

# STATES OF JERSEY

## OFFICIAL REPORT

**TUESDAY, 25th APRIL 2006**

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

**QUESTIONS**

**1. Written Questions**

**1.1 The Chief Minister tabled an answer to a question asked by Deputy P.V.F. Le Claire of St. Helier regarding data set comparisons with the U.K. for RPI/cost of living in respect of low income pensioner households**

**Question**

Would the Minister provide the data set collected for RPI for cost of living comparisons for a low income pensioner household in Jersey compared with the U.K.?

**Answer**

The States of Jersey Statistics Unit collects data on a quarterly basis for the compilation of the Jersey Retail Prices Index (RPI). In order to ensure the robustness and impartiality of this index, following international best practice the Statistics Unit does not release the price data collected. However, the Unit does publish a comparison of price indices between Jersey and the U.K. on an annual basis.

Of more relevance to the question, the Statistics Unit conducted the Jersey Household Expenditure Survey over the 12-month period to October 2005. Following the outstanding response and participation of the Jersey public to this survey, the Unit is currently analysing the wealth of information collected.

This survey will provide detailed information about the spending patterns and the impact of price changes for all categories of household in Jersey, including pensioners. Comparisons with the U.K. will be possible for both the level of expenditure and the percentage of household income spent, for example, on food and housing. This information will be extremely useful in the development of evidence-based social policy, including policies designed to meet the needs of pensioners in the Island.

**1.2 The Minister for Home Affairs tabled an answer to a question asked by the Deputy of St. Ouen regarding the cost of Prison Officer overtime and other expenditure budgets for Home Affairs.**

**Question**

Would the Minister –

- (a) inform Members of the cost of Prison Officer overtime for each of the financial years 2001 to 2005 and explain what efforts, if any, have been made to reduce this cost over that period?
- (b) provide financial statements of all budgets under her control for the period 2000 to 2006 in the same format as the one provided for H.M. Prison, La Moye in answer to written questions on 28th March 2006?

**Answer**

- (a) The cost of Prison Officer overtime for each of the financial years 2001 to 2005 was as follows:

2001	£466,241
2002	£397,329
2003	£604,795
2004	£883,235
2005	£690,495

The levels of overtime increased in 2003 and 2004 from the levels in 2001. The main reasons for the increase in levels of overtime were the significant increase in the number of prisoners held in the prison which led to a need to increase the level of supervision for those prisoners. The prison also experienced high levels of sickness among prison officers. In the summer of 2004 there was also a one-off period of a prisoner held at St. Saviour's hospital which necessitated 2 officers for 24-hour cover for a period exceeding 4 months at a cost of approximately £43,000 per month (not all overtime).

The reasons for the significant decrease in 2005 (over £200,000) are due to the recruitment of Prison Officers to rectify the previous shortfall and a very robust management approach to the use of overtime. The use of overtime is scrutinised by the Senior Management Team and only overtime that is essential for the operation of the prison is used. Alternative means of achieving the objective are always considered. The downward trend is continuing in 2006 but it should be recognised that unforeseen occurrences such as that in 2004 can lead to dramatic and unavoidable increases in the level of overtime.

(b) *[see attached sheets]*

### **1.3 The Minister for Education, Sport and Culture tabled an answer to a question asked by Senator J.L. Perchard regarding non-teaching staff numbers.**

#### **Question**

Would the Minister inform Members whether there has been any increase in the number of administrative or non-teaching staff employed by the department compared with the number employed 25 years ago and, if so, explain the reasons for this and whether there are any correlations with pupil numbers over this 25 year period?

#### **Answer**

Information on the number of staff employed 25 years ago is not readily available and given the changes in the structure and responsibilities of the Department over the 25 year period any comparisons would prove meaningless. Changes that have occurred include:

- the transfer of School Sports Development and Sports facilities to the newly formed Sport, Leisure and Recreation Committee and their subsequent transfer back following the merger of the former Education and Sport, Leisure and Recreation Committees;

- the transfer of the responsibility for the Jersey Heritage Trust and the Jersey Arts Trust from the Finance and Economics Committee;

- the transfer of the Children's Service to the Health and Social Services Committee;

- the transfer of services relating to the Children's Executive to the Health and Social Services Department;

- the transfer of Corporate Support Services to the Treasury and Resources and Chief Minister's Departments as part of the States Change Programme;

- the delivery of a varied capital programme;

changes in corporate reporting requirements;

changes in statutory requirements including recent employment legislation.

The structure of the 'Department' has been reviewed as required to reflect the changes above as well as changes in the Jersey Curriculum and accepted working practices. In order to properly allocate and control staffing within the Service as a whole, in May 1998 a formula was agreed in principle with the then Establishment Committee as follows:

the allocation of manpower for schools in the Education Service would be calculated annually by means of a formula based on pupil numbers;

that the Education Committee would be responsible for managing its manpower within the overall figure, having the flexibility to change the balance of employment between pay groups; and

that manpower returns would show actual numbers of staff employed in permanent and contract posts, by pay groups.

All subsequent annual manpower requirements of the former Education and Education, Sport and Culture Committees have been based on that formula and agreed by the former Establishment, Human Resources and Finance and Economics Committees.

#### **1.4 The Minister for Education, Sport and Culture tabled an answer to a question asked by the Connétable of St. Helier regarding the provision of a nursery unit at St. Peter's Primary School.**

##### **Question**

Would the Minister inform Members –

of the date when the decision was taken to build a nursery unit as part of the rebuilding of St Peter's Primary School?,

supply the capital and revenue costs for the nursery unit?

whether discussions were held with the Parish over the feasibility of using existing premises in the area to avoid the expense of new build?

whether he took into account the impact of the new free States nursery on private sector nurseries in the West of the Island?

##### **Answer**

The decision to build a nursery class as part of St. Peter's Primary School was taken by the former Education Committee in 1999 when it made an unsuccessful bid for its inclusion in the States Capital Programme. A further bid was agreed by the Committee in December 2002 and, early in 2003 this scheme was included in the States Capital programme.

In October 2005, the Committee agreed a feasibility study for the scheme and in February 2006 the Minister approved the submission to a detailed planning application.

The cost of the nursery class will be £225,000. The annual revenue cost will be £90,000.

Discussions have not taken place with the Parish over the feasibility of using existing premises in the area because the intention is to provide a nursery class for educational reasons; to prepare 3 and 4 year olds for starting school. The policy to continue building nursery classes to provide young children with an educational experience was approved by the States in 1996. These classes offer a term-time only experience during school hours. It is anticipated that many working parents will continue to need the year-round, all-day child care provision offered by the private sector.

**1.5 The Minister for Transport and Technical Services tabled an answer to a question asked by the Connétable of St. Helier regarding private non-residential parking spaces in St. Helier.**

**Question**

Would the Minister inform Members –

1. whether he is investigating, as part of his ongoing review of transport strategy, the impact that the number of PNR (Private Non-Residential) parking spaces within the Ring Road has on the community in terms of adding to congestion and reducing the incentive for commuters to switch to other modes of transport?
2. whether he will undertake to discuss with the Minister for Treasury and Resources the feasibility of a tax on PNR parking with a view to ring-fencing the proceeds to enhance public transport services?

**Answer**

1. I can confirm that the use of PNR (Private Non-Residential) parking spaces within the Ring Road is being investigated as part of the ongoing review of the transport strategy.  
  
