Economic Development and Ministers and officials from the States of Guernsey Commerce and Employment and Public Services Departments.

The purpose of the meeting was to consider how the Islands interests could best be served in securing ferry services that the Islands need. The meeting was a continuation of discussions

held in 2005 at staff level arising from consultations on policy proposals at that time being developed by the former Economic Development Committee.

The possibility of joining the Guernsey and Jersey markets is likely to be attractive to ferry operators as it is likely to strengthen the commercial viability of routes serving the Channel Islands. It is, therefore, considered that there would be benefit from closer cooperation between the Islands to secure sufficient and reliable services that meet the needs of the travelling public.

The Islands have agreed that further discussions should now take place to identify the services that both Islands require and whether these could be incorporated into an integrated service level agreement which could be used to secure ferry services on routes serving the Channel Islands. Clearly this process would include services related to the southern sector.

It is the wish of both Islands that they should be served by reliable long term services and we will be working together to secure that outcome.

#### **1.4 The Minister for Economic Development will table an answer to a question asked by Deputy G.P. Southern of St. Helier regarding the provision of school milk**

Question: What consideration, if any, has been given to the former Economic Development Committee's decision to withdraw funding for the provision of school milk?

Answer: None, at this time.

Funding exists for 2006. Funding for 2007 and beyond will be dealt with in the business planning and budgeting cycle.

## **2. Oral Questions**

### **2.1 Connétable A.S. Crowcroft of St. Helier of the Minister for Treasury and Resources regarding progress with the States paying Parish Rates on property in public ownership:**

In R.C.56/2005 regarding "*Parish Rates: the States' liability*", the former Finance and Economics and Committee identified that: "there is a strong argument that the States should pay rates", there was an unfair burden on several Parishes at the present time, and that the issue should be addressed as a priority with "firm recommendations" being made in 2006; would the Minister indicate what progress, if any, is being made?

#### **Senator T.A. Le Sueur (The Minister for Treasury and Resources):**

I am not sure where the Constable has found the reference to firm recommendations being made in 2006. I have searched R.C.56 and can only find a reference in the concluding paragraph to an anticipated date of 2007 for such recommendations to be presented. However, by way of reassurance, I can confirm that it is still my intention to bring forward firm recommendations at that time on the possibility of the States paying rates on its properties. If they read elsewhere, Members will find in the executive summary, the words: "In the interests of fairness and transparency, the Finance and Commerce Committee supports the argument of the States being rateable on all its properties. In recognition of the inequity caused by the current exemption and the severe financial constraints placed by the States, the Committee puts forward its preferred option for funding this potential liability. The Committee believes it would be unwise for the States to make a firm recommendation with regard to funding until the economic impact on the fiscal strategy are clearer and the Island-wide rate debated, accepted and implemented. The Committee would like to issue this R.C. as a preliminary consultation document in respect of the way forward." I remain of that opinion. At the present time, while the Island-wide rate has been debated and accepted, its effects,

particularly on businesses, have not yet been fully evaluated. Similarly, aspects of the fiscal strategy remain under review. By the end of this year, there should be much greater clarity in both these areas enabling proposals to be considered in light of full information. In conclusion, I reaffirm my support of the conclusions of R.C.56/2005 and it is my intention to bring recommendations as stated in 2007.

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

I apologise for the typo. It is, indeed, 2007 and it should have been in the question. Notwithstanding that, if the Minister is to bring forward firm recommendations next year and given that the conclusion promises preliminary consultation, would it not be advisable for the Minister to invite Members of the Committee of Constables and other interested parties to form a working group this year in order that firm recommendations can be brought forward next year?

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

Yes, Sir, I am perfectly happy to meet with the Comité of Connetables but perhaps that would be premature at this stage until the clear impact and the effect of the non domestic rate has been evaluated by them.

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

Sorry, Sir, clarification. I did ask whether the Minister would be prepared to form a working group involving the Committee of Constables so that firm recommendations could be brought forward next year.

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

I think it is more than a Comité of Connetables, so as the report suggested there are also matters of fiscal implication and economic implication. I would be happy to form a working group which would include the Connétables but other people would also be needed on that group as well.

**2.2 Connétable D.J. Murphy of Grouville of the Minister for Health and Social Services regarding consultation with ACET and the Brook organisation:**

When was the last time that the Minister met with ACET and Brook and what plans does he have, if any, for further consultations with these agencies and charities?

**Senator S. Syvret (The Minister for Health and Social Services):**

Health and Social Services are committed to further developing contemporary sexual health services, preventing unplanned pregnancies and reducing the prevalence of sexually transmitted infections. It is recognised that the department will look to other service providers to plan an appropriate role in achieving effective sexual health care for Islanders. However, it is necessary for independent sector organisations to recognise the new financial constraints the States are under and the multitude of competing demands on the budget of Health and Social Services. Unfortunately, such recognition has not always been forthcoming. The last meeting officers and I had with ACET was not a useful exercise. Listening to senior health officials being lectured for half an hour on the prevalence of HIV (Human Immunodeficiency Virus) and AIDS (Acquired Immune Deficiency Syndrome) in Africa - something they are, of course, perfectly aware of - was not a constructive use of time and taxpayers' money. Whilst further meetings have been requested, none has taken place yet as ACET have not told us clearly what the agenda or purpose of such discussions would be. However, it could be inferred from the correspondence that their principal concern is the withdrawal of their grant by Health and Social Services. I and the Minister of Education, Sport and Culture clearly stated in November 2004 that our departments would no longer provide grand aid assistance to this organisation. It is intended that those areas of activity dealt with by ACET can be delivered on a more cost effective basis by the Health Promotion Department. This will ensure that education and information on HIV and AIDS is delivered as part of a broad based sexual health

programme. In respect of Jersey Brook, it is recognised that the organisation has an important continuing role to play in the overall delivery of sexual health services. It serves a particularly vulnerable group for whom access to mainstream service, in some cases, may be difficult. For this reason, Health and Social Services is committed to ensuring that Jersey Brook continues to be supported to fulfil the needs of its original target group. I personally have had no recent meetings with Brook as none have been requested. There has been routine contact between Brook and offices of Health and Social Services. These discussions focus on wider service issues in addition to funding. Jersey Brook continues to be financially supported by Health and Social Services and we expect to finalise a service level agreement with them which will clearly stipulate the services to be provided as part of the overall sexual health strategy.

### **2.2.1 The Connétable of Grouville:**

The Minister may recall that in his response to the Drug Scrutiny Panel Review on substance misuse (Article 14), he did say that, having said that, it was recognised that more could be done to improve communication with other sectors. We are hardly achieving that, are we? ACET have actually asked for meetings repeatedly since July 2005 and there are 2 letters on file, dated 19th October last year and 10th December last year, which as of yet have not even had an acknowledgement or a reply. May I suggest that he, perhaps, ask his offices to get in touch with ACET and perhaps sit down and talk to them to decide exactly whether they are going to be constructive or not. I think you might find the situation has changed.

### **Senator S. Syvret:**

As I made plain in the original answer there has been correspondence certainly from ACET to Health and Social Services, but I reiterate the point that no clear indication has been given in that correspondence precisely what it is ACET expects to achieve out of the situation and I and other previous Presidents of Committees reached a stage of complete exhaustion in attempting to deal with this organisation. What is perfectly clear to us is that the £55,000 per annum given by Health and Social Services to ACET - £55,000 of taxpayers' money - would be more constructively, more efficiently, more cost effectively used delivering frontline sexual health strategies than paying the salary of the director of ACET.

### **2.2.2 The Connétable of Grouville:**

As you know, this grant has been stopped. ACET does not receive any money from the States. They are, at the moment, working on a budget of £180,000 a year which is provided to them by numerous smaller charities and individual people who take this HIV situation extremely seriously. May I just advise the Minister I think he might be helping the taxpayer by contacting this very well worthwhile agency and trying to help them rather than to hinder them and make slurs and accusations against them?

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

That is an assertion. What is your question, Connétable? This is question time.

### **The Connétable of Grouville:**

Sorry, I was following with a question. The question is would he please contact this agency in order to clarify the situation and clear the air?

### **Senator S. Syvret:**

Certainly, Sir. I am happy to contact the organisation and ask them to put to us in writing precisely what it is they want from Health and Social Services. I am happy to do that and I am happy to meet with them providing there is a clear and constructive understanding between the 2 organisations as to precisely what we are trying to achieve here and precisely what the objectives are.

#### **2.2.4 Deputy R.G. Le Herissier of St. Saviour:**

On the theme of relationships to voluntary bodies, would the Minister acknowledge whether he has had a recent meeting with Family Nursing and whether the issues that were to the forefront last year have now been resolved and there is now a stable and enduring relationship with Family Nursing which is based on their continuance as a major provider?

#### **Senator S. Syvret:**

Yes, Sir. Indeed there were communication difficulties - to put it mildly, I think, in fairness - between Health and Social Services and Family Nursing and Homecare which came to a head in the budget about 14 months ago. I am very happy to report that since then the working relationship between Health and Social Services and Family Nursing and Homecare has improved dramatically. Officers routinely meet from both organisations. A constructive way forward is organised. We are on the verge of finally settling upon the service level agreement between Health and Family Nursing and Homecare and I am also pleased to be able to report that we are very near to solving the job families issues which was affecting some employees of Family Nursing and Homecare. So, certainly, I am happy to report that working relations between the 2 organisations are vastly improved.

#### **2.3 Senator L. Norman of the Chief Minister regarding further facilities, if any, to be provided to Ministers and related costs:**

Following the provision of hotel accommodation for a recent strategy meeting of the Council of Ministers, are there any further facilities to be provided to Ministers such as fully equipped offices within their respective departments and, if so, what costs are involved, if any, and how will these be met?

#### **Senator F.H. Walker (The Chief Minister):**

In most cases, an office has been available for each Minister to use in his or her own department although in one or 2 cases Ministers still prefer to work from home. The additional costs have not, in any way, been significant as they have simply involved the redesignation of existing office space and have been met by departments from within their existing budgets. In addition to that, the ninth floor of Cyril Le Marquand House has been designated as the meeting room for the Council of Ministers and essential furniture was purchased for that floor, including 20 chairs, at a total cost of £22,257. In addition, it has been agreed that Ministers should be provided with a mobile phone with email and diary facilities so that they can keep up to date with their appointments and emails when they are away from the office. These cost £520 per unit together with a unit support charge of £1,000 a year to cover the costs of server hardware and software, user support and the replacement of equipment every 3 years. These costs will be met from the central IT budget. Therefore, the total cost of allowing for ministerial government and installing ministerial government and establishing ministerial government is £27,029 plus the telephone support costs.

#### **2.3.1 Senator L. Norman:**

Does the quantified insignificant cost of providing offices for Ministers include such things as rental value, light and heat, cleaning, stationery, telephone, secretarial service and the relocation of previous occupants? Bearing in mind that all Members receive an expense allowance towards their office expenses to cover our individual needs over and above those facilities provided centrally, will Ministers be expected to contribute towards these costs from their expense allowance?

#### **Senator F.H. Walker:**

I frankly think that is a ludicrous question. If the States and the Island want ministerial government - and they clearly do - then Ministers who carry a heavy responsibility have to have the minimum acceptable amenities to do that and, as I said in my answer, no Minister - despite, I know, rumours to the contrary - has had an office beautifully furnished or specifically tailored to their

requirements. Largely speaking, where we have moved into offices we have moved into offices that existed with a lick of paint here and a lick of paint there, otherwise no additional facilities. The Island has got ministerial government installed on the cheap.

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

The Remuneration Sub-Committee set up by the States of Jersey through the PPC (Privileges and Procedures Committee) recommended that no States Member would receive differential rates of pay. I understand from the answer that was given by the Chief Minister the issues behind having Ministers accessing their important messages, et cetera, with their mobile phones. Could I ask 2 questions? The first is, will the calls from these mobile phones be paid for by the States of Jersey and will those numbers that belong to the Ministers be circulated to Members who do not normally have the access to many Members' mobile phone numbers?

### **Senator F.H. Walker:**

The answer is that calls for official business will be paid for by the States. It is vital that Ministers are in touch with their emails and their diary if they are to do their job efficiently and that is what the States expect of them. Secondly, so far as numbers are concerned, I can only speak personally but my mobile telephone number has been published in the telephone directory ever since I have had it and I think the same applies to virtually every Minister and I know there is no problem with circulating contact numbers.

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

A supplementary question to the Chief Minister: perhaps he could ensure that all Members do have access to these mobile phones if the Chief Minister and his Ministers are going to do their job. Certainly it must be an issue that all Members have access to these numbers. I know from looking in the green pages of the Members' handbook that there are difficulties in finding people's mobile phones.

### **Senator F.H. Walker:**

I do not know if that was a question, Sir, but I think I have already said that contact numbers will be made available.

### **2.3.4 The Connétable of Grouville:**

Could the Minister assure us that this new system will, in fact, improve communications with the Minister of Transport whose emails seems to bounce all around the Island, never coming home to rest?

### **Senator F.H. Walker:**

The Constable is not the only one to have a sense of frustration in having emails bounce back from the Minister for Transport but that, I am assured by Deputy de Faye, is a matter that is in hand.

## **2.4 Deputy G.P. Southern of St. Helier of the Chief Minister regarding availability to Scrutiny of responses to consultation undertaken by ministerial departments:**

What steps, if any, is the Chief Minister taking to ensure that responses to consultations conducted by all ministerial departments, through whatever bodies, are made available to Scrutiny Panels?

### **Senator F.H. Walker (The Chief Minister):**

I believe that is important that Scrutiny Panels should be able to take an active part in consultations organised by ministerial departments and that, indeed, has been agreed. Guidelines on public consultation were published in October 2005 and these state that Scrutiny should be notified of a decision deadline for consultation has been expired, the ministerial department concerned will prepare a report outlining responses and a copy will be sent to Scrutiny as well as being placed on

the States of Jersey website. In addition, the code of practice states that copies of individual responses should be made available to anyone who asks for them subject to requests from respondents for confidentiality.

**2.4.1 Deputy G.P. Southern:**

Is the Chief Minister aware that consultations which have taken place, conducted by the Employment Forum, and on which we are about to make a decision (i.e. the minimum wage) have not been made available, certainly to this Chairman of the Scrutiny Panel?

**Senator F.H. Walker:**

I am not but I will establish the facts behind the Deputy's suggestion.

**2.4.2 Deputy G.P. Southern:**

Would the Chief Minister consider the simple act, on any consultation document that leaves his government to anybody whatsoever, of putting the notice somewhere on that form that responses may be available to Scrutiny and to other branches of the government?

**Senator F.H. Walker:**

Yes, Sir, absolutely.

**2.5 Senator L. Norman of the Minister for Transport and Technical Services regarding account to be taken of public opinion in relation to proposed introduction of car park barriers, and on other decisions:**

Would the Minister advise Members whether he will take account of the level of public opinion against his proposal to reintroduce barriers in public car parks and, if so, what influence is public opinion having, if any, on other decisions he is making?

**Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):**

I can assure the Senator that before any decision is made to change the charging system within the car parks the public will be formally consulted and their views taken on board. This has not yet been done. The media has carried out straw polls and some members of the public have made their views known. The department will be undertaking a far more rigorous analysis taking into account all aspects of such a change and only after that will a decision be made and the outcome of consultation made known in accordance with the agreed code of practice for written consultations. As far as the final part to the Senator's question is concerned, I can also assure the Senator that I will always listen to public opinion and take it into account so long as I am convinced that it is both balanced and representative, but I also accord weight to the public interest - a different and important concept. Sometimes there is a fine line between public opinion and public interest. On other occasions, there is a wider margin of disparity.