Private Non-Residential spaces appear to be used predominantly by commuters and it is this sector of the motoring public that impacts on congestion early in the morning and in the evening. It is estimated that there are approximately 7,000 PNR spaces within the Ring Road which form a significant element of the 11,000 vehicle trips made into St Helier between 0800 – 0900 hours daily.
2. The Minister for Treasury and Resources is looking at a number of Environmental Tax measures as part of the Fiscal Strategy. The use of Private Non-Residential spaces will be considered as part of an overall package designed to provide incentives to the commuter to consider the environmental and economic benefits of using alternative modes of transport. The proposals for Environmental Taxes will be completed by October 2006 and presented to the Minister for Treasury and Resources.

**1.6 The Minister for Health and Social Services tabled an answer to a question asked by the Connétable of St. Helier regarding health matters relating to the composting site.**

**Question**

Would the Minister inform Members:

- (a) whether an assessment was carried out on the potential impact of composting on the health of nearby residents prior to moving the compost site from St Mary to St Helier and, if not, the reasons why?
- (b) the number and type of complaints received by the Environmental Health Department concerning nuisance odours both while composting was carried out at St. Mary and since the operation was moved to St. Helier, and what steps, if any, have been taken in response to those complaints?
- (c) whether there has been any evidence of fungal spores produced from the composting site which could be injurious to human health?
- (d) whether equipment has recently been purchased designed to monitor odour levels and, if so, whether such equipment will be used in respect of the temporary composting site at Havre des Pas?

## Answer

- (a) The Health Protection Team were consulted by the Planning and Environment Committee on the application to move the timber and green waste reception and recycling centre to La Collette on the 12 November 2002. Planning Application Number P/2002/2597.

The response which was sent stated “The whole aspect of timber and green waste reception/recycling, as well as composting, on the island needs to be reviewed to ascertain whether the current systems of operation are the best practical environmental option in the light of the volume of waste derived. This department recommends a complete review of the issues surrounding these aspects. This should include a health impact assessment in (which - typographical omission error) health effects are thoroughly investigated”.

As far as the Department is aware that did not take place at the time of the application to Planning although members will be aware that the work to implement the Island’s Waste Strategy is ongoing. Officers of the Transport and Technical Services Department and my own Health Protection staff are currently engaged in setting up a Health Impact Assessment for the proposed composting regime and this will include key stakeholders and residents representatives.

- (b) Crabbé, St Mary: There are few remaining records of complaints to the Health and Social Services Department relating to issues at Crabbé but it is clear that there were continual references from 1994 onwards which are documented in letters between the Environmental Health Department and the Agricultural and Fisheries Committee particularly after the introduction of potato waste dumping at Crabbé.

We can however, confirm 4 written complaints in 1997, one written complaint in 1999 and one written complaint in 2002.

La Collette: Complaints to the Health Protection Department first occurred in August 2004 and since that time through to the end of March 2006 there have been a total of 21 complaints received from nine different complainants including 2 from representatives of the Parish of St Helier. One resident completed an odour nuisance diary over the period of August/September 2004.

All of the complaints relate to alleged odour from the composting site, but investigations of those complaints including visits by officers to the complainants premises, Havre des Pas area and the composting site have revealed that there have been 2 occasions when odour from the compost site have been confirmed and 4 occasions when the source has been confirmed as seaweed.

- (c) The former Public Services Department has undertaken monitoring around both the Crabbé site at St Mary and the La Collette site. These investigations have involved Bio-aerosol monitoring looking for Fungi, Thermophilic acinomyces and bacteria downwind of the sites and in the case of Crabbé comparing with a control site. The results were found to be in line with those investigations into open windrow composting undertaken on behalf of the U.K. Government by the Environment Agency, whereby levels of these materials can be found in decreasing levels from the site with background levels being reached within a distance of 250 metres from the site.
- (d) The Health Protection Team has purchased equipment to enable the monitoring of bio-aerosols which will be used for amongst other things the monitoring of emissions around La Collette composting site. There is not currently commercially available suitable equipment for the monitoring of odours and reliance will continue to be placed on the olfactory senses of officers and the evidence base of meteorological data from the Airport.

**1.7 The Minister for Transport and Technical Services tabled an answer to a question asked by the Connétable of St. Helier regarding cycle rickshaws.**

**Question**

The Minister has previously expressed his support for the concept of cycle rickshaws. Would the Minister explain what, if any, progress has been made towards the introduction of this form of transport?

**Answer**

I'm pleased to say that 2 entrepreneurs have contacted me expressing interest in developing and operating rickshaw services. Both are in ongoing discussions with the Department.

There are several sorts of rickshaws available. Some can carry goods and others carry passengers. Some are motorised, others are pedal powered and others are electrically assisted pedal powered vehicles. I am confident that, where necessary, minor amendments to legislation can make these vehicles "street-legal".

To operate rickshaws as a passenger-carrying service on public roads is likely to require other changes to legislation which will require consultation with other departments and bodies.

Changes to legislation to meet the above requirements will be considered with any others resulting from the soon to be published Transport Strategy.

**1.8 The Minister for Economic Development tabled an answer to a question asked by Deputy G.C.L. Baudains of St. Clement regarding the Service Level Agreement for the northern route ferry service.**

**Question**

With reference to the northern route ferry service, would the Minister inform Members –

(a) whether a printed timetable is required to be produced by the operator in accordance with the terms of the Service Level Agreement (SLA) and whether such timetables have been available locally up to 6th April this year?; and,

(b) whether the SLA requires fare structures to be reciprocal and, if so, will this requirement be monitored to ensure that advertised price promotions are available to Jersey and U.K. residents alike?

**Answer**

With regard to the first part of question (a) Members may recall my written answer to question 2754 tabled on Tuesday, 28<sup>th</sup> February 2006 in which I state:

“The service level agreement for the northern route requires the publication of brochures containing details of the daily schedules, and information on the fares and charges payable. This information is published on the company’s website and the operator has confirmed that a printed brochure is available for the northern route as required by the service level agreement.”

I had in mind when I made this statement that the Company had complied with the requirement in the service level agreement by publishing this information on its website and in printed form. However, I would like to clarify the point in that the Service Level Agreement requirement could be construed as being met merely through publication of a brochure through a website.

That said, Condor advised my Department in February that a printed brochure for the northern route was available from the local office.

I would refer Members to my answers to the oral and supplementary questions in the States on 28 February in response to a question from Deputy Lewis.

**1.9 The Minister for Home Affairs tabled an answer to a question asked by Deputy G.C.L. Baudains of St. Clement regarding e-mail exchanges between the Deputy Chief Officer, States of Jersey Police and the Jersey Evening Post relating to matters in connection with firearms.**

**Question 1**

With reference to the recent e-mail exchanges between the Jersey Evening Post (JEP) and States of Jersey Police regarding firearms, would the Minister answer the following questions relating to the points made by the Deputy Chief Officer, as they appear in those e-mails –

- (a) “...every week there are hundreds of movements of firearms and ammunition between these ranges mostly in private vehicles”. Why did the Deputy Chief Officer offer this information when it had not been asked for, and what purpose did its dissemination serve?
- (b) “...but it includes high velocity and high calibre weapons which are illegal in the U.K.”. Will the Minister identify those weapons?”
- (c) “one weapon for which certificates have been granted can kill at a range of several miles”. Would the Minister inform members whether any other licensed full-bore rifles are capable of killing ‘at several miles’?
- (d) “there are no suitable ranges in Jersey”. Assuming this refers to the single shot .5cal rifle, would the Minister confirm whether an assessment of the suitability of the rifle range at Crabbé, St. Mary has been carried out and, if so, whether it was found to be favourable?
- (e) “some of the weapons are so powerful that the police would need military support to challenge any criminal use.” Would the Minister state how many weapons fall into this category and, given their weight and cumbersomeness, explain why they should present more of a problem than any other full-bore rifle?
- (f) “...four parishes are not complying with the Law and are withholding all documentation on firearms certification”. Would the Minister confirm that this relates to all firearms documentation?
- (g) “.50 single shot armour piercing Browning machine gun.” Would the Minister explain what is meant by a single-shot machine gun and whether it is the type of ammunition that can be used in such a firearm which is armour piercing rather than the gun?