**2.5.1 Deputy R.G. Le Herissier of St. Saviour:**

Would the Minister outline, in reference to submissions from the public, what his policy is when he receives a submission? Does he reply to it, for example?

**Deputy G.W.J. de Faye:**

I receive personal submissions to me and I also receive submissions to the department. My normal practice is for either myself or my officers to respond to those submissions.

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

Sir, you did not approve the Minister's request to read his statement earlier in the session but having read it through I am concerned to see that the Council of Ministers has approved the strategy - the Travel and Transport Plan - that was to be brought to the States for discussion and



approval. It has just been approved, it would seem, by the Council of Ministers out of hand. How then is the parking strategy in it, and of course the reference to barriers, to be brought to the House for debate and to be consulted with the public if it is not to be brought to the States for debate?

**The Deputy Bailiff:**

Connétable, can I just say this? There will, of course, be the opportunity to ask questions for 10 minutes after the statement. Would you think it more suitable to ask that question at that time?

**The Connétable of St. Helier:**

Thank you, Sir.

**2.6 Deputy G.P. Southern of the Minister for Economic Development regarding examination of fresh evidence as part of review of decision to withdraw funding for school milk:**

Is the Minister undertaking any work to examine any fresh evidence, either on health or economic grounds. as part of a review of the decision of the former Economic Development Committee to withdraw funding for school milk and is he aware of the grounds that lay behind the former Committee's decision?

**The Deputy Bailiff:**

Now, the Minister is not here. He has 2 Assistant Ministers. Who is volunteering for the task? Deputy Maclean.

**Deputy A.J.H. Maclean of St. Helier (Assistant Minister for Economic Development):**

We have not had an opportunity to look closer at this yet, however I can assure the Deputy that we will be carefully considering the economic, educational and health grounds surrounding this very important and highly emotive issue. I should add that funding exists for 2006 for school milk.

**2.6.1 Deputy G.P. Southern:**

Is the Assistant Minister aware of any changes which might invalidate the recommendation made by Dr. McQueen that guaranteed continuation of the present level of state support for school milk and welfare milk programmes are important to the dairy industry?

**Deputy A.J.H. Maclean:**

No, I am not aware of any evidence but I am more than happy to consider any fresh evidence that should come to our attention.

**2.6.2 Deputy G.P. Southern:**

Whilst I accept the assurance that funding will remain for the period of 2006, does he support the previous Committee's decision that it ought to be removed from 2007?

**Deputy A.J.H. Maclean:**

As I have already stated, Sir, we have not had an opportunity to look closely at this issue as yet so I am unable to add anything further to my previous statement.

**2.6.3 Deputy G.P. Southern:**

Can the Assistant Minister inform Members whether talks have taken place to co-ordinate any change in treatment for school milk with welfare milk with the Social Security Minister?

**Deputy A.J.H. Maclean:**

I have nothing else of any value to add to what I have already made in my statement.

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

Nonetheless, I may ask the question I presume. May I continue? One last supplementary, Sir. One of the problems associated with school milk and welfare milk is the withdrawal of the delivery service by Jersey Dairy. Has his Committee or the previous Committee considered any alternatives to such a delivery system?

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

As I have already mentioned to the Deputy we have not had the opportunity as yet to consider this so obviously that point as well has not been considered.

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

May I ask the Assistant Minister has the Ministry any idea when they are going to look at the subject and have they got an answer maybe to give us some time scheduling as to when this very important issue will be discussed?

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

I am not aware at the moment, Sir, of an exact date when this issue is going to be considered but we would be delighted to get back to the Deputy in due course when more information is available.

#### **2.7 Deputy R.G. Le Herissier of the Minister for Health and Social Services regarding targets for expeditious handling of discipline cases and continued payments to suspended member of staff:**

Would the Minister inform Members what targets exist, if any, for the expeditious handling of discipline cases within the department and whether overtime and bonus payments, in addition to the normal salary, continue to be paid to a suspended member of staff and, if so, the reasons why?

#### **Senator S. Syvret:**

In respect of disciplinary matters, the Health and Social Services Department follows States' policy and takes its advice from the States' Human Resources Department. Where an employee is suspended, Health and Social Services maintain normal payments as suspension is a neutral act and must not be seen to be punitive. If normal contractual payments were to be stopped, this would punish the employee without good ground as no case had yet been proven against them. If the case involves a Police investigation, the suspension may need to be extended to enable a Police inquiry to be concluded. Such inquiries may then lead to prosecutions. Obviously to conduct disciplinary procedures before a prosecution risks jeopardising the case before it comes to court, thus risking the success of the action. In some cases of suspension it is not only the central person who is suspended but other people involved in or peripheral to an incident if it is thought prudent to take them away from the workplace while an investigation takes place. Non contractual overtime is not paid on suspension as overtime must be worked in order for it to be paid. However, some long serving employees have a small amount of guaranteed overtime which is contractual and is included in basic pay. This is a remuneration feature found in other States' departments but this is an old practice which is gradually diminishing. Health and Social Services do not pay bonuses. The relevant disciplinary procedures set down do set down guidelines as to timescales for dealing with disciplinary cases, in particular the handling of appeals. However, it is not possible to maintain a rigid timetable as each case will need to be determined on its own merits and the length of time required for the investigation will vary depending on the particular circumstances of each case which will include having regard to Police inquiries and prosecutions. Once the investigation is complete and a decision is taken to proceed with the formal disciplinary hearing the case is dealt with as soon as possible.

### **2.7.1 Deputy R.G. Le Herissier:**

I should add I am in no way speaking on behalf of individuals with whom I am in no way in contact. In reference, Sir, for example to a case that took 5 months to resolve in terms of the use of abusive language towards a patient. I understand 2 words - 2 expletives - were used, one of which was disputed in this case. It took 5 months to resolve. Would the President explain, Sir, why this case took 5 months to resolve and the Sword of Damocles was allowed to hang over a person for so long?

### **Senator S. Syvret:**

My understanding of that particular case is that it took that length of time because not only was there the initial suspension; the investigation - including taking statements from witnesses, potential witnesses and the person who was abused - but then the disciplinary action took place. Then there was an appeal against the outcome of the original disciplinary action. So that the investigation, the original disciplinary decision and then the appeal, I think, would explain why that amount of time was taken in that case.

### **2.7.2 Deputy R.G. Le Herissier:**

We have, for example, the phenomenon of case management coming more and more into the court system in the way in which cases are presented, the way in which they are managed and the gross amount of time expended upon them. Would the President say whether there is anyone in the organisation who is actually monitoring the way cases have progressed, the way charges are brought against people and whether, indeed, charges in some cases are used as, quite frankly, an over the top solution to an issue? Who is in charge of these matters and is keeping a professional eye on these matters and saying we may have got it wrong for example?

### **Senator S. Syvret:**

There were 2 people within the organisation who I would look to to have particular responsibility. One would be our Director of Human Resources. The other, ultimately, would be the Chief Executive. Both these officers have a specific duty in this field and would be expected as part of their normal, professional duties to make sure that any kind of investigation processes, disciplinary actions were carried out correctly according to all laid down agreements and guidelines and despatched in the fastest possible time under the circumstances of each case.

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

Can I seek an answer from the Minister? Can he say that lessons have been learnt from the lengthy suspensions imposed upon some of these employers and, indeed, maybe some mechanism may well be put in place to ensure that these lengthy suspensions do not continue?

### **Senator S. Syvret:**

I think the Deputy is making reference to one particular case which has gone for something in excess of 3 years now. To answer his question, yes, my department and my senior officers are exploring with other States departments and agencies whether, in fact, there is some form of disciplinary procedure that could be put in place and worked upon without risking prejudicing potential Police investigations and prosecutions should those considerations be relevant under any particular case. The reason why that particular case has taken so long to resolve is because the prosecution has not yet taken place notwithstanding repeated letters. I have a bundle of them here, between our department and the Law Officers' Department. To date, I am afraid, still no prosecution has taken place and it is a situation that we, at Health and Social Services, deeply regret. We are not happy with it but it is a matter for the administration of justice. I am afraid it is out of our hands.

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

Would the Minister not agree with me that the matter of settling disciplinary disputes such as this transcends the Health and Social Services Department and, indeed, is a problem for all States departments? Will he undertake to raise the matter on the Council of Ministers to see if a joint approach can be taken towards this right across the board?

#### **Senator S. Syvret:**

Yes, Sir, I certainly will be. That is a good suggestion and something I was thinking of doing myself. It is absolutely clear that there is a problem here. There is anomaly in how we can deal with matters of suspension with some despatch, not only for the efficiency of States departments and the proper use of their resources, but frankly also for the individuals concerned. I do not believe it is fair or reasonable for issues such as disciplinary actions or, frankly, for that matter, prosecutions to be hanging over the heads of individuals for year after year. It is not a happy state of affairs and yes, Sir, I will be raising this with the Council of Ministers to see what we might possibly be able to do about it. I would imagine that the Council of Ministers may well want to enter into discussions for example with the Law Officers' Department on this question.

#### **2.7.5 Deputy R.G. Le Herissier:**

I wonder if the President could inform the house who actually takes the decision that a disciplinary case will go forward and who, other than that particular person, examines that decision to ensure that this is, indeed, a good use of resources and not a potential case of injustice?

#### **Senator S. Syvret:**

I think I have already explained in answer to a previous case from the Deputy. There were 2 key individuals within the organisation that have this kind of responsibility. Ultimately, it is the Chief Executive. If any particular case appears significant or problematic or unusual so that it might be described as outside the realm of normal day-to-day complaints and potential suspensions and disciplinary actions, advice is taken from the States central Human Resources Department to ensure that the actions being taken by the Health and Social Services Department do, in fact, meet all appropriate requirements and certainly that has been the case in recent times.

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

Is it a case that sometimes suspension seems to be the first option about settling a dispute rather than the last? Would the Minister not agree really that suspension should only be incurred or imposed upon those where a case is quite serious because it would appear from the list that was given to us 2 weeks ago in answer to written question by Deputy Le Herissier that there were a number of people here who were suspended and ultimately there was no action taken. So, it would appear that good money was wasted and unfortunate stress incurred by those or suffered by those who were suspended.

#### **Senator S. Syvret:**

In answer to that question it is necessary for Members to understand that strictly speaking, technically, legally and procedurally suspension is not a disciplinary act. It is simply a case of pausing that person's work in that particular area while an investigation takes place. I cannot agree with the Deputy because within Health and Social Services it, by definition, needs to be a highly disciplined environment where the protection of vulnerable people and patients and the integrity of the organisation has to come first. As I think I alluded to in the original answer, it may be necessary for suspensions to take place where there is no question ultimately of disciplinary action against the individuals concerned simply because the nature of the incident, clinical errors, mishaps, whatever they may be mean that in order for a clean investigation to take place it is appropriate to remove the individuals concerned from that particular work environment. So, it is important to understand that suspension of itself is not a disciplinary action and is sometimes

necessary to ensure a good and thorough investigation of any untoward incidents that may have occurred.

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

Would the Minister also agree that he and his Ministry and indeed the Council of Ministers have a duty of care not only to their staff, but to the staff's families and that any case being investigated should be expedited without undue delay in order to find an appropriate resolution? Thank you, Sir.

**Senator S. Syvret:**

As I have already said, I do not personally believe it is acceptable for these kinds of cases to drag on year after year. It is neither fair on the person suspended nor, indeed, on anyone else involved in the case and yes, as I have already said, I will be raising this question with the Council of Ministers to see if there is some form of improved procedure to deal with this.

**2.8 Deputy J.A. Martin of St. Helier of the Minister for Social Security regarding progress on development of Income Support Scheme and inclusion of aspects of housing benefit:**

Will the Minister inform Members what detailed progress, if any, has been made during the development of the income support scheme to decide what aspects of housing benefits will be included in the scheme?

**The Deputy Bailiff:**

Deputy Troy, I understand you will be answering on behalf of the Minister?

**Deputy P.N. Troy of St. Brelade (Assistant Minister for Social Security):**

Yes, Sir, that is correct. The States approved the income support system last year and a law drafting brief has been drawn-up on that basis. Both the relevant report and proposition (P.86/2005) and the law drafting brief are posted on the States of Jersey website and I would refer Deputy Martin to them. In brief terms, the housing benefit system will be abolished when income support comes into effect. The new system will take on board the principles of the housing benefit system; that is meeting rental costs up to a fair rent level for accommodation suitable to the size of the household. However, the proposed income support assessment differs in that an amount for rent will be added to a living allowance and any other relevant component from which will be deducted all income after applying a 10 per cent disregard with the balance paid by the way of income support. Detailed work is now underway on all aspects of the system so that subordinate legislation can be drafted after the States have approved the law. We have recently had discussions with the Social Affairs Scrutiny Panel of which Deputy Martin is a member to request that they take detailed referrals as work progresses in developing income support to help us meet the tight timescale of May 2007 for implementation.

**2.8.1 Deputy J.A. Martin:**

Yes, I am member of the Scrutiny Panel. This is why I have asked this question. I am concerned with the tight timetable and the Deputy has now informed the House that the present system of rent abatement and rent rebate - private rent rebate - will be abolished and replaced with a completely new system but which actually has not been worked out in this tight timescale. Would the Deputy inform the House how the benefits will differ? We are talking, in the States rental sector alone, about a sum of £15 million in rent abatement for people on very low incomes on very high rents and I would ask how is he assessing fair rent and actual rent? I hope the Deputy understands the question because the fair rent sector housing is not always the actual rent asked for the house. So, there are a few questions in there and this is why I ask this question. We are about 9 months away from passing this law in the House and the biggest aspect which covers on low income has not yet even be touched on or resolved.

**Deputy P.N. Troy:**

The income support system sets up a level of income that a household needs for a modest but adequate budget and tops-up incomes for households below that figure and, of course, there will be rental component so that those who are at the lower end of the scale are protected. So, they will have their weekly and monthly incomes brought up to a level on which they can adequately live. Within P.86/2005, Annex 2 gives the benefit rates relating to 2005 and, of course, those are all based on housing fair rents and the income support system will continue with that basic philosophy. It is just that the structure will change overall.

**2.8.2 Deputy R.G. Le Herissier:**

One of the continuing criticisms of the rent rebate system which the Minister of Housing struggled with previously was the fact that it was seen as an inflationary system which exacerbated rather than cured the problem which it was intended to cure. Would the Assistant Minister tell us how he expects his new system to start curing the problem rather than exacerbating the problem?

**Deputy P.N. Troy:**

I think it fair to say that in the new system there will be winners and losers. The idea of the whole income support system is to protect those at the lower end of the income scale and there are some people who are receiving housing benefit and other benefits where some of those funds could be distributed to those at the lower end of the scale. So, there will be some losers out of the whole system because there are some people who are receiving housing benefits... and I think the Housing Minister is nodding in agreement. There are some people who are receiving too much from the present structure and that will be addressed in the new system.

**2.8.3 Deputy G.P. Southern:**

What consideration, if any, has been given to changing the resident's qualification for receipt of housing rent rebate and rent abatement? Is there any consideration of removing the current 14-year limit and moving it down to 5 years to match the eligibility for the current welfare and presumably future low income support?

**Deputy P.N. Troy:**

The intention, certainly, would be to bring it down to a 5-year period for eligibility. As the scheme develops, I will be able to confirm that at a later date.

**2.8.4 Deputy J. A. Martin:**

On hearing that answer, could the Deputy tell the House how much research has been given to how many families this will affect between 5 years now, who cannot claim any form of rent rebate or allowance, and the 14-year housing residential qualifications? What research and how much will it actually cost?

**Deputy P.N. Troy:**

I cannot answer that question, Sir. That is an open end question. I just cannot answer that.

**2.8.5 Deputy G.P. Southern:**

Is the Assistant Minister aware that there are, according to the income distribution survey, some 300 families below the low income threshold who will be claiming, undoubtedly, in the non-qualified sector and that according to the income distribution service survey also some 30 per cent - one third - of people of non-qualified households - 4,300 households, so approximately 1,000 plus households - may well become eligible for rent rebate under his new proposed scheme, if he does lower the qualification period to 5 years.

**Deputy P.N. Troy:**

As I said, the thing with the income support scheme is that we will have a sufficient amount of funds and what has been assured is that a sum of £20 million for transitional arrangements is confirmed as receivable over a period of years from the Treasury to protect those whose circumstances are changed by the introduction of the scheme; and also GST protection of £1.75 million to £2 million is also guaranteed funding; and start-up costs of the scheme of another £2 million are also guaranteed as part of the funding. We will have the total pot which will be distributed and what we are establishing now is how it will be distributed and that is how we are working through the item and the Scrutiny Panel will have an input and will watch over the way that the scheme is developed. The total pot is there and we have to establish how it will be distributed and that is part of the problem.

**2.8.6 Deputy G.P. Southern:**

Is the Assistant Minister prepared to hold meetings to inform all Members of the States as to how this particular system has progressed and, in particular, is he prepared to give Members access to the income distribution model on which this is based in a similar manner to which Members got access to the fiscal figures when we were investigating tax reform? Will he give access to the income distribution model?

**Deputy P.N. Troy:**

The department has always been prepared to share information and, certainly, as we are embracing the Scrutiny system we are working with the Scrutiny Panel. We have invited the Scrutiny Panel to work with us and we will always be as open as possible and we will be as co-operative as possible with the Scrutiny Panels. We have had numerous consultations with members in the past. As we have developed the scheme we have had presentations to Members and I have in the last week met with the Scrutiny Panel and it was suggested that we have presentations to new members who may not be fully conversant with the scheme. So, we will be arranging that so that new members can have a detailed presentation so that they become more aware of the intricacies of our proposals.

**2.8.7 Deputy R.G. Le Herissier:**

At this presentation for new Members, will the Assistant Minister be telling the Members what percentage they have put in their plan of the low income budget will go towards rent, support of various kinds, and whether this percentage differs from the amount currently or the overall sum differs from the amount currently dedicated to this area?

**Deputy P.N. Troy:**

I think it is logical from our proposals, if we are distributing from some of the wealthy individuals to those who are at the lower end of the scale, that there will be losers from the scheme. So, I fully anticipate that some who are receiving housing benefits at the upper end of the scale will lose out so that might suggest that housing benefits would reduce in some regard. But the whole scheme has to be costed out and we have to be certain of our figures and, of course, we have to come back to the States with it so all Members will have the opportunity to comment in due course on the scheme as outlined.

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

I have been asked to investigate whether the department actually takes benefits in kind as part of the make up to someone's income. In determining actual rent, fair rent, income, actual income and the distribution of States' money to support people in lower income is the Department looking to treat benefits in kind as actual income, because overall that will affect not only the amounts of benefits they receive in rent rebate but also the amounts of contributions they will make?

**Deputy P. N. Troy:**

I am trying to work out what the Deputy might mean through benefits in kind. It would be useful if I had an example but as I did say earlier, all income after applying a 10 per cent disregard will be considered as part of the income support scheme. So, any income coming in under the existing arrangements would be included apart from certain disregards.

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

In determining the formula for these new processes that the States are going to undertake through the Ministry of Employment and Social Security, will the Assistant Minister undertake to talk with the Minister for the Treasury Department and find out exactly what is classified as a benefit in kind? Then he will understand - and his department will understand - what is taxable and what is not taxable and what is classed as an income and what is not classed as an income, and thereby be able to treat a benefit in kind the same way as the tax department does when taking account of someone's income. This will not affect the benefits; it will also affect the contributions and will have an effect on the social security scheme.

**Deputy P.N. Troy:**

We are in the process of developing this scheme as I have said so the scheme is not defined at the present time and this is where we have to work with other States Members - with Scrutiny - and develop a scheme that works for the Island of Jersey. I will gladly talk to the Treasury Minister and establish if he has any concerns regarding any component and we will have full input from the Treasury Minister and any Member of the States who is interested in giving their opinion to us. We will gladly take on board their opinions and take forward those opinions into the proposals.

**2.8.10 Deputy C.J. Scott Warren of St. Saviour:**

The Assistant Minister will appreciate how important this new scheme is and will he please extend his invitation not just to new Members but to all States Members?

**Deputy P.N. Troy:**

Yes, of course, Sir.

**2.8.11 Deputy J. A. Martin:**

The Assistant Minister answered a couple of questions ago that the scheme will be detailed and researched and costed. Will the Assistant Minister inform the House whether the timescale for bringing in the scheme is their timescale or they are pressurised by the introduction of GST and that this scheme must come in before even if they are not quite ready or researched or they have enough money? Thank you, Sir.

**Deputy P.N. Troy:**

The Deputy is correct. There is a link to bringing this in prior to the introduction of GST. I acknowledge that. We do feel that we do have a timescale which is achievable. As I said we intend to implement this in May 2007. We will need to have all of the legislation drafted and before the States and we will need to have the scheme fully organised for the back-end of this coming year. So, we will need to be clear in our minds as to the full extent of the scheme and the full proposals of the scheme at September/October time and I hope that the Scrutiny Panels will work with us on that. We need to bring the proposals to the States in good time so that we can implement for May 2007.

**2.9 Deputy R.G. Le Herissier of the Minister for Housing regarding whether legislation to be brought to protect tenants' deposits:**

Will the Minister be bringing legislation to the States for the protection of tenants' deposits, and if so, when?



**Senator T.J. Le Main (The Minister for Housing):**

The answer is yes, Sir. The protection of tenants' deposits will be enshrined in the new tenancy law which is in its final stages awaiting to be signed off by the Attorney General.

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

Will the Minister remind the House how long the process has taken to get this security of tenure legislation to the House?

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

Yes, Sir, the States approved P.257 in May 1999 and it has taken all this time and it could be several months yet before it is finally laid before this Assembly.

**2.9.2 Deputy R.G. Le Hérissier:**

Given what the Minister has said, can he give us the target date he is working towards for its actual introduction as a policy?

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

No, I cannot give a date, Sir. It is a really complex piece of legislation which is in the hands of the Attorney General. The Attorney General, as we all know, is unwell at the moment recuperating and I am certainly not going to be pushing the Attorney General because of his health problems to bring urgency or pressurise him. I await - and the Attorney General is awaiting - to sign it off and he will do it as soon as he is able.

**3 Questions to Ministers without notice**

**3.1 Questions to The Minister for Education, Sport and Culture**

**The Deputy Bailiff:**

That brings all the questions to an end and so we now move to questions to Ministers without notice and the first period involves questions to the Minister for Education, Sport and Culture: Deputy Pitman.

**3.1.1 Deputy S. Pitman of St. Helier:**

The Minister has advised Members of the House that approximately a quarter of a million pounds of extra funding has been put into the Youth Service over the last 3 years. Despite this, serious health and safety concerns over professional youth workers having to regularly open youth facilities that are acutely understaffed have been raised in a number of recent reports, the latest being commissioned by ESC itself. Would the Minister clarify how much of this additional funding was spent on the provision of funding for ground workers and how much has been spent on new management posts?

**Senator M.E. Vibert:**

I cannot give the exact figures because I have not got them in front of me because that is a detailed question, but I am quite happy to get them for the Deputy. Yes, there is a concern about opening of premises and so on. We run a youth service that is operated by professional workers but very reliant on other part-time paid workers and also voluntary workers. Unfortunately on occasions that puts us into situations where not the full complement of people may be at a youth club when required and decisions have to be made by the paid workers whether to open, how to open, et cetera. The extra money we have been putting into the Youth Service is very much on the lines of a 3-year strategy plan that we put before the States nearly 3 years ago now, and some of it has been used in partnership with the Parishes to enhance the youth work in the Parishes. The idea that it has

been put on 'management' is difficult to see what is meant by management because I regard all the youth workers as being youth workers involved in youth work. We have a youth officer, who could be described as a manager, we have area youth workers and we have youth workers at different situations. I know Deputy Pitman knows a lot about the subject and I welcome her interest in it.

**3.1.2 Senator B.E. Shenton:**

Does the Minister agree with the concept of charging GST on nursery fees, school fees and childcare?

**Senator M.E. Vibert:**

I await with interest what is going to be the discussions with the Treasury and the Scrutiny Panel on this, but I voted in favour of GST without exemptions for the reason that I believe that if GST with exemptions come in (1) it will be a higher rate and (2) it will make it much easier for successive States in government to increase the rate of GST. I believe that a universal low rate of GST is the best way forward for the Island to meet the black hole in its finances that it faces.

**3.1.3 Senator J.L. Perchard:**

Is the Minister concerned that the total number of personnel employed in the public sector workforce continues to grow year on year? If indeed he is, will he be taking action within his department to halt - and if possible reverse - this growth, or does he believe his department to be an exceptional case?

**Senator M.E. Vibert:**

I do have an exceptional department, Sir. I have also been involved in bodies that look after the States workforce and the growth in the States workforce there has been in recent years has been primarily in education and health and in frontline staff. We have had to increase a number of teachers to maintain class sizes as we have had more pupils coming through the schools and I know that health have had to increase their number of staff as they are faced with more people presenting themselves for treatment at the hospital. But I certainly totally agree that there should be no staff involved in the public service that are not required to deliver that public service. When my department merged, the 2 Departments of Education, Sport, Leisure and Recreation merged to become the Education, Sport and Culture Department, we made a number of staff savings at managerial level and below and they have not been taken on since. I have no intention of taking on any more managerial staff, but I think on many occasions it is vital that we have frontline staff to deal with the needs that are presented to us.

**3.1.4 Deputy D.W. Mezbourian of St. Lawrence:**

I understand that consideration has been given to the introduction of student loans for those who choose to pursue a university education. Following the introduction of such loans in the UK, many students, and indeed many graduates, are now facing debt and bankruptcy. Will the Minister assure the House that if such loans are introduced here, they will not act as a deterrent to Jersey students contemplating a university education?

**Senator M.E. Vibert:**

Yes, a very timely subject. We at present do not have an official student loan system, but I can assure the Deputy, as I have had 2 sons who have gone through university, that many students do take out loans on their own account to top-up whatever funding they have from elsewhere. We are faced with a difficulty because the UK Government has decided to allow universities to charge top-up fees. These are fees that will be increased this year and at the moment the way we support students is a combination through the States and the parents, and in determining the size of the contribution to be made by each part, in education with 2 long-standing principles. One is that anyone who can benefit from a higher education should be able to participate regardless of their

financial background; and that choice, of course, should be governed by aptitude not cost. These are principles we hold very dearly. We have a system of student grants based on an assessment of family income measured against the sliding scale. So, at present a family earning less than £26,750 tax threshold makes no contribution. A family earning £70,000 or more contributes almost 100 per cent of what would be the normal fee for a classroom-based university course. So, we have been raising costs generally in line with UK inflation to our students, but the introduction...

**The Deputy Bailiff:**

I appreciate this is a complex subject, Minister, but as briefly as possible.

**Senator M.E. Vibert:**

I will try, Sir, but it is a complicated subject and I was just trying to give the background. But we are faced this year with the top-up fees which will cost another £1.8 million to the number of students who are going. So, we are looking at a number of options of how we can look at this new world, because it is expected that from 2010 onwards, universities will be allowed to fix their own top-up fees and some universities are already talking about an extra £15,000 as a top-up fee. So, we are looking at how this extra cost can be met, bearing in mind the principles we had and one of the issues we are looking at - and we have been having discussions with the student loans company in the UK - is the possibility of making student loans available for those students who wish to take them out because the loans could be made available at advantageous rates and payback periods, but it will be up to students and parents, if we do introduce a system of student loans, whether they decide that is right for them. At present many students already take out loans and, of course, the student is the ultimate beneficiary of becoming a graduate.

**3.1.5 Deputy G.P. Southern:**

Will the Minister outline for Members what progress has been made towards guaranteeing a minimum of 10 per cent non-contact, that is PPA (Planning, Preparation and Assessment), time for teachers and, in particular, to guaranteeing the provision of adequate cover for absence in all of our schools?

**Senator M.E. Vibert:**

Yes, Sir, this is an issue that has come about as changes in the UK that have guaranteed teachers in the UK 10 per cent non-contact time and we are seeking to match that. Of course, teachers in Jersey many years ago - when both Deputy Southern and I were teachers, I believe - made a decision to break with the UK conditions and scales and accepted pay increases as a result of that, so we are not bound by UK conditions. But we realise the value of non-contact time and adequate cover and we are looking at ways in which we can ensure that all teachers in our schools have adequate non-contact time and that there is adequate cover. It is a difficult issue to be dealing with and I am expecting a report to be presented to me shortly outlining some of the options of dealing with this.

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

Will the Minister give an update on the progress being made to establish the Council for Culture?

**Senator M.E. Vibert:**

Yes, Sir, and if the Deputy goes to the website [www.gov.je](http://www.gov.je), I would hope my ministerial decision would have been posted on there by now because it has been passed down to the Greffier setting out the way in which we intend to do this. My Assistant Minister, Deputy Labey, has got the responsibility for culture and she is pursuing the setting up of the Council for Culture and it is proposed to have 2 public meetings and to invite submissions on views on how that Council of Culture should be made up. So, we are progressing with this and there is a ministerial decision that has been posted with the Greffier.

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

Could I ask supplementary to that, have we actually got some dates bearing in mind the policy was agreed some months ago and we are now into almost February?

#### **Senator M.E. Vibert:**

We are still in January, Deputy, and we have been a ministerial government for about 6 weeks. There have been a number of issues involved and, no, we have not got dates yet, but we are actively seeking dates. In fact, the Deputy of Grouville and I were talking about it this morning and we are trying to seek dates - possibly a lunchtime and an evening session - so that we can get people's views and also open up for other ways of consultation.

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

Two slightly separate questions, if I may. The Minister said that some positions in the Youth Service were neither management nor field positions, they were in fact both. In an answer to me earlier he said that the area supervisors were not necessarily management because they played field positions. Would he identify what jobs they do as field officers, as this was the insertion of yet another management level into the Service? Secondly, Sir, how does his aim of opportunities for all in higher education, how is that manifested in the case of the...

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

The questions have to cover one subject, Deputy. PPC (Privileges and Procedures Committee) of which you were President, so laid down I think in the Standing Orders.

#### **Senator M.E. Vibert:**

Thank you for reminding the previous president of PPC the details of the questions. Yes, the area workers have some management duties and they also have direct duties in training and in involving themselves in work that is going on in the area that they cover.

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

Could we have that more precisely, Sir, that sounds awfully vague.

#### **Senator M.E. Vibert:**

If the Deputy wants details of operational issues, I will get them for him and I suggest he, either through me or directly, contacts the Chief Youth Officer to find out.

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

Is there any Member who has not yet asked a question?

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

I know that motor sport is not everyone's idea of sport, but I wonder if the Minister would comment on the fact that the old motorcar club who run the Jersey Festival of Motoring has received letters not only from Education, Sport and Culture cutting their grant in half but also from the Economic Development Committee. Is this the example of joined-up government that we are going to see of 2 departments agreeing to a pincer movement on important events for local sport and, indeed, for local tourism?

#### **Senator M.E. Vibert:**

As the Constable well knows and constantly reminds us in this House, we have to be careful with the public's money and we must not overspend and we must do it. We have a number of calls on the grants we give out and, unfortunately, this is an instance where because of the other calls on the limited funds we have that we have had to make a cut in grant.