**Answer**

- (a) I have been unable to speak with the Deputy Chief Officer, who has been on leave, in respect of this particular question so am unable to answer on his behalf. I can say, however, that the initial media request was introduced as a general request for information on the issue of gun control in the Island in light of the tenth anniversary of the Dunblane tragedy, with supplementary questions on specific issues. The reply would appear to be provision of general information surrounding the issue of gun control, together with replies to the specific questions asked. In any event the information given is true and of clear relevance to the public debate on this important issue. The Deputy Chief Officer has been open in his dialogue with the press and I draw attention to paragraph 1.2.2(a) of the Code of Practice on Public Access to Official Information - a Code approved by this Assembly - which states that there shall be a presumption of openness in the application of this Code. It does appear to me that the Deputy Chief Officer has responded fully within the "presumption of openness" principle.

- (b) Full bore handguns are illegal in the UK (with the exception of muzzle loading weapons and vets' destruction hand guns) but not in Jersey. There are numerous licences in existence in the Island for such guns, including .357 and .44 Magnums, as well as self-loading rifles and shotguns - all of which are illegal in the U.K. There has also been an authority granted for a .50 calibre handgun.
- (c) I am told that any full bore rifle has an extreme range of approximately 3 miles, although the ability to deliver an accurate and lethal shot at such range varies significantly between rifles. The .50 calibre rifle is, however, far more accurate over such distances than other full bore rifles.
- (d) This issue was initially referred to the Education, Sport and Culture Department on the 25th January 2006, and I would refer further questions on this specific issue to the Minister with responsibility for that Department.
- (e) Any full bore weapon would cause the police problems if the user knew how to handle the weapon, was a good shot, and had secured an advantageous tactical position. The .50 calibre weapon would cause significant further problems due to its extensive effective range and because the police do not have any ballistic protection against such a powerful round, the weapon being known as a material destruction weapon. It is the preferred sniper rifle of the military Special Forces because of such properties. Although it is a large rifle, it is by no means cumbersome, and weighing between 19-26 lbs, it can be easily carried by one man. When a similar weapon was used by the IRA it was reportedly responsible for several deaths of military and police personnel before it was captured in a Special Forces operation. If the Deputy does not think that the presence of such weapons in Jersey is a matter of public concern then I suggest that he is in the minority.
- (f) Until recently, 6 Parishes retained all the paperwork relating to the grant, renewal or variation of licences, including old certificates and correspondence between Parish and applicant on firearms issues. The documentation since 2000 in respect of all these Parishes has now been forwarded to the Central Firearms Index. The historic (pre-2000) documentation from a couple of these Parishes is still awaited, but is in hand.
- (g) The actual weapon referred to is a "single shot" bolt-action Steyr rifle, capable of firing armour piercing .50 calibre Browning Machine Gun ammunition. It is the ammunition itself which is armour-piercing but its destructive potential is vastly enhanced by the delivery capacity of the rifle referred to.

## **Question 2**

In light of the exchange between the States of Jersey Police Deputy Chief Officer and the *JEP*, what steps, if any, has the Minister taken to ensure that in future, she is involved in any press communications relating to potentially controversial issues and, if so, what procedures are there to validate information given? In addition, what steps has the Minister taken to verify the accuracy of the information provided to the *JEP* by the Deputy Chief Officer?

## **Answer**

Again I would like to refer the Assembly to the Code of Practice on Public Access to Official Information. The Deputy Chief Officer, as a senior representative of an "authority" under the Code, is obliged to supply information unless an exemption applies. There is no provision within the Code for an authority to consult with the relevant Minister before releasing information. Indeed, if I were routinely involved in such consultation I would be potentially compromising my position in any subsequent appeals procedure and I draw attention here to Part IV of the Code which clearly envisages a role for Ministers, which is separate from the requirement for officers to respond to a valid request.



It would also not be practicable for me to be involved in all communications between the *JEP* and the Force relating to potentially controversial issues – the police deal predominantly with controversial issues - that is the nature of their work. I do recognise, however, that prior consultation in advance of those matters which are known to be of interest to Members and which are relevant to Ministerial policy would be advantageous and given the developing political interest in this issue I have agreed arrangements which will alert Ministers to relevant freedom of information requests, without compromise to their role as an Appeal Authority under Part IV of the Code.

While it is accepted as important that where possible we clarify matters of detail this should not be allowed to distract political attention from the main issue which is whether the Island's firearms laws are operating in a way which strikes an appropriate balance between legitimate sporting interests and public safety. On the evidence so far available I have some concerns that procedures and compliance are in need of improvement. I am currently working with interested parties, firstly to improve procedures and compliance with the current law and secondly, to determine whether it is appropriate for me to recommend to the States some legislative changes in order to address existing concerns.

**1.10 The Minister for Health and Social Services tabled an answer to a question asked by Deputy R.G. Le Herissier of St. Saviour regarding the Nurses Job Families Agreement.**

**Question**

Would the Minister inform Members:

- (a) of the costs to date of implementing the Nurses Job Families Agreement?
- (b) what has been achieved through this Agreement?
- (c) what remains to be achieved through this Agreement, at what cost and within what deadlines?

**Answer**

- (a) The costs to date of implementing the Nurses and Midwives New Grade/salary structure known as the Job Families Agreement are approximately £840,000.

This sum relates to a significant part of the costs attached to the assimilation of staff from the old grade/salary structure to the new grade/salary structure.

It should be noted that additional costs will be incurred in the following 2 main areas:-

Appointments to the new grades of grade 2 (equivalent to senior Nurse Auxiliary) and grade 5 (equivalent to Senior Staff Nurse);

Progression through the increments. Progression through the increments will be determined on an individual basis subject to meeting the entry criteria of their grade and meeting agreed outcome based performance criteria.

- (b) The Job Families Agreement had been developed by Health and Social Services and employee representatives of the Nurses and Midwives Joint Executive to achieve a number of objectives. The main objectives are given below:-

Resolution of long term disagreements over pay, terms and conditions of service attached to the whole job of a nurse in comparison to jobs in other public sector pay groups;

To address the concerns of nurses and in particular nursing auxiliaries, that they were underpaid for the job they were required to perform.

The development of a coherent career structure for all nurses within the new grade/salary structure.

The addition of additional grades of nurse (e.g. grade 2 (equivalent to senior Nurse Auxiliary) and grade 5 (equivalent to Senior Staff Nurse)) to meet the needs of the organisation and views of nursing employee representatives;

To introduce clear “entry criteria” for each grade and resolve long-standing concerns by nursing employee representatives attached to the entry criteria used to differentiate between a Sister II and Sister I post in the old grade/salary structure;

The need to improve performance and reward, in a tangible way, high performing nurses, within a fair and equitable grade/salary structure and performance for all nurses.

The main objectives, intent and quality of the Job Families Agreement was recognised by the Independent Arbitration Panel led by a Chairman from the Arbitration, Conciliation and Advisory Service (ACAS) in their report dated 10th December 2003) as part of the settlement of the 2002/2003 Nurses and Midwives’ pay dispute.

At present the Department in collaboration with employee representatives of the Nurses and Midwives’ Joint Executive and Family Nursing and Home Care Service is in the process of implementing the Job Family Agreement and creating the managerial and staff side capacity to manage the appeals process.