### **3.1.11 Deputy D.W. Mezbourian:**

I understand that 90 per cent of local students choose to continue their education after the age of 16. Will the Minister tell the House what educational help, if any, is available to those in the 10 per cent who leave school with no job to go to and with few or none of the formally recognised academic qualifications generally required by employers? If there is additional help available, how is contact made with those who are eligible?

### **Senator M.E. Vibert:**

Yes, the statutory age of education is up to 16. We cannot and do not seek to force children to stay on beyond that age. We are very pleased that some 90 per cent do, Sir. Of the 10 per cent that leave of a cohort, that is around 100, many do leave to enter employment and then return to Highlands College on day release and attend other courses at Highlands College and continue with their education in that way. Those that do not have employment and leave education, they can attend Highlands College. They have to approach us - it is compulsory - and we will try to help them. We offer many, many courses. We also have got life-long learning courses with an emphasis very much on ensuring that everyone has a minimum standard in what is needed in maths and reading and writing and we try to reach people who are having difficulties in this way. But of the 10 per cent, as I said who do leave at 16, the majority enter work and actually come back to Highlands under different guises on day release courses and other courses.

## **3.2 Questions to The Minister for Health and Social Services**

### **The Deputy Bailiff:**

I am afraid that means the time has expired, so we then have to move to questions of the Minister of Health and Social Services: Deputy Power.

### **3.2.1 Deputy S. Power of St. Brelade:**

My question relates to respite care. There has been ongoing and continuous public concern on the condition of the buildings and the bed capacity at the respite unit in Overdale. Given that we know that people live longer and that we have an aging population, will the Minister clarify what long-term redevelopment plans are for respite care in the Island and what is being built into the business plan of Health and Social Services to be introduced to the Council of Ministers this year.

### **Senator S. Syvret:**

Respite care is an important topic and it has to be viewed as part of the larger component of continuing care for people for a variety of reasons and in a variety of different forums. It is certainly accepted by Health and Social Services that the present facilities and the building in which people are receiving respite care at Overdale is hopelessly inadequate. We are working as fast as we can to do what we can to progress the situation. The situation was made far worse than it is because of a major services failing in terms of the electricity and water and heating supplies to some of the older buildings at Overdale. What the solution is to this - we are working towards now - will be part of an overall continuing care strategy. Certainly, this might involve buying spaces from the private sector in which to home people. It may include the use of other health and social services facilities. In the long-term it may have to include some further States expenditure to build new buildings. But, certainly, the present situation at Overdale is unacceptable. We know that and we are doing what we can within budgetary constraints, obviously, to address the situation.

### **3.2.2 Deputy S.C. Ferguson of St. Brelade:**

Would the Minister tell us what steps he is taking to address the problem of extremely low morale at the hospital?

**Senator S. Syvret:**

Morale in the hospital differs from person to person. I have spoken to a variety of people within the hospital in recent months whose morale has been fine. The Deputy will be aware, as will everyone else, that there was a dispute concerning our nursing staff towards the end of last year. I am happy to say that the organisation is working towards what looks to be a satisfactory resolution of that situation. Certain changes in the way nursing staff are deployed with the use of overtime on board has been introduced and we are working towards a better understanding between management and staff of precisely what the job families agreement means and what it means to staff and whether in fact there were any deficiencies in that agreement. There may have been in terms of appeal procedure, for example. So, I can assure the Deputy that in fact I think she will find that morale has improved significantly in recent weeks and hopefully that will continue to be the case.

**3.2.3 Deputy A.E. Pryke of Trinity:**

Would the Minister inform the House the cost of introducing the GP out-of-hours service and if it is proposed to use a frontline ambulance as a mode of transport for the GP visits at night. If so, can he ensure that the 999 calls will not be affected?

**Senator S. Syvret:**

The cost will be something just under £100,000. The GP Out-of-Hours Co-operative has been under discussion with Health and Social Services for a significant period of time - I think it is certainly over a year, perhaps going on for 2 years. It represents a significant change in working practices and culture for the Island's GP community. A majority of the Island's GP community favour the Out-of-Hours Co-operative. There will be a paramedic car used to provide transport for the GPs who are on out-of-hours duty and there should be no impact on 999 calls. If there ever looked like there were going to be an impact, then obviously we would have to significantly and quickly reappraise the circumstances of the transport. But certainly no impact is foreseen upon 999 responses.

**3.2.4 Senator J.L. Perchard:**

Is the Minister concerned - and I make no apologies for asking the same question twice - is the Minister concerned that the total number of personnel employed in the public sector workforce continues to grow year on year? If indeed he is, will he be taking action within his department to halt or if possible reverse this growth, or does he believe his department to be an exceptional case?

**Senator S. Syvret:**

The Health and Social Services Department is the largest employer by some margin of any type in the Channel Islands. We employ a fulltime equivalent of 2,159.87. The fact is that delivering health and social care anywhere you care to look in the world is an extremely hands-on labour intensive occupation. It is a large number of employees and we also have the largest budget of any States department, but I think the Senator would find that the expectation of the community is that expenditure in areas such as health and social care would be viewed correctly as a priority by this organisation. In terms of whether we are concerned at the growth of public sector employees, certainly I am, and I am quite sure the rest of the Council of Ministers do not want to see people being employed in the public sector unnecessarily. Health and Social Services has certainly played its part in delivering the efficiency savings that were required over last year and the next couple of years, so we are certainly conscious of the need to be efficient and cost effective as to how to spend taxpayers money wisely. Of that there is no doubt. In terms of directly employed public sector staff, we are in discussions with a variety of stakeholders across the community including GPs, other care providers, independent organisations, members of the public and patients towards formulating the overall strategy for health and social care, the new directions project which should complete prior to the end of this year. Part of that is looking at a rationalisation of where work is

carried out in terms of health and social care between the secondary care environment and the primary care environment. So, it may well be that some work that might presently be undertaken by the secondary care environment - that is the Health and Social Services Department - might be able to be undertaken by the independent primary care sector and indeed I am pleased to see that many GP practices are making very significant investments in their own primary care centres.

### **3.2.5 Deputy P.N. Troy:**

Two weeks ago in this Chamber during Chief Minister's questions, the Chief Minister agreed to request a report from the Health Minister on respite care. Can the Health Minister confirm that that report is either being prepared or has been prepared for submission to the Chief Minister's Department and hopefully he will request that it goes to the Council of Ministers so that they consider the issue of respite care for which, as the Health Minister has said, the facilities are inadequate? Can he confirm that that will go to the Council of Minister and I hope that when it does that it is an item on the 'Part A' agenda?

### **Senator S. Syvret:**

I can inform the Assembly that the matter is viewed so seriously by me - and I think other members of the Council of Ministers including the Chief Minister - that at the last Council of Ministers meeting last week the 2 senior figures within Health and Social Services, who have responsibility for respite care and continuing care, attended the Council of Ministers meeting in person to give a detailed verbal explanation of the present situation and what they are trying to do to improve matters. Out of that a written report, if not already with the Chief Minister, will be with him very shortly. So, the Council of Ministers has already received a detail appraisal of the current situation.

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

Previous speakers have touched on the subject of respite care for adults, but I particularly wanted to mention respite care for children. Can the Minister tell the House what steps he has taken at the present time to improve the amount of respite available to children who access Aviemore and Oakwell?

### **Senator S. Syvret:**

Two steps are being taken. I suppose in terms of child protection, the principal one is in terms of developing a professional fostering service in the Island for which we have monies voted and set aside for this year. The present respite care facilities for children at Oakwell and Aviemore are grossly overstretched and what makes the situation particularly difficult - and I do not want to mention numbers because obviously when dealing with children in a small community like Jersey, I do not want to go into detail for risk of causing the children to be identified - is that there are a number of child clients within the looked-after category that are cared for at places such as Oakwell and Aviemore who have severe multiple problems. They present the most challenging and difficult behaviour for the service to try and address and help the children with, and therefore staffing ratios are 2 staff to 1 child and indeed in some cases possibly higher ratios are not uncommon. So, it is certainly true that this is a problem for us because when children of that particular high need are in care it can cause disruption and problems for other children within the circumstances within the institution. But, of course, the ideal solution to get away from this situation is to not have institutions where children are placed should they need respite care, should they need to be looked after for other reasons which can be multi-faceted. Ideally we would develop a fully professional fostering service in the Island whereby people would be trained professionally to look after children even with challenging behavioural difficulties in a home environment.

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

Senator Perchard seems to be meeting a wall of resistance from the 2 Ministers who have been questioned on staffing numbers. Would the Minister confirm to me that all of the posts in his

department are not of course doctors and nurses: there are for example I believe a team of gardeners. Is it not the case that there are other public sector providers of gardening services that could be brought in to release those posts and so reduce the strain on the taxpayer?

**Senator S. Syvret:**

Yes, Sir, that may well be the case and my understanding is that the rationalisation of the States Parks and Gardening Services along with the Parishes for example is an ongoing project. I do not personally know how close that is to resolution. Certainly it is true that not all of the staff by some margin employed by Health and Social Services are doctors and nurses, but the vast majority of other staff in addition to doctors and nurses are, in fact, professions allied to medicine, such as occupational therapists, physiotherapists, laboratory technicians, pharmaceutical and a whole variety of other people and, in fact, the management portion of the total establishment of Health and Social Services is below that which you would find in an equivalently sized NHS Trust.

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

Could I return to the question asked by the Deputy of Trinity. Many of the proposed charges under the new GP scheme appear to be only at a slight reduction from those under normal circumstances. Given that the new operation to be formed is a co-op, where charges should be reduced, overheads should be reduced also. If the doctors are to be taken around in an ambulance, does the Minister really think that the public is going to get value for money, or would he look again at the proposed charges for the new GP practice?

**Senator S. Syvret:**

The proposed charges for the GP co-operative do represent an improvement on the present situation. Also the nature of the GP co-operative is going to offer people the opportunity to be able to come into the facilities within the hospital and be seen by GPs out of hours - for example, at late evenings and at the weekends - which would not otherwise be the case. A home call may be £90, £100, £110 by some GP practices. It will vary depending upon the practice. But the fact is if people are ambulant, if they are able to bring themselves in to be seen by the GPs on duty who will be part of the GP co-operative, the charge may for example be £40 or £60 or something of that nature. So, there is a cheaper opportunity there for members of the public to be able to see and access GPs out of hours. The charging structure and the way the co-operative is going to work: as I said previously, I am satisfied that the arrangement does represent good value for money and it is also - this is a new point - it represents an important step forward which is necessary for the Island in terms of rationalising secondary and primary care.

**3.2.9 Deputy A.D. Lewis of St. John:**

Could the Minister advise as to whether any review is planned of the existence of the numerous small medical practices in favour of larger medical centres in order to fulfil future and possible compliance considerations?

**Senator S. Syvret:**

Yes, Sir, the GP community is in discussions with Health and Social Services and other stakeholders and their views, along with the views of the public, will be sought as part of the new directions of the health and social care strategy, which I referred to earlier, which hopefully will be completed by the end of the year. Unlike a majority of GPs in the UK who are under NHS contract, GP practices in Jersey are essentially independent, private businesses, so there is no question of any form of compulsion being brought on to GP practices to drive any change in the way they are organised at the moment. But the point the Deputy makes is absolutely correct: there are going to be imminently some significant changes in the United Kingdom in terms of clinical governance regimes and the probability is - the clear look of those regulations is - that it will make the current organisational structure of GP practices in Jersey virtually unsustainable and that is



almost certainly the case. Now, quite what the alternative appropriate structure is to be put in place is still a matter for discussion and we have clear views from some of the GP community on that. But there is no doubt about it that there does need to be a reorganisation of how primary care is governed in the Island.

**The Deputy Bailiff:**

I know there are at least 2 Members who wish to ask questions, but I am afraid the time for questions I have noticed has expired.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**The Deputy Bailiff:**

There are no matters under J, so we then come to K: statements on a matter of official responsibility and the first one is from Deputy Ryan, Chairman of the Corporate Services Scrutiny Panel.

**4.1 Deputy P.J.D. Ryan of St. Helier (Chairman of the Corporate Services Scrutiny Panel):**

The debate in the States on P.196/2005 on the 17th and 18th of January 2006 hinged on 2 key international aspects. The first one was that maintaining unequal ages of consent for consensual homosexual acts as opposed to heterosexual acts would be in breach of Jersey's commitments on the European Convention of Human Rights, to which I will refer as ECHR. Two, that failure to adopt the proposition could jeopardise the position of the United Kingdom under the Convention as asserted during the debate by the Chief Minister. These questions clearly come under the remit of the Corporate Services Panel. At the same time the Panel is aware that there are important social and health implications which are properly within the remit of the Social Affairs Panel which is making its own response to the referral of this proposition to Scrutiny. The Panel understands the concerns felt by some States Members as well as members of the public regarding the perception that the Island might be obliged by an external authority to introduce legislative changes against the wishes of a strong body of local opinion. Accordingly, the Panel believes that it is important to investigate fully the extent of the Island's responsibility to comply with judgments of ECHR and the potential implications for the Island's international reputation and relationship with the United Kingdom of not adopting the proposed reform of the law. The Panel believes that it is in a good position as a non-executive and non-partisan group of Members to provide an independent critical view of the issues involved. The Panel also believes that it is important to provide an opportunity for the public to submit relevant evidence in an open forum and have already received requests from individuals wishing to appear before the Panel in a public hearing. For these reasons, the Panel has decided to undertake a Scrutiny Review of the Island's obligations under ECHR to reform the law and has drafted the following terms of reference.

1. To examine the Island's current commitments under the ECHR.
2. To review the constitutional position of a decision not to reform the current law.
3. To review previous and current legal challenges in the European Court of Human Rights; and
4. To consider advice from the Law Officers.

In preparation, the Panel has conducted a preliminary review of the Minutes of the Legislation Committee going back to the circumstances surrounding the States decision in 1990 to decriminalise homosexual acts between consensual male adults in the Island. It has also looked at research papers prepared by the Home Office when the United Kingdom Government was considering equalising the age of consent, as well as copies of recent relevant ECHR judgments. The Panel is also awaiting written advice from the Law Officers' Department. Sir, we have now received that written advice since this statement was drafted. The Panel believes that it will be in a position to report to the States on the Island's responsibilities under ECHR within a period of 8 weeks. Thank you.

**4.1.1 Deputy A. Breckon of St. Saviour:**

I wonder if under Standing Order 68 paragraph 3 I may raise a general point about the content of that statement?

**The Deputy Bailiff:**

Under the Standing Orders you may ask questions of the President of the Scrutiny Panel. This is not an opportunity for a debate. You may ask some questions.

**Deputy A. Breckon:**

The question I would like to ask, Sir, is when was the content of that statement released before today, who to and was it embargoed?

**Deputy P.J.D. Ryan:**

As far as I am aware, this statement was issued today, Sir. I do not believe it was issued to the press if that was the...

**Deputy A. Breckon:**

Why was it in last night's paper then if it was not released?

**Deputy P.J.D. Ryan:**

I really do not understand that, why it was, Sir. I do not know. I would have to take advice from my officers, but it certainly did not come from me, no.

**4.1.2 Deputy G.P. Southern:**

Will the President assure Members that whatever the outcome of his investigation, whether there are questions still left unanswered, after 8 weeks he will hand this issue back to the Executive?

**Deputy P.J.D. Ryan:**

I obviously do not want to prejudge whatever we find or do not find, but I would think that it seems that there is quite a body of opinion available generally. We believe that it will be a fairly easy job to effectively ring-fence the kinds of things that we are going to be looking for. I think the question was will we hand this back to the Executive. The answer is that we will make a report at the end of the 8-week period and if there are still items that are unclear we will highlight them and hand it back to the Executive, yes.

**4.1.3 Deputy R.G. Le Hérisier:**

Would the Chairman outline whether in his preliminary investigations he came across the notion that there was some discretion, or whether indeed we have no discretion in this matter and have to proceed as Senator Walker outlined?

**Deputy P.J.D. Ryan:**

I do not want to prejudge the issues. It would be wrong to go into a review of this kind with any kind of fixed ideas and we will base our report on evidence purely and simply and we will report back our findings. I do not want to prejudge anything.

**4.1.4 Connétable D.J. Murphy of Grouville:**

If I may help on the leaks to the Evening Post or on the report in the Evening Post last night, I did receive an email from the Secretary of the Committee saying that an embargo was put on this, but the Evening Post ignored it and they have since apologised for doing that. It was a mistake on their part.

**The Deputy Bailiff:**

Any other questions? Then I propose that we hear the statement from the Chairman of the Social Affairs Scrutiny Panel and then I will raise with Members the steps to be taken in relation to the sexual offences law.

**4.2 The Deputy of St. Martin (Chairman of the Social Affairs Scrutiny Panel):**

At the States meeting on the 18th January 2006, the Sexual Offences (Jersey) Law 200-(P.196/2005) was referred to the Corporate Services and the Social Affairs Scrutiny Panels for consideration of a formal review in accordance with Standing Order 79 of the Standing Orders of the States of Jersey. As Chairman of the Social Affairs Panel I have to report back to the States Assembly on the course of action the Social Affairs Scrutiny Panel proposes to take. It is the opinion of the Panel there are 3 distinct areas for review within the proposed legislation in question.

1. Whether it is necessary to pass the legislation in order to adhere to the Human Rights legislation, namely the European Convention on Human Rights. We believe this is an area which comes within the remit of the Corporate Services Panel.
2. Whether enough consultation has been conducted in respect of the social implications of the proposed legislation; and
3. Similar changes to those proposed in the Sexual Offences Jersey Law have been adopted in the UK with supporting legislation relating to the abuse of a position of trust.. However, it has not been proposed that the similar supporting legislation is introduced in conjunction with the Sexual Offences (Jersey) Law.

The Panel has reviewed the background papers from the Home Affairs Department as well as the documentation from the Law Officers' Department, the former Legislation Committee, the Department of Health and Social Services and the Department of Education, Sport and Culture. The former Legislation Committee asked for comments from the former Education, Sport and Culture Committee and the Health and Social Services Committee (Legislation Committee Act No. A4 of the 5th November 2004 and No. A4 of the 3rd December 2004). Subsequently both former Committees considered the request in February 2005 (Committee Acts Nos. A3 and A21 refer) and as a consequence both Committees requested formal comments to be prepared on the proposed legislation. The Panel has not been provided with any evidence of the comments being presented by the Health and Social Services Committee, nor any evidence of the comments being forwarded to the former Legislation Committee or the former Home Affairs Committee which assumed responsibility for the Sexual Offences (Jersey) Law in July 2005. However, a former Education and Sport Committee Act has been traced which records that it had considered comments relating to the Sexual Offences (Jersey) Law on the 27th April 2005. The comments were recorded in Committee Act No. B9 of 27th April 2005. It was requested that these comments be forwarded to the Legislation Committee, however, the Panel has not been provided with evidence that these comments were received or discussed by the former Legislation Committee or the Home Affairs Committee. In addition, the Panel has not been provided with any evidence of consultation with external organisations or with the general public. The Panel recommends that the Home Affairs Minister carries out wide consultation before drafting the appropriate legislation. In addition, the Panel requests that the evidence of that consultation be provided to it prior to the proposed legislation being brought back to the States. Consequently, the Social Affairs Scrutiny Panel strongly recommends that the debate on the proposed Sexual Offences (Jersey) Law does not go ahead until this course of action has been undertaken.

**Deputy C.J. Scott Warren:**

I think I should point out, Sir, that on the fourth paragraph from the bottom which starts: "The former Legislation Committee", the Chairman read out his sentence incorrectly in that he said: "The Panel has not been presented with any evidence of the comments being presented by the Health and Social Services Committee." It is: "...being presented back to the Health and Social Services Committee" so it is a completely different meaning. Thank you.

**Senator M.E. Vibert:**

Similarly, I think language is very important when used in a document that is put out like that and the third paragraph from the bottom states: "However, former Education, Sport and Culture Committee Act" as presently put at the time, Sir, it says: "...has been traced." Well, I find that a very odd use of the word "traced". It gives the impression that it was difficult to find. In fact, before this was started, I referred to that Act in my speech on 18th January and we discussed it and as soon as it was requested, we provided it from the department. So, you can hardly say it has been traced, it was there all the time. Also, very important with language, it says it accepts that that Act existed and that my Committee requested these comments be forwarded to the Legislation Committee. It goes on to say that the Panel has not been provided with evidence that these comments were received or discussed by the former Legislation or Home Affairs Committee. I wonder did the Panel have any evidence that it was not received and not discussed because that is normal procedure. One Committee used to send an Act to another Committee and it got there and I think one needs to be very careful, particularly in Scrutiny Panels, on the language they use in describing a series of events.

**The Deputy of St. Martin:**

Yes, Sir, that is a fair question. Can I say that the Scrutiny Panel requested information from both Committees for it to be returned to the Scrutiny Panel by Thursday of last week. As up to Friday last week, when our draft was presented to the Chairman's Panel, that information had not been forwarded to us from the Education Department. Likewise, I had asked our Scrutiny officers to check with the Greffier or the Greffier's Department to ensure that any minutes appertaining to any of the correspondence with the Health and Education Committees were forwarded to the Scrutiny Panel. No records were found. In actual fact when we say the word "traced", these were submitted to our office only yesterday lunchtime and as a result it caused our officers tremendous amount of work in trying again to trace what had happened to the legislation in the Committee Acts. Can I say I can only speak on behalf of the officers that they have checked and double-checked and, again, there is no record has been found to show that the Committee Acts were received by the Legislation Committee nor the Home Affairs Committee.

**4.2.1 Senator W. Kinnard:**

If I could just ask the Chairman a couple of questions if I may on the last paragraph because obviously I want to be clear about what is being recommended here. First of all, the Panel is recommending that the Home Affairs Minister carries out wide consultation. Can I be clear as to what extent that wide consultation is to go? Clearly this is an issue that really has very divided opinions and is therefore the Panel recommending that I consult all of the adult population of the Island or perhaps a representative sample in a carefully constructed survey and how long indeed would the Chairman expect for this work to be carried out? If he does not mean something of that ilk, Sir, what is the point of the wide consultation? I think I need to be clear about that. The second question, Sir, that particular sentence goes on to talk about appropriate supporting legislation. Which legislation is it he is wishing me to consult widely upon?

**The Deputy of St. Martin:**

I am sure the Minister of Home Affairs does not want to be really told what consultation means, but if you listen to my report - my statement - it made it clear that in the penultimate paragraph: "In addition the Panel had not been provided with any evidence of consultation with external organisations or with the general public." I think I heard this morning the Constable of Grouville had made mention that at least 2 organisations had been in touch with him and I know 2 had been in touch with our Scrutiny Panel. So, that is just an example of some of the organisations that have not been consulted. I think it would be incumbent upon any Committee or any Ministry to ask the public for their views and, of course, we expect there will be diverse views. However, I think as

part of the consultation process, those people should be given the opportunity to express those views and as indeed as our statement says, we have seen no evidence of any consultation. The other question was to do with what legislation has not been introduced alongside the Sexual Offences Act. It is quite clear that is the situation about the abuse of trust and I would hope that the Home Affairs Ministry would ensure that piece of legislation goes along hand in glove with the Sexual Offences Law.

**Senator W. Kinnard:**

I am sorry I must be clear. If I am being given a job by this House, to come back to this House, I must be assured that I can satisfy the House of its requirements. Sir, I do need to know what the Panel requires me to do in terms of wide consultation. Consultation has to be meaningful and on an issue such as this you are going to get very divided views. I think, Sir, I have no problem consulting with particular groups such as the 2 mentioned this morning, but I must be clear about what this House is intending. Are they intending by wide consultation some sort of representative survey of maybe 1,000 residents? Are they expecting me to ask every single adult of their opinion? Because if we just have a JEP phone-in or some other sort of poll, we know that that is not a representative poll and is going to be most likely slanted by those who have a particular strong opinion and it will be the silent majority who perhaps do not expect that opinion. I must be clear, Sir, what does the Panel expect me to do in terms of consultation because I need to know what will satisfy them?

**The Deputy of St. Martin:**

I must reply, Sir, I find it rather embarrassing to have to tell a Minister what consultation means. Surely consultation means exactly what that word says - consult with the organisation, consult with the public as we have said in our penultimate paragraph of our statement. Wide consultation means - and again I repeat, -consulting with the general public and those organisations which have not been consulted with to date.

**The Deputy of St. John:**

I would like some assurance from the Chairman of the Committee that he will not take into account unscientific surveys such as the JEP survey and that the sort of sampling that Senator Kinnard has alluded to we do undertake. Scientific sampling is very effective. Random surveys by the public such as media surveys are definitely not. I would like some assurances they will not be taken into consideration.

**The Deputy Bailiff:**

He has asked for assurance.

**The Deputy of St. Martin:**

Well, I would hope in the first instance that it will be the Minister for Home Affairs who will consider this. The role of Scrutiny is to ensure the proper scrutiny or the proper consultation process has been carried out. Once we have had the report from Home Affairs, Sir, we will then ensure that if, indeed, we do not feel the right consultation has been carried out, we on the Scrutiny Committee have to do it ourselves.

**4.2.2 Deputy G.W.J. de Faye of St. Helier:**

I find myself slightly baffled by this line of questioning because it seems to me that the Scrutiny Panel is simply not in a position to instruct the Home Affairs Department to carry out any consultation. In fact, I have to point out to the Deputy of St. Martin it seems to me that if the Scrutiny side feel strongly about carry out a consultation it should be down to Scrutiny.

**The Deputy Bailiff:**

Deputy, we need questions, not statements.

**Deputy G.W.J. de Faye:**

I would like to ask the Deputy of St. Martin, does he feel he is not reneging on his responsibilities as a Scrutiny Panel Chairman to conduct his own consultation?

**The Deputy of St. Martin:**

Again, in the statement we make it clear that we could find no evidence whatsoever of any consultation. In fact, we could not find any evidence of the comments which were requested from the Health Committee even being drafted. So, I would have thought that before the Home Affairs Committee could draft their report and proposition, those comments would be vital to its report. In fact, that was some of the concerns expressed by Members in the debate 2 weeks ago, the lack of consultation even with the Committees. So, it is not for us to tell the Home Affairs what to do, but what we are recommending is they do carry out this wide consultation before the matter comes back to the States.

**The Deputy Bailiff:**

One more question, then the 10 minutes will have expired.

**4.2.3 Deputy C.J. Scott Warren:**

I would like to ask the opinion of the Chairman of Social Affairs Scrutiny Panel whether he believes and will be pushing for legislation regarding the abuse of a position of trust to go hand in hand with this legislation.

**The Deputy Bailiff:**

I think that has already been made clear.

**The Deputy of St. Martin:**

Yes, Sir, we are suggesting that, yes.

**4.2.4 Senator M.E. Vibert:**

Just to make clear, because I have read the statement and I do not find it very clear at all. I understood that the idea of the reference was the Scrutiny Panel would come back and make a clear statement of whether it was going to undertake scrutiny or not. In fact, may I complement the Corporate Services Scrutiny Panel who say for these reasons the Panel has decided to undertake a scrutiny review. In the Social Affairs Scrutiny Panel we have no such statement of whether a scrutiny review will be undertaken or not and what I would like to know is it yes, no, or maybe, and if it is maybe my concern is that the timetable is stretching on and on. Surely the Scrutiny Panel must decide whether it wishes to scrutinise or not.

**The Deputy of St. Martin:**

The Scrutiny Panel will scrutinise it, however, what we are saying at the moment is there has been very little to scrutinise because the process of consultation et cetera has not been carried out. So, quite clearly, Sir, the answer will be yes.

**The Deputy Bailiff:**

Deputy, we have to be clear about this. Your statement certainly does not say that your Scrutiny Panel wishes to have the matter referred to it for scrutiny. Now, are you saying you do now wish to have it referred to you for scrutiny?

**The Deputy of St. Martin:**

Yes, Sir, the matter will be scrutinised.

**The Deputy Bailiff:**

You must tell the Assembly whether you wish to have it referred to or not. Now, what is your answer?

**The Deputy of St. Martin:**

Well, Sir, the situation is that we have had nothing yet to scrutinise. When we have got something to scrutinise, then we will do so.

**The Deputy Bailiff:**

Is the answer yes or no?

**The Deputy of St. Martin:**

The answer is no.

**The Deputy Bailiff:**

No, very well. The answer is no. Can we just be clear now, because under Standing Order 79 the Chairman of the respective Scrutiny Panel has to return to the Assembly and confirm whether or not he or she wishes to have the proposition referred to the Panel for scrutiny. The Panel chaired by Deputy Ryan has stated that it does. The Panel chaired by the Deputy for Martin has said that it does not. What this means now is that the matter is referred for scrutiny by the Corporate Services Scrutiny Panel and the Assembly must fix a date at which the debate on the law is to resume. Deputy Ryan has asked for 8 weeks. Has the Assembly agreed to 8 weeks? Accordingly, it seems to me, as the Assembly agrees, that it should be noted therefore this matter will resume for debate on the 28th March.

**The Deputy of St. Martin:**

I am rather confused here because the difficulty our Scrutiny Panel has had and we are trying to be absolutely fair to the Home Affairs Committee which, it is quite apparent, did not carry out the consultation beforehand and clearly before anything can go forward the Scrutiny Panel would have to have evidence of that consultation and we are saying, Sir, that until that...

**The Deputy Bailiff:**

I am afraid you have had your opportunity. You have said you do not wish to have it referred to you. The Assembly has now taken this decision. We must move on.

**4.3 The Deputy Bailiff:**

The next matter is a statement by Deputy Duhamel, the Chairman of the Chairmen's Committee who will make a statement regarding work processes of the Assembly and Scrutiny.

**Deputy R.C. Duhamel of St. Saviour (Chairman of the Chairmen's Committee):**

The referral of the draft Sexual Offences Law to the Scrutiny Panels raises the general question of whether propositions brought to this Assembly could be improved upon both in form and content. The Chairmen's Committee briefly discussed this issue recently and has concluded that it would be beneficial if reports appending propositions paid greater attention to the thread of arguments put forward in making a case and in particular that documents relied upon for base assumptions were duly referenced and available for interested Members to scrutinise before any debate. The Chairmen's Committee will work with the Privileges and Procedures Committee to bring forward improvements to the work processes of this Assembly in this regard.

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

I wonder, Sir, if the Chairman of the Scrutiny Panel could confirm that what his Panel is seeking to achieve is much better policy making - and under the exchange that has just taken place that point may have been obscured - what he is after from ministries is much better and systematic policy making.

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

Absolutely right, Sir. I think it is incumbent upon any Member of this House bringing forward a proposition in a private capacity or indeed, Sir, a Minister on behalf of the ministry to actually begin to make the case in the form that scrutiny would expect the case to be made. If scrutiny is about looking at evidence and following the logical thread of arguments from one end of an argument to the other, it must be everybody's duty in preparing a document for consumption by this House that certain protocols, in order to deliver that structured way of thinking, is inherent within those documents.

#### **4.3.2 Deputy C.J. Scott Warren:**

Would the Chairman agree, as alluded to by the Dean, that when we have the strength of arguments put forward in making a case, that also included where there is this situation should be the case against the proposition so that a comparison can be made and a conclusion drawn from that.

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

Absolutely, Sir. I think it is right if Members are going to come to a balanced conclusion in any debate that the argument for and the argument against is presented so that Members are in a better position to actually make that judgment.