Following this, a training programme for all nurses (and nurse assessors) will be set up to enable them to understand and prepare for the subsequent performance assessment for pay purposes process.

Until such time as the Job Family Agreement is implemented it is too soon to determine any achievements that might result from its introduction. Notwithstanding this, once the Job Family Agreement is fully implemented the Health and Social Services Department is confident of meeting the original objectives mentioned above.

I think it is also important to state that recent operational issues should not detract from the importance and appropriateness of the Job Families Agreement or the endeavour of both the Health and Social Services Department and employee representatives of the Nurses and Midwives Joint Executive to progress this important project through to completion.

- (c) The following main provisions of the Job Families Agreement still need to be implemented:-

Full assimilation and appointment to all grades within the new grade/salary structure;

Complete the appeals process against assimilation from the old grade/salary structure to the new grade/salary structure;

Develop and implement a training programme for all nurses (and nurse assessors) to enable them to understand and prepare for the subsequent performance assessment for pay purposes process;

Implement the formal assessment for pay purposes process;

Complete the individual appeals process against assessment for pay purposes process.

Although, the planning process for the above is under way, it is only possible to provide approximate indicative timescales at this stage. For example full assimilation and appointment to the grade/salary structure followed by the appeals process should be completed within 6 months and assessment for pay purposes within another 6 months.

The placement of a nurse within the increment structure is dependant on their individual performance against a transparent and comprehensive set of agreed performance criteria.

As a consequence, until that process has been completed it is impossible to predict with any accuracy likely outcomes and therefore additional costs to those already incurred with this project.

Notwithstanding this fact, it is important to state that costs attached to incremental progression in accordance with the performance criteria and the rest of the Job families Agreement will be met by the Health and Social Services Department.

**1.11 The Minister for Economic Development tabled an answer to a question asked by Deputy R.G. Le Herissier of St. Saviour regarding Airport bollards.**

**Question**

Would the Minister inform Members whether he intends to reduce the number of bollards at the Airport?

**Answer**

As States Members will be aware, a new Airport Director has recently been appointed. The new Director is undertaking a full review of all the airport operations. This review, expected to be completed by 30th June 2006, includes roadways in the airport precinct, ground transport facilities (including taxis), car-parking and amenities. It would therefore be premature to consider removing any bollards until the review has been completed. It is important that the elements of the review are allowed to be considered in the context of the total operational environment.

The bollards in question were installed to address safety concerns associated with drivers of vehicles performing U-turns in front of the terminal and so endangering pedestrians and other vehicles. The bollards mitigated these accident risks but it is acknowledged that they have been the subject of some criticism.

Further to the operational review, consideration must be given to costs associated with the removal of any bollards and their subsequent re-use. States Members would rightly be concerned with any unnecessary wastage associated with the removal of some or all of the bollards if indeed this action is deemed necessary.

**1.12 The Minister for Education, Sport and Culture tabled an answer to a question asked by Deputy R.G. Le Herissier of St. Saviour regarding training and development needs of the finance and allied industries.**

**Question**

Would the Minister inform Members how he is apprised of the training and development needs of the finance and allied industries, and what mechanisms exist, if any, to ensure that, where appropriate, action is taken in respect of current and emerging needs?

**Answer**

On Tuesday 28th February 2006, I responded to an oral question from Deputy Le Hérissier when he asked “Would the Minister outline what formal channels, if any, exist at a policy level so that the Minister and his department are apprised of the education and training needs of the finance industry?”

My reply was as follows:

“The governing body of Highlands College, which is the main provider of further education and training in the Island, provides the formal link between the finance industry, the Minister and the Department for Education, Sport and Culture. One of the functions of the governing body is to

advise on policy development and the nature of provision made by the College. A number of leading members of the finance industry are governors. The Chairman is the senior partner of Moore Stephens and a board member of Jersey Finance Limited. The Vice-Chairman is Deputy Director-General of the Financial Services Commission. Other members of the governing body who hold key positions in the finance industry are the Chief Executive of Jersey Finance Limited, the Manager of Banking Regulation with the Financial Services Commission, the Managing Director of UBS Jersey and former Chairman of the Jersey Bankers Association and the Managing Director of Citibank who is a member of the Jersey Bankers Association. In addition, the governing body has a sub-committee, the Jersey Business School Executive, chaired by the Chairman of Governors, which considers finance industry training needs and reports to the main board. The Department for Education, Sport and Culture and Highlands College were also members of the steering group of the Economic Development Department's research project into training needs of the finance industry carried out in 2004 and we look forward to working closely with the Education and Training Committee to be established by Jersey Finance Limited, which will provide a further forum for discussing future training policy and training requirements. The finance industry has also been represented on policy reviews undertaken by Education, Sport and Culture. Thus, for example, the Chief Executive of Jersey Finance Limited was a member of the working group which reviewed the 14-19 curriculum and was also one of the members of the finance industry community consulted during the preparation of the Higher Education Review."

**1.13 The Chairman of the Privileges and Procedures Committee tabled an answer to a question asked by Deputy R.G. Le Herissier of St. Saviour regarding proposals for the composition of the States.**

**Question**

Would the Chairman inform Members -

1. Whether the proposals the Committee is bringing forward on the Composition of the States will address the issue of the size of the membership of the States?
2. What preliminary conclusions, if any, have been reached in this regard to date?

**Answer**

The Privileges and Procedures Committee has begun its consideration of the composition and election of the States. The Committee is initially concentrating on the issue of low voter turn out at elections and is investigating the possibility of engaging a professional company to conduct a questionnaire to establish the reasons behind the problem and to determine the public's view on such matters as the size and composition of the States and whether it was felt that having a general election day would encourage more people to vote. The Committee is also considering the possibility of fixing a limit on election campaign expenditure and will shortly be conducting a questionnaire to establish how much members spent on their last campaign.

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

May I just very briefly make a comment that might be to the benefit of business in this House. It does seem to me that some of the answers given to the written questions are neither full, nor complete, and it merely means that Members have to keep coming back again with oral questions, or further written questions. If the Ministers could in fact give more complete and correct answers, in my view, it would save a lot of the time of this House.

**2. Oral Questions**

## **2.1 Deputy F.J. Hill of St. Martin of the Minister for Education, Sport and Culture regarding the refitting of historic buildings:**

Would the Minister inform Members, how many historic buildings are being refitted by the Jersey Heritage Trust for letting purposes and whether any have proved unsuitable for this purpose?

**Senator M.E. Vibert (The Minister for Education, Sport and Culture):**

A total of 10 historic buildings will have been refitted by the Jersey Heritage Trust for letting purposes when phase 2 of the project is completed at the end of 2007. I understand from the Heritage Trust that these were selected from a total of 30 properties listed as potentially suitable. All are considered suitable for letting, although with regard to the more isolated offshore towers special safety arrangements will need to be put in place.

### **2.1.1 Deputy A.E. Pryke of Trinity:**

One of those places I understand is Fort Leicester down at Bouley Bay and Islanders have donated benches which have been placed around there, thus enabling people to enjoy, at their leisure, this historic fort and obviously its beautiful coastal scenery. Will the Minister inform the House if the public will still have access to this area during the summer months?

**Senator M.E. Vibert:**

I will have to discover the detail of the benches around the fort. I was not informed that was going to be a question and I am afraid I have not got that detail at the moment. Of course the Jersey Heritage Trust, if Members would care to contact them direct, will have that detail but if they prefer me to find out I am quite willing to do so, Sir.