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

I ask the Chairman if he would expect that when the proposition comes back to the House there will be evidence shown of the consultation carried out by the necessary Committee, i.e. the Home Affairs Committee.

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

I would have expected that, Sir, but unfortunately it looks as if the Chairman of the Social Affairs Panel has somewhat put his foot in it. [Laughter] No doubt there will be things said at the next Chairmen's Committee. I think it is a little but unfortunate, Sir, that perhaps in starting to use the new machinery of ministerial government and the new Standing Orders that we do appear to have done our shoelaces a little bit tight and we appear to have stumbled. I think it must be right that if, indeed, there are any social arguments or health arguments that ways and means must be found to introduce these arguments through the Corporate Affairs Panel, so that these issues will be discussed and the House, as I say, will be in a proper position to fully discuss the issues on which a decision is expected.

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

Could I just ask if the Chairman would confirm that if, in fact, the Corporate Affairs says the Island has a legal obligation to carry out or pass this piece of legislation, Scrutiny is a waste of time anyway.

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

These are to be questions, not statements. Are there any other questions?

#### **4.3.5 Deputy P.J.D. Ryan:**

One last consideration. I wonder if the Chairman could just inform the Assembly as to the degree or not of concern that the Chairmen's Committee had generally as to whether the correct use of



referring debates that were in trouble to Scrutiny was an appropriate way forward for the Executive to behave and whether there was concern generally for the future of scrutiny being used as a fallback if an Executive debate...

**The Deputy Bailiff:**

I am sorry, Deputy. That may be a very interesting point, but I do not think it can be said to arise out of the Chairman's statement. No doubt it can be taken up at another time. Are there any other questions? Very well then, Deputy de Faye, your statement on the Strategic Travel and Transport Plan.

**4.4 Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):**

Members will recall that the previous Environment and Public Services Committee lodged its Strategic Travel and Transport Plan (P.174/2005) on 30th August 2005 with the aim of debating it prior to the end of that session of the States. In the event, the States agreed to defer consideration of this report and proposition until the new session of government because more urgent items required States' time. At its meeting on 26th January 2006, the Council of Ministers considered the Strategic Travel and Transport Plan and approved it as a high level framework document on which to develop some specific and detailed proposals for a number of key areas, namely buses, including provision of bus shelters, taxis and car parking. I have been charged with bringing these plans back to the Council of Ministers within 3 months and look forward to working in partnership with Scrutiny to achieve this target. For those reasons, I have withdrawn P.174/2005, which was currently scheduled for debate on 14th March 2006. Whilst I am on my feet, I would like to take the opportunity to correct some erroneous and speculative comment I overheard in the media this morning indicating that this withdrawal constituted some form of rejection by the Council of Ministers. I mention no names but Members may care to follow my eyes. [Laughter] On the contrary, the Travel and Transport draft framework document has been warmly endorsed by the Council of Ministers and work on the strategy has been effectively fast-tracked so it can be consulted, debated and implemented as soon as possible.

**The Deputy Bailiff:**

Deputy, have you sought approval for the lodging of this statement?

**Deputy G.W.J. de Faye:**

It is a point of information, Sir. [Laughter]

**The Deputy Bailiff:**

Why do you not wait until you are asked a question and then see if you can bring it in?

**Deputy G.W.J. de Faye:**

I thought this might save a few questions, Sir.

**The Deputy Bailiff:**

I think we will ask the Constable of St. Helier.

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

While I support the Minister's desire to improve the efficient working of his car parks by putting in barriers and removing scratch guards, and freeing up his staff to be on the streets, I am quite honestly astounded by this statement. We have a policy that was lodged in the States last year; involved a lot of public consultation - we are led to believe - has had amendments brought to it with them down for debate in March; and has now been approved, we are told, by the Council of Ministers. I am flabbergasted. Is this the shape of things to come? It seems to me...

**The Deputy Bailiff:**

What is your question?

**The Connétable of St. Helier:**

Would the Deputy confirm to me that it is precisely the high-level policies that should be coming to this House? We are quite happy for him to do the nuts and bolts as a Minister but should he not be bringing this policy for a debate in the States?

**Deputy G.W.J. de Faye:**

The Connétable of St. Helier raises a number of intriguing points. Yes, I believe this probably is the shape of things to come. Executive government will conduct government in a much more efficient, direct and positive way. I am delighted to hear support from the Connétable. I merely regret that it was the will of the States not to accord the Strategic Travel and Transport Plan sufficient priority to be debated last year. I am sorry that as a result of that a different course of events has occurred.

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

I am a member of Operation Mistral with the Police Chief and other people. Will the Minister confirm he will take on board the findings of that working group looking at the evening economy with regard to taxis, the bus service, closing times and a whole raft of issues, before he actually finalises the document?

**Deputy G.W.J. de Faye:**

We now look forward to a 3-month consultative period with Scrutiny, members of the public, taxi operators and drivers, bus groups and anyone else who would care to contribute. There is no question that the findings that have been delivered under what I understood to be called Operation Mistral - which relates to how essentially the Isle of Man deals with its late-night revellers - will be accorded consideration and attention.

**4.4.3 Deputy C.J. Scott Warren:**

Can the Minister assure Members that “detailed proposals for a number of key areas” will include developing further the safer routes to schools initiative as a top priority within the 5 years as was in the original plan?

**Deputy G.W.J. de Faye:**

Yes, it certainly will include safer routes to school. However, I cannot say for certain that it will be a - or the - top priority. It is certainly one of the priorities that are under consideration.

**4.4.4 Deputy R.G. Le Hérissier:**

Can the Minister confirm whether he has been mandated by the Council to go out and have a series of pleasant chats with people and to throw some quite bizarre but interesting and stimulating ideas into the pond to see what happens? Or can he give us details, Sir, of what precisely they have approved about this plan?

**Deputy G.W.J. de Faye:**

I have effectively been given that mandate, yes. I hope people will feel free to make their contribution to the forthcoming consultation process. But I am at a loss to understand Members’ indignation. They have been in possession of the Strategic Travel and Transport framework document since August last year and I am surprised that so many of them seem to have forgotten what it contains.

#### **4.4.5 Senator F.H. Walker:**

Will the Minister share my bewilderment at the line one or 2 of these questions are taking and confirm the point that the Council of Ministers endorse the original strategy as a high-level framework document, as his statement says, on which to develop some specific and detailed proposals for a number of key areas? In other words, it is an overall way forward, which we want in the best interests of good government to see elaborated on very considerably and produced in a substantial form which will give the House every opportunity to know exactly what it has in front of it and approve a full, co-ordinated and detailed transport plan. That is what we have done here. That is all we have done and I am astonished at the line the Constable of St. Helier has taken and one or 2 other questions as well. I hope he shares my astonishment. Does he share my astonishment? **[Laughter]**

#### **Deputy G.W.J. de Faye:**

I do share the astonishment of the Chief Minister and I thank him for his lengthy and very perceptive question. **[Laughter]** I think Members should reflect for a while that times have changed and while it may have been appropriate under our former system of government to seek the sort of direction that the Strategic Travel and Transport Plan was looking for as a high-level draft framework document, it is now quite clear that under our new Executive government we can simply get on with things and drill down to the details of strategy and then present a strategy ultimately via the Council of Ministers to the States for their consideration in due course.

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

Would the Minister give assurances that he will meet the 10 Deputies of St. Helier and resident Senators or any other Senators representing the Parish? I have been trying for months now to discuss personal safety for late evening with the ministerial group. Twice I have been to the Home Affairs Committee and I am still waiting. I have given up and, therefore, I ask if I can deal directly with the Minister and with the fellow Deputies on this very important subject before it comes anywhere near the States.

#### **Deputy G.W.J. de Faye:**

I can understand why the Deputy has struggled to have meetings on the ministerial group because there is no such group. **[Laughter]** However, in respect of Operation Mistral **[Laughter]** - which unfortunately does reflect a lot of hot air I am sad to say - I am happy to conduct a meeting with the Deputy and as many number of his friends as he cares to invite along.

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

Talking of hot air, will the Minister tell us about his Travel and Transport Strategy and compare it with the Travel and Transport Policy that he will be bringing to the States shortly? Does he realise there is a subtle difference between a strategy and a policy? Will he confirm that, in fact, it is a detailed policy that will be being presented to the States in 3 months' time?

#### **Deputy G.W.J. de Faye:**

I welcome that question from the worthy Senator. As I recall, we only recently had a personal discussion on the merits and differences between strategies and policies. I can confirm that there is a difference between a draft high-framework document which is, as I alluded to previously, a broad-brush approach of general policy directions; and a full strategy which shows how those broad policies are actually drilled down to detailed outcomes. In other words, if we look at, say, the operation of taxis and cabs within the Island, a broad policy approach is, for example, to say that those general services should be more customer-focused. Now, when you actually drill down to what is it that makes taxis and cabs more customer-focused, of course you get more detailed results. That is what we intend to produce.

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

What can the States expect in 3 months' time, a strategy or a detailed policy, Sir?

#### **Deputy G.W.J. de Faye:**

The States can expect a strategy containing a number of detailed policies, of which I am sure [Laughter] the States will be very proud when they warmly embrace it and pass it.

#### **4.4.9 Deputy C.J. Scott Warren:**

Would the Minister here verbally endorse meetings at Parish Halls throughout the Island organised by the Bus Users' Forum to discuss the needs of people in the Parishes regarding future bus travel at all times of day and evening?

#### **Deputy G.W.J. de Faye:**

I am very happy to entertain forums of any enthusiastic kind in respect of transport and travel. I am not currently aware as to whether the Bus Users' Forum as a body is currently functional or defunct, but if they are a functional group I will be only too delighted to listen to what they have to say.

#### **4.4.10 Deputy G.C.L. Baudains of St. Clement:**

I always thought a framework was just that, Sir, no cladding and nothing inside it. I fear that the transport framework is little different. Can the Minister assure us, Sir, given the vast amount of work required to turn it into something tangible, that it will, in fact, be done in the timeframe?

#### **Deputy G.W.J. de Faye:**

I do believe I am wearing some clothes as this is not a case of the emperor with no clothes. The framework may appear slightly bare to the Deputy, but I can assure him that both myself and the officers within my department have been working very steadily on what may turn out to be the content of the strategy for the past many months. I am very confident that we can fulfil the timescale laid out.

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

Very well. Standing Orders permit 10 minutes of questioning and that has now expired.

### **PUBLIC BUSINESS**

#### **5 Speeding fines: allocation of funds to Parishes (P.156/2005)**

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

We move then to Public Business. The first item is speeding fines: allocation of funds to Parishes, Projet 156, in the name of the Deputy of St. Martin. I will ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of the opinion (a) to agree that when a fine for driving at excess speed is levied by the Honorary Police in the Parish where the offence was committed, one half of the fine should be for the benefit of that Parish; and (b) to charge the Minister for Home Affairs after consultation with the Crown and other appropriate authorities to bring forward for approval and necessary amendments the Road Traffic (Jersey) Law 1956 to give effect to the proposal.

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

The purpose of my amendment was quite a simple one, really. It revolved around whether, in fact, Parishes which will now have to incur the expense of training officers and also providing the

equipment for speed checks should really carry the weight of that cost. At present the law, which indeed was made in 1956, says that 50 per cent of some fines will go to the Parish and 50 per cent will go to the Crown or via the States. However, as far as the speeding offences go, bear in mind this was a law which was made in 1956 - 50 years ago - when possibly very few people were speeding or could be caught for speeding by Honorary Police. Mainly it was done by police cars following suspected speeders in their cars. The situation now is that one feels it is unfair for the Parishes to bear that cost. All I was asking for is the anomaly to be removed whereby the 50 per cent - which is payable for minor offences like parking and no lights - the speeding fines should be encompassed within that principle. I have carried out a little check with the Parishes to find out, indeed, what sort of costs there would be. Because one of the stumbling blocks, certainly from the reports made by both the Home Affairs and the F and E Committees, was that this obviously would cost the States a certain amount of money. The difficulty they have in trying to find out what the money was is simply because, as a general rule, when any speeding fines come into a Parish Hall, they automatically go straight off to town or to the States and they are not often separated between prosecutions by States Police as opposed to prosecutions by the Honorary Police. From the figures I have been supplied by the Parishes, it would appear that we are looking around £13,000 being incurred as fines by Honorary Police officers and possibly double that much or, in fact, around £30,000 in total between what the Honorary Police officers recoup from fines and what the States police recoup in fines. It was my understanding that the fines imposed as a result of Honorary Police officers would go to the Parishes and the revenue received from fines from the States Police would go to the States' coffers (i.e. to the Treasury). That was the intention of my proposition; however, I am told that as a general rule, when fines are imposed by the Centeniers via the Parish scheme, they would like to retain all that money. That will be a matter for the States, Sir, but my proposition really is at the moment that the anomaly be removed and 50 per cent of the fines imposed and received by the Parishes would go to the Parishes. I make the amendment.

**The Deputy Bailiff:**

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

**5.2 Speeding fines: allocation of funds to Parishes (P.156/2005 - amendment)**

**The Deputy Bailiff:**

There is an amendment to the proposition lodged by the Comité des Connétables and the Greffier will read the amendment.

**The Greffier of the States:**

In sub-paragraph (a) delete the words "one half of" and after the words "for the benefit of that Parish" insert the words "and apply towards the general expenses of a Parish."

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

The Comité des Connétables is in total agreement with the thrust of the Deputy of St. Martin's proposition but have brought this amendment because the proposition is, in its opinion, administratively complex for what it is going to achieve. Instead, the Connétables' amendment seeks for 100 per cent of the speeding fines which are imposed at Parish Hall level to be retained by the Parishes enforcing them and the proceeds of those fines to be retained towards Parish general expenses. I would stress that this would in no way alter the procedures which are at present in operation. Those appearing before a Parish Hall Inquiry are not obliged to accept the decision of the Centenier, but they can decide to have their case heard before the Magistrates Court, in which case any fine imposed would go the Treasurer of the States. This amendment merely deals with speeding fines imposed at Parish Hall Inquiries. The amount of monies involved is in the region of £30,000. The figure on the back of our amendment of £32,354 includes fines which are levied

under Articles 25 and 53 of Schedule 3 of Article 89 of the Road Traffic (Jersey) Law 1956. These would not fall under the remit of this amendment, which as I have stated is merely for speeding fines which are administered by the Parishes and levied at Parish Hall level. Quite rightly, Sir, the Treasury and Resources Minister has pointed out that the loss of income to the States will have to be made up with compensatory cuts in other services. While accepting this, the Connétables would point out that they have over the past few years been very supportive of the Treasurer's drive - and I apologise if there is a pun there - not to allocate any funds outside the spending review process. Unfortunately, Sir, the Connétables are outside the spending review process and, therefore, have no opportunity to put their side of the argument. This £30,000 represents a small part of the monies which the Parishes have taken responsibility for when pressed by States departments striving to achieve their annual spending cuts. For example, over the last few years the Parishes have taken on the payment of a subscription for and the cost of ongoing management and maintenance of the Tetra communication system, which the Parish Honorary Police were obliged to move to when the analogue system was done away with. The cost to the Parishes of this at the moment stands at approximately £36,000. The Parishes have taken on the cost of Honorary Police training, a cost which amounts to £12,000. The costs of insurance have escalated following 9/11 not only for the States but for the Parishes as well. The cost of insurance to the Parishes now stands at approximately £75,000 per annum. All this over and above the cost of equipment to enable the Honorary Police to be modern and efficient. The Parishes are very keen to continue to assist with the good policing of the Island. Such assistance by the Members of the Honorary Police comes at a minute cost to the Island compared to other forms of policing. Sir, I make the amendment.