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

I was going to ask something in similar vein. All the properties which are owned by the public will now be let out, from what I can understand of the motive behind. It is obviously good that these properties are utilised and we are getting some revenue. However, the downside is they are then lost to the public. I would ask the Minister, will this apply to all those buildings which are going to be refitted? Will that mean that the public will no longer have access to them?

**Senator M.E. Vibert:**

The public did not have access to a number of the buildings anyway because they were closed off. In fact they were in poor need of repair. The whole purpose of this initiative, as the Deputy referred to, is to bring them back into public use, albeit for letting; and also to ensure that their fabric is maintained. Again, if the Deputy can contact the Jersey Heritage Trust, they have the details on this. In fact, they are working very closely with Economic Development on this and Transport and Technical Services. My Ministry is responsible for the Jersey Heritage Trust but in this case the Jersey Heritage Trust is working with other Ministries on this project.

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

Could the Minister assure me that a cost benefit analysis has been carried out on this exercise? I am particularly concerned about some of the further forts, such as the L'Etacquerel Fort - the one at Bouley Bay. I cannot imagine they are on main drains. Presumably, they have to be in order for them to be let out. The expense of that, presumably, has been accounted for. Could the Minister also suggest whether any extra expenditure will arise from letting out places like Seymour Tower and La Rocco Tower and will rubbish disposal facilities have to be provided? What is the situation?

**Senator M.E. Vibert:**

Yes, Sir, there have been a cost benefit analysis and all those issues have been taken into account.

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

Would the Minister agree that this is in fact a fantastic project that ensures that all the revenue that is going to be coming from these properties goes back into the restoration of them? Is he also aware that, as far as Fort Leicester is concerned - the first property - it is completely booked out for the rest of the year and more than that we are looking forward to a *Times* journalist having spent the weekend over Easter. Does he agree? [Laughter]

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

I thank my fellow Minister. I did say in a previous answer that Jersey Heritage Trust were working very closely with Economic Development on this issue and you have just heard how closely they are working. I confirm everything the Minister has said.

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

I wonder if the Minister can assure us he is not getting special dispensations from planning departments and other areas because it seems to me that the general public, if they wanted to bring one of these properties into letting the usage, it would take them several years and an awful lot of money?

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

No, Sir, and in fact very stringent guidelines are being adhered to. Planning is to set up an Historic Fortifications Review Group. Very close context is being paid to ensure that the historic fabric of the building is not damaged and that everything is done in complete adherence to the planning laws that apply. In fact, if anything, we are facing more stringent planning guidelines than if it was done in any other way. So, I can reassure the Deputy on that point and every one of the buildings is being looked at by the Historic Fortifications Review Group set up under Planning.

## **2.2 Deputy G.C.L. Baudains to the Minister for Economic Development regarding the Western Tanker Berth Gangway:**

Would the Minister inform Members whether the Western Tanker Berth Gangway has malfunctioned since its installation and, if so, on how many occasions; what has been the cost of remedying any faults, and what has been the cost of supplying alternative cover while it has been unserviceable?

#### **Senator P.F.C. Ozouf (The Minister for Economic Development):**

Deputy Maclean has specific responsibility as Assistant Minister for Harbours and I would like him to be able to answer the question.

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

Thank you, Sir. The gangway concerned is a complex piece of equipment designed to automatically adjust itself to follow the rise and fall of the tide. It also incorporates a further manual adjustment. As is the case with complex mechanical systems they are prone to the odd fault. Since the new gangway was installed in 2002, there have been 10 recorded malfunctions; one of these was caused by a ship. There have been some other very minor faults but these have been rectified during the normal course of the working day. The maximum cost of repair to a fault has been £143. A further £150 has been payable for the provision of a lifeboat to be tied up beside the moored ship in order to meet Health and Safety Regulations. These state that there must be an

alternative form of pedestrian access or egress. Since the new gangway was installed there has been no loss of service due to malfunction and 238 tankers have successfully used the facility.

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

Thank you, Sir. I wonder if I could just clarify a couple of matters with the Assistant Minister. I find the figure of - I did a quick calculation - £15 a time for provision of a lifeboat extremely reasonable. I do not know if that figure is correct. He did refer to the piece of equipment - the gangway - being a complex piece of equipment. Could he advise us as to why the department does not resort to the original type of equipment, which was extremely simple and gave no trouble for many, many years until it wore out eventually, and to be replaced by something which seems to be permanently going wrong? It last went wrong just about a week or so ago, Sir.

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

Yes, the use of the lifeboat: up until January 2005 it was £150 for each time it was used. Since then a contract has been put in place, which includes a number of other facilities and services of which the lifeboat is included within that and is believed to be far more cost effective. As far as the complexity of this piece of equipment: at the time that it was selected by a previous Committee, the competitive tender process was entered into. Five or 6 contractors were involved in this tender process. Consulting engineers, the users, operational staff and the Port Engineer all had a say in this particular piece of equipment and were responsible for it being installed. I think we have to be satisfied with their professional advice on that subject.

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

Picking up on the last matter, Sir, with the professional advice and the excellence of this new piece of equipment - or so we are led to believe - could the Assistant Minister confirm that the previous piece of equipment, commissioned by the Harbour, was never used because the owners would not use it and it was dismantled as a waste of taxpayers' money? The previous first piece of equipment was, in fact, extremely reliable and could have been repaired for £2,000 but the department did not wish to follow that and instead commissioned something which has been extremely expensive and continues to malfunction.

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

I am led to believe that the previous piece of equipment had worn out as the Deputy rightly points out. The advice, as I said a moment ago, was from the consulting engineers and the users. I am also led to believe that the crews from the tankers that were docking did not find the mechanical process in place particularly efficient and they, themselves, were against using it. A number of individual organisations, and people, were consulted with regard to this piece of equipment and, as I said, it was decided by the previous Committee that it was the most appropriate option to take up at that particular time.

## **2.3 Deputy G.C.L. Baudains of the Chief Minister regarding the proposals that the Waterfront Enterprise Board had for the Waterfront area:**

Will the Minister agree to make available to all Members the most up-to-date proposals that the Waterfront Enterprise Board (WEB) has for the Waterfront area?

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

The general proposals for the Waterfront are already in the public domain and States Members and the public have received a number of presentations on them in recent months. Nothing has changed except that under the new supplementary planning guidance, published by the Planning Minister

last week, developers can be under no illusions, whatsoever, that if it is to be approved any scheme will have to be only of the highest quality.

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

This question is basically a follow-on from the previous time I questioned the Chief Minister on this matter. As I raised the matter then, Sir, it does seem to me there has been an awful lot of changes since the public were told exactly what was going on, on that site. Notwithstanding the presentations that have been made, would the Minister update us on the comment he made in respect of the previous answer that he would discuss with his Council of Ministers the possibility of bringing forwards a plan so that everybody knows exactly what is in WEB's mind and what we might expect to arise on the site, seeing that the residential and commercial mix is in flux.

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

As I have said, all such matters have been in the public domain for some considerable time. All that remains now is for the Planning Minister to ensure that any development is according to the plans, which have been unveiled on many occasions now and are of the highest quality.

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

I hate to press the point, but I do believe the Chief Minister is missing the point and that is I agree that the public have seen many plans over recent months but just recently in the paper there seems to be confusion about what is going on. Clarity is required, Sir. Would the Chief Minister carry out what he suggested he might do in the previous question time and bring forward some plans so that everybody knows exactly what it is WEB has in mind?

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

The Council of Ministers do not consider any purpose would be served in following that proposal at all. All plans, as submitted, will be subject to the full planning process, as always. I think the Planning Minister has made it abundantly clear how rigidly that planning process is going to be adhered to. The Deputy referred to confusion on the Waterfront. That, I would suggest, is a headline created by the Jersey Evening Post. The only possible confusion - and I do not believe "confusion" is the right word - is that developers at this stage do not yet know whether their planning applications will be approved by the Planning Minister, or not, and that is exactly as it should be under the planning guidance and under the normal planning procedures.

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

Would the Chief Minister outline to Members what criteria he and his Planning Minister intend to use to judge the quality of any proposal?

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

This has nothing to do with me, whatsoever. This is the Planning Minister's brief and I think he has made it very clear, under the strategic planning guidance, that he is going to be looking to employ the services of what has been called "an architectural supremo" who will be a world class architect who will judge all planning applications against acknowledged world class architecture. I do not think the Island could ask for much more than that.

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

With respect, we seem to be going round in circles here. I think what the public would like to see is not what has happened in the past: a plan submitted to planning when it is all too late. They would rather be involved at an earlier stage. Could I remind the Minister of the previous question when I asked him: "Does the Chief Minister not believe a debate in this House over a new plan would be



beneficial?" And, his reply was: "I will agree to discuss this with the Council of Ministers and, in particular, the Planning Minister". Has he done so, Sir?

**Senator F.H. Walker:**

Yes, Sir, and I have already answered that question.

### **2.3.5 Deputy J.A. Martin of St. Helier:**

At the recent presentation on the Waterfront when I asked the question: who would appoint this supremo, i.e. expert architect to oversee this, I was told by the Planning Minister that he alone would be the one to choose. Does the Chief Minister really think such a newly elected Planning Minister is the right person to appoint such a very important supremo, so called?

**Senator F.H. Walker:**

Yes, Sir.

## **2.4 The Deputy of St. Martin of the Minister for Health and Social Services regarding the Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law 200-:**

On 20th July 2005, the States adopted P.111/2005 and P.126/2005 relating to the restriction of smoking, both of which stated that enforcement would be carried out from within existing health protection resources. Why is the appointment of the Tobacco Control Officer and the need for £50,000 for new funding for out-of-hours support for existing staff, as stated in P.39/2006, now required for enforcement purposes?

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

The original report and proposition, P.111/2005 and P.126/2005, related to an interim measure in which smoking, within public eating places, would be prohibited; the enforcement of this measure would have been undertaken by Environmental Health Officers who routinely visit food premises as part of their existing duties. In February 2006, I made a statement to the House concerning my intention to move directly to banning smoking in all enclosed work places, thus avoiding the interim measure. So, to make this clear, this legislation extends to all enclosed work places and not merely public eating places. The recent report, and proposition P.39/2006, identifies the need of funding to enforce this much wider legislation, which will involve visits to a significant number of premises not currently within the remit of the department. This new legislation is very important in protecting and improving the health of Islanders. Drawing upon the experience of other jurisdictions, our legislation will be enforced by authorised officers within the Health Protection Department who will need to visit premises - particularly licensed premises - outside normal office hours. Thus, in order to appropriately and effectively enforce new legislation, while fulfilling local employment law and health and safety requirements, a new post of Tobacco Control Officer will be considered for the Health Protection Department. A business case for this post and monies will be considered alongside other health priorities and, only if successful, will be funded from existing monies within the Health and Social Services Department's budget.

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

Can I ask the Minister, does he really think that one officer is going to make a huge amount of difference to this piece of legislation? One officer is really only a token gesture and that £50,000 could be better used within the Health Service.

**Senator S. Syvret:**

No, I do not think it is a token gesture. I agree with some of the views expressed by the Deputy that in all probability, and hopefully, the Law will end up being largely self-enforcing and self-

policing. It may be necessary to ensure that the right approach is adopted when the Law is in fact introduced: that enforcement is seen to be done. We would not want a situation to arise, as that which prevails in France, where, in theory, smoking in such premises is banned and yet it is widely and largely ignored the length and breadth of the country. So, it is important that we do, at least initially, make sure that the right approach to smoking is prevailing.

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

The Minister is somewhat evangelical about anti-smoking legislation and no smoking. From my experience, all other non-smokers are equally evangelical. Does the Minister really think that this policy will need policing when there are several thousand unofficial policemen who will enforce it?

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

As I have already indicated, perhaps the point made by the Deputy is correct. Hopefully, the legislation will be self-policing and self-enforcing. The point is, I have to stress, that if we are to proceed with the creation of this post, it will be met from within existing resources and it will only come into existence if it meets and competes with the other demands upon the Health and Social Services budget. It will be a component of the internal decision conferencing, as it were, to decide where we allocate Health and Social Services resources. If there are other greater priorities then the monies will not be put towards this post.

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

Sir, the Minister has just said that it will be met from existing Health and Social Services resources and yet in the P.39 he talks about new funding.

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

If that is the impression given by the wording in that proposition, then I apologise because it has obviously caused some confusion. If the monies are to be allocated to this post it will be from within existing resources of the Health and Social Services Department, not additional resources from central funding.

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

If it would help the Minister I have P.39 in front of me and it says: "There are financial manpower implications that arise from this implication arising from this legislation. Enforcement will require the appointment of a Tobacco Control Officer to be located within the Health Protection Department, plus out-of-hours support for existing staff. This will require new funding of circa £50,000". Will the Minister agree then that this will no longer be a fact and this statement from within P.39 will be withdrawn?

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

As I have already indicated, if that is the impression that is given by that wording then I apologise for it. It perhaps was not clear. It was simply put in to make it clear to Members that if in fact this post was to be created it would need funding but that funding will, as I have said on several occasions now, come from within existing resources of the Health and Social Services Department.

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

I am slightly confused by the argument. If this £50,000 is going to come from existing resources, presumably the Department has not been wasting £50,000 every year of taxpayers' money. So, obviously, some other service is going to have to be cut in order to provide that. Could the Minister tell us which service that will be?

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

The demands upon the Health and Social Services budget are, indeed, large. It is pretty much a continuous process that the standing of the department is re-evaluated and re-prioritised. Just off the top of my head, a recent example would be the decision to make the drug, Herceptin, available to patients in Jersey. This is a new additional expenditure, which we are having to reprioritise within our existing budget. Thus it is that the budget of Health and Social Services is, in certain important respects, constantly being re-evaluated and reapportioned to different areas. As I have said, this particular post will be competing with other demands for Health and Social Services and if it does not receive a high enough priority it will not get the funding.

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

Would the Minister, on the back of that last sentence, not agree with me that as the Island's number one killer - 200 a year - morbidity from smoking is a significant impact upon our resources and, therefore, it is only correct to allocate a small resource of £50,000 a year to help prevent what is a catastrophic cost to this Island on an ongoing annual basis?

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

The Deputy is certainly correct. In view of the professional clinical people who advised me in these matters, smoking is public enemy number one. It creates a significant number of premature deaths in Jersey but, in addition to death, it creates a very substantial amount of chronic and serious health problems for individuals which, as the Deputy alluded to, do have a significant on-cost to the rest of the Island, that is why it is, indeed, money well spent to invest in this kind of programme - smoking cessation - because it is prevention rather than cure.

### **3. Questions to Ministers without notice - The Minister for Transport and Technical Services**

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

Very well, that concludes questions on notice, so we come now to questions to Ministers without notice and the first period involves questions to the Minister for Transport and Technical Services. Does any Member have any question?

#### **3.1 Deputy R.C. Duhamel of St. Saviour:**

In relation to the recently lodged P.45 proposition 'Solid Waste Strategy: locations for proposed facilities', does the Minister intend to supply Members in good time before the debate with the findings of the suggested environmental impact assessment?

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

Yes, Sir.