**The Deputy Bailiff:**

Is the amendment seconded? [**Seconded**] Senator Le Sueur.

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

I find it difficult to get very worked up about either the proposition [**Laughter**] or the amendment. We are talking about a relatively small sum of money and I can understand the arguments that the Parishes have incurred additional expenses. I think what we are looking at here is the more general issue of principle: the principle of who should pay for public services. We are seeing here an attempt to transfer costs away from the Parishes to the States or, conversely, to transfer revenue away from the States to the Parishes in the same way as the welfare burden has been moved from the Parishes to the States. There will be other examples of moving expenditure from one area to another. At the end of the day, the taxpayer, the consumer, the ratepayer will pay this in one form or another. It will pay for it either in terms of the States making cuts elsewhere in its spending - and I can think of one department which may be linked to policing which would be a clear target of cuts by a similar sort of sum - or that the revenue gets made good in some other way, either by additional taxes or by the Island-wide rates system. There is no question here of anyone getting a freebee or an advantage. All we are doing is transferring who pays for particular services. I think that although this is a small, innocuous amendment which many would quite happily accept, it does raise a far more general principle of who should be paying for these services generally and what activities should be paid for and run by the Parishes. I think it is a dangerous step to take this one in principle and say: "Well, it is only £30,000 or whatever the figure may be. Let's give it to the Parishes. They deserve it." We have a more general issue here of are we going to move more costs away from ratepayers to the taxpayer or are we going to try to seek a balance? At the moment, Sir, I believe that we should not be trying to reduce States' revenues or increase States' expenditure. From my position as Minister for Treasury Resources, I oppose both the amendment and the original proposition.

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

Just a point of clarification for the Constable and the Deputy. The Deputy spoke about the fact that it was going to affect revenue by about £30,000, receiving only 50 per cent of the fine, whereas the

Constable said it was going to affect revenues by £30,000 even though they were going to have 100 per cent of the revenue. Could you just clarify that point, please?

#### **5.6 Deputy S.C. Ferguson:**

I have every sympathy with the Comité des Connétables and its desire to retain fines to help pay for the Honorary Police. Indeed, as Members know, as an ex-Centenier I am extremely supportive of the role they play in preserving our Jersey way of life. However, this amendment and the underlying proposition comprise a piecemeal approach to a matter which should be addressed in the round. I do not know whether Members are aware that under the Road Traffic (Jersey) Law 1956 the Parishes are required to surrender the following fines to the Crown, which is effectively to the States: 100 per cent of the fine payable to the Treasury for the benefit of Her Majesty include forgery of driving licences, restriction on driving by young or experienced persons, limitation of speed, dangerous driving, careless driving, driving under the influence of drink or drugs, duty to stop and give name and address, and taking a vehicle without the owner's consent or other authority. The other fines where 50 per cent of the fine is payable to the Treasury for the benefit of the income of the States are fines other than those in the above articles, the headings of which I have given you, which are inflicted and levied by a Constable or a Centenier of the Parish in which the offence was committed. These are wearing of seatbelts, restriction on pillion riding on motorcycles, protective helmets, restrictions on holding telephones, prohibition on leaving of vehicles on roads and positions likely to cause danger or obstruction, and order with regard to motor vehicles. I think that to isolate one category of fines and attempt to claw it back without looking at the whole picture is a totally disjointed form of government. It is not entirely transparent either. The Comité des Connétables should consider the procedures in the Parish for paying all these fines and should come back to the States with a proper plan for reviewing the proportion which should be retained by the Parishes. I urge Members to reject this haphazard proposition and its amendment.

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

Deputy Ferguson's speech was plausible but I must say quite surprising from someone who I know has been involved in the Honorary Police for some time. I found her list of the offences that we are talking about very helpful. The one that actually stands out like a sore thumb to me is the attempt to reduce the speeding of motorists. I want to advise Members that when the Committee of Constables debated this amendment, there was originally on the table the idea that we should be looking at other fines for which revenue is surrendered to the States and parking came up. Clearly, as Members will guess, the parking revenue that some Parishes receive, particularly the Parish of St. Helier, is fairly sizeable even when it is only 50 per cent. I mentioned at that meeting: "Hang on, let's not sweep-up all of the other offences that we assist the States Police in dealing with here. Let's concentrate on the Deputy of St. Martin's proposition and what that is trying to achieve" and let's tackle the issue of speed control", because unlike the other offences which Deputy Ferguson mentioned, the monitoring of speeding requires specialised equipment that the Parishes have to pay for and this, of course, has recently been updated and it requires specialist training that the Parishes have to pay for. It also requires what is effectively a voluntary service not only in spending a great deal of time carrying out the function in those sometimes poorly lit roads of the Island late at night sometimes or early in the morning, but also requiring them to give up their Saturday mornings and Sunday afternoons in learning how to use the equipment and being instructed in it. I think to not agree on encouraging our Honorary Police to carry out far more policing of speeding we would be sending out a very bad message to the Honorary Police. I think first of all we could almost guarantee that there will be less enforcement of speeding being carried out in the months and years to come in Jersey. Why do I believe that? Because morale in the Honorary Police needs boosting. If we send out the message that we do not value their work sufficiently to make sure that all the funds that come from the work go back into the pot to enable them to do their work properly, then I think that message will be clouded, to say the least. I do not believe this is the thin end of the

wedge, either. I think by agreeing that the proceeds of speeding fines should go back to the Parishes that are enforcing speeding and assisting the States of Jersey Police in this extremely important duty, I do not believe that means that the next day we are going to come along and say: "Well, can we also have all the money from parking?" because clearly that is a completely different matter. That is something which is done by Transport and Technical Services. It is a very different issue and I do not believe that this would set a precedent. I am interested also in the Minister for the Treasury's argument where he really, I think, does a bit of shroud-waving. He says that if we approve this he accepts it is a small amount but the money has to come from somewhere. He suggests it will come from either cuts in public services or increased taxes. I would say to the Minister are there no further efficiency savings that can be made in the public sector? Is he really going to pass on this extra cost to the consumer? I do not think he needs to.

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

The Constable has mentioned some of the things I was going to mention, but I think it is very important that when we are looking even at the total of £30,000 we are looking at just £2,500 per Parish. This is something that I discussed with some of the Connétables when I brought this proposition initially. It costs around about £2,000 for the equipment. The training also costs. So, really, there is no profit here. Again, what it is really is trying to get the income back to the Parishes that have incurred that cost. I should also remind Senator Le Sueur that if indeed there were no prosecutions by the Honorary Police there would be no monies coming forward. If indeed there were some speeders stopped by the Honorary Police and they were cautioned, there would be no money coming forward. This is not a guaranteed sum of money, but what it will do - again as to what the Constable of St. Helier said - we are looking at the morale of the Parish. We are looking to reclaiming or recovering the costs incurred. If we are looking at savings, I think someone mentioned today £20,000 spent on refurbishing the Council's rooms for their meetings. It would not take very long, I suppose, with speeding fines to pay for that.

### **5.9 Connétable J.B. Germain of St. Martin:**

Just some facts and figures that people can write down; the costs of the machines that we are using. A radar gun costs £1,200. The laser gun is £2,600. **[Interruption]** Some of us have both. The insurance is £260. The recalibration is £213. That is a cost of £700, Sir. That is what we have to find every year to maintain these guns. There is one thing I would like to point out, which I have mentioned many, many times and I mentioned in St. Martin, the cost of a States police officer is more than running the whole Honorary Police in St. Martin. We do a fantastic job and I think, like the Constable of St. Helier said, we should support our men. They are going through a rough time at the moment. Let us support them. Let them carry on their good work.

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

Yes, I would reiterate what the Connétable of St. Martin has said. St. Brelade's radar gun costs £2,013.90 with calibrations at £356, so really we are talking - in reply to Senator Le Sueur - of a rebalancing exercise here. We are getting all the costs and the Treasury is getting all the profit and it does not seem quite equitable. In reply to the Deputy of St. Brelade, I would say that I note from the records that I have been given that prior to our having the gun in, I think, mid-2004 the receipts from speeding - and maybe it was during the Deputy's tenure as Centenier - were during those months £78, £50 and so on. After receipt of the gun, fines went up to £700 and so on. Maybe the Deputy's departure from the office of Centenier had something to do with it. **[Laughter]** I would urge Members to support the proposition. It is simply a method of redressing an imbalance.

### **The Deputy Bailiff:**

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



### **5.11 Connétable K.P. Vibert:**

Obviously I would like to thank my fellow Connétables who attempted to bat away the Deputy of St. Brelade's comments. I have to say I, too, am disappointed that she does not think she can support this amendment. This proposition is merely to address the speeding fines at the moment. As the Connétable of St. Helier said, when the Connétables discussed the matter, we realised that - as the Deputy pointed out - there were a number of other items within the law which could be dealt with at Parish Hall level, but we shied away from trying to put them in at the moment. Certainly, the parking issue and the amounts involved in the parking issue would have made the proposition totally unacceptable. That does not mean to say that the Comité des Connétables is going to back away from it. We will be looking at it in the future and will be discussing it with the Treasury and Resources Minister. Talking about the Minister, he asked a question, which was should more costs be moved from the ratepayer to the taxpayer? I would say that the answer to that is yes. After all, I would be the last to say that we should do away with the rates system. Having said that, I am well aware that the rates system does not allow for inability to pay and, therefore, a number of people who pay rates do so by struggling and, in many cases, by paying on a weekly instalment. I think that an item such as the policing of the Island should not come from the pockets of these people but should come from the pockets of taxpayers who can afford to pay for it. I maintain the amendment.

### **The Deputy Bailiff:**

Does anyone ask for the Appel? Yes, the Appel is called for. Very well, I invite Members to return to their seats. The matter before the Assembly is the amendment of the Comité des Connétables. The Greffier will open the voting.

Members present voted as follows –

#### **POUR: 41**

Senator L. Norman  
Senator F.H. Walker  
Senator W. Kinnard  
Senator T.J. Le Main  
Senator B.E. Shenton  
Senator F.E. Cohen  
Senator J.L. Perchard  
Connétable of St. Martin  
Connétable of St. Ouen  
Connétable of St. Saviour  
Connétable of St. Mary  
Connétable of St. Peter  
Connétable of St. Clement  
Connétable of St. Helier  
Connétable of Trinity  
Connétable of St. Lawrence  
Connétable of Grouville  
Connétable of St. John  
Connétable of St. Brelade  
Deputy R.C. Duhamel (S)  
Deputy A. Breckon (S)  
Deputy of St. Martin  
Deputy G.C.L. Baudains (C)  
Deputy C.J. Scott Warren (S)  
Deputy J.A. Martin (H)  
Deputy of St. Ouen  
Deputy P.J.D. Ryan (H)  
Deputy of St. Peter

#### **CONTRE: 2**

Senator T.A. Le Sueur  
Deputy S.C. Ferguson (B)

#### **ABSTAIN: 0**

Deputy J.A. Hilton (H)  
Deputy G.W.J. de Faye (H)  
Deputy P.V.F. Le Claire (H)  
Deputy J.A. Le Fondré (L)  
Deputy D.W. Mezbourian (L)  
Deputy of Trinity  
Deputy S. Power (B)  
Deputy S. Pitman (H)  
Deputy A.J.H. Maclean (H)  
Deputy K.C. Lewis (S)  
Deputy of St. John  
Deputy I.J. Gorst (C)  
Deputy of St. Mary

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

We return now to debate on the proposition as amended. Does any other Member wish to speak?  
Do you wish to reply?

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

Yes, Sir. As one will note, I was not one of the 2 people who voted against it. I was quite happy. On behalf of the Constables I think we are all delighted that at least we have achieved something today. Probably a whole is better than half, so I will say nothing to add and ask for the Appel.

### **The Deputy Bailiff:**

Very well, the Appel is called for on the main proposition of the Deputy of St. Martin as amended. **[Interruption]** It is the proposition as amended so I expect, Deputy, that you would wish to vote in favour of it. **[Laughter]** The Greffier will open voting.

Members present voted as follows –

### **POUR: 44**

Senator L. Norman  
Senator F.H. Walker  
Senator W. Kinnard  
Senator T.J. Le Main  
Senator B.E. Shenton  
Senator F.E. Cohen  
Senator J.L. Perchard  
Connétable of St. Martin  
Connétable of St. Ouen  
Connétable of St. Saviour  
Connétable of St. Mary  
Connétable of St. Peter  
Connétable of St. Clement  
Connétable of St. Helier  
Connétable of Trinity  
Connétable of St. Lawrence  
Connétable of Grouville  
Connétable of St. John  
Connétable of St. Brelade  
Deputy R.C. Duhamel (S)  
Deputy A. Breckon (S)  
Deputy of St. Martin  
Deputy G.C.L. Baudains (C)  
Deputy P.N. Troy (B)

### **CONTRE: 2**

Senator T.A. Le Sueur  
Deputy S.C. Ferguson (B)

### **ABSTAIN: 0**

Deputy C.J. Scott Warren (S)  
Deputy R.G. Le Hérisier (S)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy of St. Ouen  
Deputy P.J.D. Ryan (H)  
Deputy of St. Peter  
Deputy J.A. Hilton (H)  
Deputy G.W.J. de Faye (H)  
Deputy P.V.F. Le Claire (H)  
Deputy J.A. Le Fondré (L)  
Deputy D.W. Mezbourian (L)  
Deputy of Trinity  
Deputy S. Power (B)  
Deputy S. Pitman (H)  
Deputy A.J.H. Maclean (H)  
Deputy K.C. Lewis (S)  
Deputy of St. John  
Deputy I.J. Gorst (C)  
Deputy of St. Mary

## **6 Draft Sexual Offences (Jersey) Law 200- (P196/2005) - debate to resume on 28th March 2006**

We come to the next item of Public Business, which would have been the Sexual Offences (Jersey) Law 200- but the Assembly has already agreed that debate on that will resume on 28th March 2006.

## **7 Draft Telecommunications (Amendment) (Jersey) Law 200- (P.257/2005)**

We come next to the Draft Telecommunications (Amendment) (Jersey) Law, Projet 257, in the name of the Minister for Economic Development. The Greffier will read the principle.

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

Draft Telecommunications (Amendment) (Jersey) Law 200-. A law to amend the Telecommunications (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

### **The Deputy Bailiff:**

Constable of St. Lawrence, are you Rapporteur for this amendment?

### **7.1 Connétable G.W. Fisher of St. Lawrence:**

I am, Sir. This amendment to the Telecommunications Law 2002 is a number of fairly minor issues, but it relates to the fact that 2 years after that law was approved, the Postal Services Law 2004 was approved. There are some differences in the way that certain appeals, et cetera, would be handled under the Postal Law compared to the Telecommunications Law. The thinking has moved on since 2002 so it is appropriate to consider now amending the Telecommunications Law. It brings together a number of minor amendments to the Telecommunications Law, as I say, to bring it closer to the corresponding provisions of the Postal Services (Jersey) Law 2004. The first change deals with appeals. Currently, if an appeal is launched against a decision of the JCRA (Jersey Competition Regulatory Authority) under Article 13 of the Telecommunications Law, that decision must remain suspended until the appeal has been decided by the Royal Court. Article 26 of the Postal Services Law, however, states that a delay only takes place if the appellant applies for it and can only be prolonged for the duration of the appeal if the court so orders. Furthermore, the court may only make such an order if it is satisfied that there are reasonable grounds for the appeal and

that the balance of convenience lies in favour of prolongation. The second change relates to another benefit of the more recent provisions of the Postal Services Law and its ability to allow public notices of directions, guidance or regulatory actions to be either published in the Jersey Gazette or brought to the attention of the public by other means. The intention is to apply the same flexibility and opportunity to enhance value for money to Articles 8 and 11 of the Telecommunications Law. Thirdly, Article 10 of the Telecommunications Law is amended to avoid any doubt that the initial inclusion of a condition in a licence is part of the grant of the licence for notice and appeal purposes. This is also reflected in the Postal Law. Also, under Article 19(3) of the Postal Law, changes to licence conditions are limited to changes that result in conditions that could initially be put in any licence. The situation in the Telecommunications Law, however, is that the modified condition would have to be one that could historically have been inserted in the actual licence in question when first issued but not in all licences, as in the Postal Law. Article 18(3) of the Telecommunications Law is thus amended to mirror the more realistic restriction of the Postal Law. Sir, I move the amendment.