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

In relation to the composting site, in the written answers that have been provided today to the Constable of St. Helier, I commend the Minister's answers. They are quite comprehensive. They do allude to the fact that a health impact assessment was asked to be done by the Health Protection Team. It has been brought out in the answers that this was not done before the composting site was moved, although the Minister's Department is intending to do this in the next few months. Would the Minister now accept that, while it is acknowledged in the report that the U.K. Environmental Agency requires a background level at 250 metres for residences, DEFRA (Department of Environment, Food and Rural Affairs) also requires that equivalent background level for workplaces. Why has this not been taken into account?

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

As far as I am aware, regulations that fall under DEFRA do not apply in this Island as we are a separate jurisdiction. However, I can assure the Deputy that we closely monitor the health of our employees and none of those who work at the composting facility have shown any ill effects whatsoever.

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

I was referring to other people that work in the area that are involved in working down at that industrial site. There are many different work places that are not under States control. I wonder if the Minister would not undertake to examine whether, or not, it is wise and prudent to monitor the areas to the same levels as the U.K. Standards for Residences and Workplaces?

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

Where there is no perceived problem - and I have to remind the Deputy it is Transport and Technical Services workers and employees who effectively work in the front line here, within the composting windrows themselves - I find it slightly alarmist to want to insist that where no problem exists we should somehow, by force of monitoring actions, imply that there is a problem. There is no health problem. The Department of Transport and Technical Services is in constant and ongoing discussions with our colleagues in Health. We await any serious input from local general practitioners; evidence from any health organisation that a problem exists. To all intents and purposes there is no problem relating to health. I think it would be alarmist to start monitoring a situation on the basis that there is a problem when there is not one.

**Deputy R.C. Duhamel:**

I will give way to Deputy Le Claire if, indeed, it is a supplementary.

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

It is a supplementary. On visiting with businesses down there only this week I have been informed that their windows are closed and remain closed on the occasions that the composting affects their workers. Those businesses were surprised to find out that the U.K. do monitor within 250 metres. I would argue it is not alarmist to monitor. That is the question I have been putting to the Minister. Would the Minister not agree to undertake to monitor workplaces, the same as he is monitoring residences? If he suggests it is alarmist to monitor businesses, is it not also alarmist to acknowledge that you are monitoring residences?

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

I am not aware that my Department is monitoring residences, as the Deputy puts it. But, I have to say that I think an enormous amount of alarm has been created for the bulk of the residents at Havre des Pas by a very small group of people who, quite frankly, are making a mountain out of a molehill. There is an odour. The Department accepts there is a smell. The Department intends to address the problem of the smell by enclosing the composting facility. It is not a smell that causes illness. That is simply the situation. At this stage, until I am presented with serious and confirmed evidence from our colleagues who work in health protection, I have no intention of installing monitoring facilities.

**3.3 Deputy J.A. Martin:**

I do not think the Minister fully answered Deputy Duhamel's question. Mine leads on from who is carrying out the full independent environmental impact assessment and traffic flows? When will the report be produced to this House? How much will it cost? Will it be fully costed to include the example given by the Chief Officer of Transport and Technical Services, that if all the waste goes down to La Collette we will probably have to compulsorily purchase the whole of the Norman's

site and along by the harbour there? Will this be included in time for the debate for the 2 sites in the Waste Strategy?

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

I am not currently aware of any plans, certainly, on behalf of Transport and Technical Services to compulsorily purchase the whole of the Norman's site. I wait, with interest, to hear where information on those plans may emanate from but it certainly does not come within my remit as things currently stand. I regret to inform the Deputy, that I am not in a position to give her a detailed account of who precisely the personnel will be conducting the environmental impact assessment. I can assure her they will be relevant experts in the relevant fields and, in due course, I shall attempt to supply the Deputy with a breakdown, should she wish to cast her eye over the talents available when we know who the assessment team will be. Consequently, I am also not currently in a position to give her a detailed breakdown on how much it will cost but no expense will be spared in order to ensure that a proper full evaluation is carried out. I can assure Members on that score.

**3.4 Deputy R.C. Duhamel:**

In the light of the previous answers to the last question, can the Minister assure this House that any environment impact assessment undertaken in relation to the location of waste facilities with respect to La Collette, or other areas, will indeed be a full strategic environment assessment in its wider sense?

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

If I knew what the Deputy was talking about I might be able to give a more helpful response. I do not exactly know what a full strategic environmental assessment may be but I am sure that if there are implications that they will be covered.

**3.5 Deputy J.A. Martin:**

Going back to my previous question. It is a shame the Minister has a very selective memory because there were about 12 to 15 of us Deputies, and other people, who went down to La Collette and we had a meeting with himself and his Chief Officer prior to visiting the composting site. Even if he cannot remember, I would ask him then to have a second conversation with his Chief Officer and find out if this is a possibility that we will need to compulsorily purchase many buildings and, secondly, the much looked forward to Weighbridge area that will lose the buses, will become a gyratory system for heavy traffic around that area; this was told to many Deputies by the Chief Officer of Transport and Technical Services. It is a shame the Minister does not remember this. It is also a shame when the Minister absolutely refuses to take officer advice because he is not siting the green waste where his Department has decided it would be the first choice, which is Warwick Farm. [Aside] [Laughter] So, my question is: will he please check and speak to his own Chief Officer and find out exactly what the impact and the cost to this House will be to site all the waste at La Collette.

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

I am very grateful for the Deputy's wide-ranging question. I think I can firstly assure both the Deputy, and the House, that I am in regular discussions with my Chief Officer whose advice I value very highly. I am aware of all of it. My earlier response to the previous question of the Deputy, I said I had no idea of any plans to compulsorily purchase the Norman buildings. Of course I do have some idea about the long-term traffic implications that pertain to the La Collette 1 and 2 industrial sites. I am aware, because I think it happens to be not a bad idea, that there are suggestions that the La Collette industrial site may be extended to La Collette 3, a new and additional reclamation site for the Island, which currently, as it happens, would not be allowed under the Island Plan which may account for a forthcoming review of the Island Plan but Members

would have to direct questioning on that score to my fellow Minister, Senator Cohen, the Minister for Environment and Planning. However, what I can say on the subject is that, quite clearly, if usage of the La Collette reclamation site was to be expanded, then we would have to have another look at the road system that runs between La Collette and the rest of the Island and the town. It may well be that new forms of traffic works would have to be looked at which may include a form of gyratory system at one end of the Fort Regent tunnel or the other. I am simply not in a position to give much further detail at this stage.

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

Members will have read, no doubt, the comments attached to P.258/2005 from the Minister of Health and Social Services. In those comments there was reference to a health study written by Herr *et al*, dated 2003. The question is: has the Minister of Transport and Technical Services read that report?

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

No, I have not.

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

In that case, could I suggest that perhaps it would be a sensible thing for the Minister to read that report because it does state within the body of the comments that this health study was actually done and it says: "A study of health in the general public around composting sites, Herr *et al* - 2003, has found a connection between colony forming units of bio-aerosols and respiratory problems" that have been denied during an earlier question made by Deputy Le Claire. There are health issues that should be looked at. Does the Minister not think that he should really be up to scratch on this issue?

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

I may not have read that particular report but I certainly am up to scratch on this particular issue. The fact that various bio forms, or aerial borne fungi may float around a composting facility is no different to what may float around a cowshed; what may float around a Jersey farm; what may float around a Jersey field. It is part of life. It is organic matter. We live with it every day. It gets up our noses, we breath it into our lungs and it does not really do us any harm. It is just part of the world we live in. It is not a health risk.

[Aside]

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

Will the Minister answer the question? Will he read the appropriate report relating to health dangers around such facilities?