**The Deputy Bailiff:**

Is the principle of the law seconded? [**Seconded**] Does any Member wish to speak on the principle of the law? Very well. All those in favour of adopting the principle kindly show. Those against? The principle is adopted. Now, before we move to the Articles, I must ask the Chairman of the relevant Scrutiny Panel - which, Deputy Southern, I understand is you - whether you wish to have this law referred to your Panel?

**Deputy G.P. Southern:**

No, thank you, Sir.

**The Deputy Bailiff:**

Very well, in which case do you now propose the Articles, Rapporteur?

**The Connétable of St. Lawrence:**

I do, Sir.

**The Deputy Bailiff:**

Do you propose them *en bloc*?

**Connétable G.W. Fisher:**

Yes, Sir.

**The Deputy Bailiff:**

Are the Articles seconded? [**Seconded**] Does any Member wish to speak on any of the individual Articles? Very well. All those in favour of adopting the Articles kindly show. Those against? The Articles are adopted. Do you propose the Bill in Third Reading?

**Connétable G.W. Fisher:**

Yes, please, Sir.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading kindly show. Those against? The Bill is adopted in Third Reading.

**8. Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 3) Act 200-**

**The Deputy Bailiff:**

We come next to the Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 3) Act, Projet 267, in the name of the Minister for Home Affairs. I will ask the Greffier to read the Act.

**The Greffier of the States:**

Draft Police Procedures and Criminal Evidence (Jersey) Law 2003 (Appointed Day) (No. 3) Act 200-. The States, in pursuance of Article 114(2) of the Police Procedures and Criminal Evidence (Jersey) Law 2003, have made the following Act.

**8.1 Senator W. Kinnard:**

Members will recall that 2 weeks ago the States approved the Police Force (Amendment) (No. 9) (Jersey) Law 2003 (Appointed Day) Act. That was to enable the Honorary Police Officers from any Parish to charge people with an offence under the Customs Law at the Customs suite. For example, a St. Peter Centenier could charge at the Customs custody suite someone who had been stopped at the airport on suspicion of carrying drugs internally. For this improvement to be given full effect, the custody suite has to be designated under Article 33 of the Police Procedures and Criminal Evidence (Jersey) Law as a place where Centeniers from Parishes other than from St. Helier can charge persons detained under the Customs legislation. This draft Act would bring Article 33 into force 7 days after the passing of it by the States but only for the purposes of Orders made under Article 107 of the Law which relates solely to persons arrested by Customs Officers and detained for offences under the Customs legislation. Sir, I propose the draft Act.

**The Deputy Bailiff:**

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

**9. Draft Dogs (Amendment No. 3) (Jersey) Law 200- (P.280/2005)**

**The Deputy Bailiff:**

We come next to the Draft Dogs (Amendment No. 3) (Jersey) Law- Projet 280 - in the name of the Comité des Connétables. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Dogs (Amendment No. 3) (Jersey) Law 200-. An amendment to the Dogs (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

**Connétable K.P. Vibert (Chairman of the Comité des Connetables):**

May I ask that the Connétable of Grouville act as Rapporteur and shake the tail of the Connétables? [**Laughter**]

**9.1 The Connétable of Grouville:**

This amendment will increase fines under the Dogs (Jersey) Law and would also make the following changes: (1) it will remove the fee for inspection of a register of stray dogs; and (2) it will make a dog licence specific to the dog, which will make it simpler for the Parish to identify strays. There are also major changes envisaged which have had to be curtailed due to insufficient law drafting time being available. In early 2004 we met with the JSPCA (Jersey Society for Prevention of Cruelty to Animals) and at that time they indicated their support for the changes that we proposed. Due to internal problems, we have not been able to obtain their opinion as of today. We did write to them 2 weeks ago asking for their opinion on the new law going through, but I can

assure you that the items that we are putting through today, in fact, were pretty minor compared to the raft of measures that the JSPCA wanted us to take on. The Sub-Committee appointed by the Comité, consisting of myself and the Constables of Trinity and St. John, were at pains when drafting these amendments to encourage responsible dog ownership and at the same time to address the problems caused to the general public by unnecessary harassment. I therefore propose these amendments.

**The Deputy Bailiff:**

Is the principle of the law seconded? **[Seconded]** **[Laughter]** I leave the Greffier to decide who, in fact, seconded that. Does any Member wish to speak on the principle?

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

It is somewhat of a tangent, I admit, but nevertheless there are not many opportunities to talk about dogs in the Assembly. Whilst supporting all of these measures and the amendments brought by the Comité des Connétables, I would like to ask the question: "Is the Sub-Committee also taking on board the concerns of some residents in Jersey who consistently write letters to the *JEP (Jersey Evening Post)* in respect of fouling by animals and the hazards from a health perspective of that, and whether or not the Constables would give some consideration to the merits of establishing small dog exercising areas, especially in the summer when the dogs are restricted from exercising on the beaches?"

**9.3 Senator M.E. Vibert:**

I would like to support Deputy Le Claire in his view on this because, Sir, some time ago the Constable successfully got the dog licence put up. I would hope in return that perhaps we would get better policing of fouling and other things. It is all very well to take the money, but we need services in return.

**9.4 Deputy S.C. Ferguson:**

I would like clarification from the Rapporteur, Sir, as to how the Convention on Human Rights applies to dogs. **[Laughter]** I also wonder what procedures the Parishes propose to bring in to reconcile the number of licences issued to the actual number of dogs which are listed on veterinary surgery records. I am given to understand that there is a terrific discrepancy between the 2 totals. I cannot give you the figures, unfortunately, Sir.

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

The last time that the Constables came for an increase in the dog licence fee it was from £2 to £5. Could I ask in relation to the last rise how is the lost dog situation now being taken? I understand there is good work being done now since the change. Maybe the Constable could give us an update on that also.

**The Deputy Bailiff:**

Does any other Member wish to speak on the principle of the law? Very well. I call upon the Rapporteur to reply.

**9.6 The Connétable of Grouville:**

The question of fouling, of course, pains us all and I have to say that this is not included under the dogs law. It comes under the policing of beaches, parks and roads. I assure Members that the maximum fine on this is up to £500. I can also say that the Constables have taken this on board and are determined that we shall stamp out this practice. **[Laughter]** This is a worry to us all and we are taking it extremely seriously. We encourage people to dispose of their dog refuse themselves rather than look to us to provide bins and other receptacles for it. I think we can pretty well assure you that the fines will be levied at the top rate when and as we catch these people with their dogs.

The question of licences from Deputy Ferguson; there is definitely a differential between the number of licences issued by the Parishes and the number of dogs on the register. When we conferred with the JSPCA we found an awful lot of dogs on the register that were not licensed. Now, we do chase these things up. When a licence is applied for at the Parish Hall, we take all the details down. We even have the description of the dog. We have not quite got to the stage of paw prints yet, but we are getting there. If a dog has been licensed, say, last year and not licensed this year, then one of our Centeniers will visit to check that that dog is, in fact, no longer with that household. We do try to keep a track on it but it is a bit difficult getting the evidence, of course. The Deputy of St. Martin asked how the new measures had affected the stray dog situation. I can assure you that the number of strays has dropped considerably. If I can just quote my own Parish of Grouville, in the last year - up to I think November 2005 - we only had a total of 12 strays, 2 of which were not able to be identified and had to go to the service that we are providing. There were several others who we picked up, but because they have the ID on them and they have the little tag on their collars, if we know the owners they get phoned-up and asked to come and collect their dogs. A couple of them, I might add, are repeat offenders. I think it is probably because the girls have a tin of biscuits in the Parish Hall to entertain them while they are waiting for their owners to come and fetch them. We are trying to operate this law equitably in that we are not trying to run people up with huge bills or anything like that. We are doing our utmost to find the owner before putting it into custody until the owner does turn up. I hope that is an answer to all the questions from the House. Thank you.

**The Deputy Bailiff:**

All those in favour of adopting the principle of the law kindly show. Those against? The principle is adopted. Now, again under Standing Orders, I must ask the Chairman of the relevant Scrutiny Panel whether he wishes to have this matter referred to him. I understand, Deputy of St. Martin, that it ought to be the Social Affairs Panel? [Laughter] Very well. Rapporteur, do you propose the individual Articles 1 to 6 then?

**The Connétable of Grouville:**

I do, Sir, *en bloc*. Thank you.

**The Deputy Bailiff:**

Are they seconded? [Seconded] Does any Member wish to speak on any of Articles 1 to 6? Deputy Baudains.

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

Yes, just a couple of queries mainly relating to Article 4 as amended, which would come under 24(b), I think. Just to satisfy my curiosity, Sir, at what stage does the owner of a bitch producing puppies have to take out a licence? For argument's sake, does a puppy have to have its own licence at one day or one month or what is the procedure? Secondly, is a refund given when puppies are sold or given to another owner or does the licence transfer? The other thing I am not sure about is how is it possible to be specific about a puppy's identification? Is there not the possibility that the dog you are looking at is not the one you actually think it is?

**The Deputy Bailiff:**

Does any other Member wish to speak on any of the Articles? I call on the Rapporteur to reply.

**9.8 The Connétable of Grouville:**

The puppies must be registered from the age of 6 months. There is no transfer arranged and there is no refund.

**The Deputy Bailiff:**

All those in favour of adopting Articles 1 to 6 kindly show. Those against? The Articles are adopted. Do you propose the Bill in Third Reading? Seconded? [**Seconded**] Any Member wish to speak in Third Reading? All those in favour of adopting the Bill in Third Reading kindly show. Those against? The Bill is adopted in Third Reading.

**NOTIFICATION OF LODGED PROPOSITIONS**

**10. Draft Postal Services (Jersey) Law 2004 (Appointed Day) (No. 2) Act 200- (P.8/2006)**

**11. Draft Postal Services Transfer (Jersey) Regulations 200- (P.9/2006)**

**The Deputy Bailiff:**

Before we move to the next matter I have been informed that the Minister for Treasury and Resources has lodged Projet 9, which is the Draft Postal Services Transfer (Jersey) Regulations and the Minister for Economic Development has lodged Projet 8, which is the Draft Postal Services (Jersey) Law 2004 (Appointed Day) (No. 2) Act.

**PUBLIC BUSINESS**

**12 Draft Companies (Amendment No. 1) (Jersey) Regulations 200- (P.4/2006)**

**The Deputy Bailiff:**

We come next to the Draft Companies (Amendment No. 1) (Jersey) Regulations 200- - Projet 4 - in the name of the Minister for Economic Development. I will ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Companies (Amendment No. 1) (Jersey) Regulations 200-. The States, in pursuance of Article 127YN of the Companies (Jersey) Law 1991, have made the following Regulations.

**12.1 Senator T.A. Le Sueur (The Minister for Treasury and Resources):**

On behalf of the Minister I present this one and the following Projet because, in fact, the 2 of them do go together as a pair. The more astute Members of the States will have noticed that we are debating Projet 4 before Projet 3. The reason for that is that when we looked at Projet 3, the Appointed Day Act, as the Minister advised the House 2 weeks ago, we found that there was this lacuna in the rights of creditors under bankruptcy because of the désastre. So this proposition, Projet 4, brings in the solution to that difficulty and ensures that the rights of a creditor in the event of a situation going wrong are protected. That is the principle behind the Regulations, Sir, and I propose the principle.

**The Deputy Bailiff:**

Is the principle seconded? [**Seconded**] Does any Member wish to speak on the principle of the Regulations? Very well. All those in favour of adopting the principle kindly show. Those against? The principle is adopted. Now, again, I must invite the Chairman of the relevant Scrutiny Panel to say whether he wishes this to be referred to his Panel. Deputy Southern, I am informed that would be your Economic Affairs Panel.

**Deputy G.P. Southern:**

Once again, I do not wish to inspect it, Sir.

**The Deputy Bailiff:**

Minister, do you propose the Regulations *en bloc*?



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

I propose the Regulations *en bloc*, Sir, yes.

**The Deputy Bailiff:**

Are they seconded? [**Seconded**] Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting Regulations 1 to 3 kindly show. Those against? The Regulations are adopted. Do you propose the Regulations in Third Reading? Seconded? [**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.

### **13. Draft Companies (Amendment No. 8) (Jersey) Law 2005 (Appointed Day) Act**

**The Deputy Bailiff:**

We come finally to Projet 3 - the Draft Companies (Amendment No. 8) (Jersey) Law 2005 (Appointed Day) Act 200- - in the name of the Minister for Economic Development. I will ask the Greffier to read the Act.

**The Greffier of the States:**

Draft Companies (Amendment No. 8) (Jersey) Law 2005 (Appointed Day) Act 200-. The States, in pursuance of Article 42 of the Companies (Amendment No. 8) (Jersey) Law 2005, have made the following Act.

**The Deputy Bailiff:**

Minister?

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

This brings into force a law which was approved by the House last July, I think it was, with only one person objecting to it. It provides much greater commercial flexibility and allows for matters like affected cell companies to be operating properly in the Island. A very worthwhile addition to the armoury of the financial services industry in Jersey, very much overdue, Sir, and I propose the Appointed Day Act of 1st February 2006.

**The Deputy Bailiff:**

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

### **ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Deputy Bailiff:**

We come next to arrangement for public business at future meetings. Now, Members will have the proposed timetable. Chairman of the Privileges and Procedures Committee, do you wish to propose it and say anything?

#### **14. Connétable D.F. Gray of St. Clement (Chairman of the Privileges and Procedures Committee):**

I do, Sir. I would also like to draw Members' attention to the fact that the Draft Sexual Offences (Jersey) Law 200- is provisionally listed for 28th March 2006. Also, during the last meeting of the Assembly it was mentioned that the meeting due to be held on 11th April 2006 was during Holy Week and I am, therefore, proposing that the States meet on 4th April 2006, and 5th April 2006 and

6th April 2006 if necessary, and that the items listed for 11th April 2006 are transferred to 4th April 2006, and that the meeting on 11th April 2006 is cancelled.

**The Deputy Bailiff:**

Does any Member wish to say anything on the timetable?

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

Yes, Sir. Having lodged the Postal Services Regulations this morning, the intention would be for those to be debated on 14th March 2006. We did have down for that day the Transport Strategy. That has now been withdrawn by the Minister for Transport and this will slot into that hole quite nicely, I hope. I ask that the House in due course accepts that addition to 14th March 2006.

**The Deputy Bailiff:**

Is there anything from anyone else? Chairman, do you wish to indicate how long you think the 14th February 2006 business will take?

**14.2 The Connétable of St. Clement:**

I was just about to do that, Sir. The estimate is one day. It may be half a day.

**The Deputy Bailiff:**

Do Members agree the arrangement for public business listed in the Order Paper and also agree to change the date as proposed by the Chairman of the Privileges Committee? Very well. That concludes the business of the Assembly.

**14.3 Senator S. Syvret:**

I just wanted to let Members know that the comments from the Health and Social Services Department will be ready in time for 14th February 2006 in respect of Deputy Le Claire's proposal. I will endeavour to get them to Members before the debate.

**ADJOURNMENT**

**The Deputy Bailiff:**

Thank you very much. The Assembly stands adjourned until 14th February 2006.