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

Yes, I will.

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

In his written answers this morning, which I wonder if the Minister has read, he indicates that the ongoing health effects, which have been identified by the Health Ministry, need to be thoroughly investigated. He also concurs that his Department and his own health protection staff are currently engaged in setting up a health impact assessment for the proposed composting regime and it will include key stakeholders and residents representatives. I go back to my earlier question: those key stakeholders should include those people that are working in that area. Will the Minister, having acknowledged in his written answers - that he may not recall or may not have read this morning -

that there are issues in relation to health and the need to thoroughly investigate those matters, that they should also include the key stakeholders of the businesses surrounding that facility?

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

I have to admit to being slightly amused by the Deputy claiming that it was a written question that I may not have read because it is a written question that was not written by me, it was written by the Minister for Health and Social Services. [Laughter] So, I am rather surprised that the Deputy is directing his questioning to me. However, I do want to make one comment on the opening sentence the Deputy made: there is no ongoing health problem. There is no health problem. It would really make people, I think, generally an awful lot happier if we moved away from this atmosphere of alarm and concern about what the risks are. There are none. As far as we know, we have been unable to determine any risk to health, whatsoever, from the composting facility.

**4. Questions to Ministers without notice - The Minister for Health and Social Services**

**The Deputy Bailiff:**

That concludes questioning of the Minister for Transport and Technical Services. So, we move now to questioning of the Minister for Health and Social Services.

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

It is apparent that there has been an exchange of correspondence between a local GP and the Health Department regarding enhancing cardiology services in Jersey. This exchange is now being conducted through the local media. I also understand that the GP and the Health Department have never met to discuss any of the relevant issues. Given the matter is very much in the public domain and attracting public attention, would the Minister agree that possibly the best way forward would be for the GP and the Health Department to get around a table to discuss their differences and make their findings known to the States Members and the public?

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

No, Sir, in this particular case I do not. The GP in question has made a number of inflammatory and grossly inaccurate statements. He has defamed other clinical colleagues in Jersey and he is now going to be the subject of a complaint to the GMC (General Medical Council). He has made completely erroneous assertions in the *JEP*, to the effect that people were dying needlessly in Jersey when, in fact, a simple telephone call to the Medical Officer of Health would have told him that the age standardised death rate for Jersey from heart disease for the under 75's is 96 per 100,000, whereas the U.K. rate is 108.5. Therefore, the actual death rate, which is the key figure, from coronary heart disease is lower than it is in the United Kingdom, which is quite surprising given that there are increased levels of smoking, drinking and, perhaps, a consumption of fatty foods in Jersey than you would find in the U.K. average. Even if there were any merit in privatising cardiology care in the way that this particular GP proposes, it simply would not meet the most rudimentary of due diligence procedures for the States to get involved with an individual who has - and this is in the public domain - a very significant number of Petty Debt Court judgments against him and is teetering on the verge of bankruptcy.

**The Deputy Bailiff:**

I am not sure that it was necessary in the context that that person cannot answer back.

**4.2 The Deputy of Trinity:**

In the nationwide report 2005, one of the main recommendations was that the States should consider transferring responsibility for prison health to Health and Social Services. Would the Minister inform this House if the recommendation will be put in place and, if so, when?

**Senator S. Syvret:**

The recommendation will certainly be considered. As far as the responsibility of Health and Social Services for prison health is concerned, it is already the case that any acute care incidents are treated by Health and Social Services. Prisoners sometimes are brought to the hospital for acute care treatment. There is an element of mental health care provided which is important for many prisoners via Health and Social Services. But, at present, the internal more minor health care matters, for example matters particularly pertaining to disease and illness prevention and health improvement are, it is true, within the ambit at the moment the responsibility of the Prison Service. There may well be some merit in transferring that responsibility to the Health and Social Services Department, but that is a matter clearly you would have to discuss with the Home Affairs Minister and her officers.

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

Is the Minister satisfied that there are no health risks relating to the current mobile phone masts scattered all over the Island and, equally, the proposed new generation forms of phone masts that are planned to be erected?

**Senator S. Syvret:**

Yes, Sir, the advice that I have is that there is no risk or no significantly quantifiable risk from these telephone installations. It is the case we have just recently received a report on this question from the Health Protection Department and its recommendations will be followed, and those recommendations are that all such installations in Jersey will need, as an absolute minimum, the recognised national and international statutory requirements in terms of siting such installations away from the public. So, that will be the case and, indeed, with existing installations there will be some testing of the strength of the signal within the region of some of the base stations.

**4.4 Deputy J.A. Martin:**

Could the Minister comment on a recent article where a member of the I.O.D. (Institute of Directors) says opposition to plans for a private hospital in Jersey is anti-competitive?

**Senator S. Syvret:**

The author of that article is a noted market fundamentalist, he believes as an article of faith that anything carried out by the public sector equals bad and anything carried out by the private sector equals good. I am afraid the author of the article does not know the facts. He has not contacted the department to get a proper inside account of our views and our reasoning on the question. The fact is that were this particular private proposal enabled to piggyback on taxpayer provided services, which they quite erroneously regard somehow as a free good when they are not: in fact they are paid for by the taxpayers. If that kind of advantage were to be given to this particular proposal, that would be anti-competitive because it would seriously disadvantage a range of other private sector independent sector healthcare providers who are developing their own primary healthcare sectors as proper stand-alone businesses, entirely with their own resources and entirely on their own bat. It would be grossly uncompetitive and unfair to them if this particular single operation was enabled to piggyback on the back of taxpayer provided resources.

**4.5 Deputy P.N. Troy of St. Brelade:**

Will the Minister confirm that he has now fully reviewed the strategy for the provision of respite care and can he inform whether a Ministerial decision has been taken regarding the implementation of his future strategy? The Minister also stated, in the media, that beds will be purchased in the private sector. Can he advise how many beds will be purchased and at what cost per bed per annum?



**Senator S. Syvret:**

The number of beds purchased might be in the range of 40 to 50 at this stage, although this will be a fluctuating figure on the basis of need and the development and implementation of the strategy. I do not know, off the top of my head, the cost per bed. If the Deputy likes I can find that information out for him later today. I have not yet made a formal Ministerial decision to implement the strategy but nevertheless I will be doing so very shortly. I can assure the Deputy that where people are currently receiving respite care at the inadequate buildings at Overdale, it is our intention, and our plan, to have everyone who needs respite care moved completely out of those facilities by the end of June so that people will be receiving respite care in decent, civilised accommodation, as opposed to the totally inadequate buildings that presently exist at Overdale.

**4.6 Deputy R.C. Duhamel:**

The Minister just made the statement that he had been advised that there were no risks with mobile phone masts. Is the Minister not in agreement that that is not quite the case, and in actual fact, the reports that have been supplied to his department for advice indicate that there are risks, but those risks fall off with distance, hence the protocols for allowing areas close to mobile masts to be, in effect, exclusion areas?

**Senator S. Syvret:**

There may be a very, very tiny risk, but the evidence presented to me and the recommendations made to me is that the risk is of no significance and no consequence compared to the RF (Radio Frequency) radiation an individual receives, which is much, much greater simply via using a mobile phone themselves, so it is important to keep a sense of perspective about this matter. The recommendations of the Stuart report, for example, which is regarded as being one of the definitive works on the subject, made it quite clear that there was no robust clinical evidence for harmful effects, but it recommended, on a precautionary basis, a few rudimentary standards in terms of the siting of base stations. But if we accept the Stuart report as the definitive work on the subject, then I am satisfied that we will comply with those requirements in the Island. I must also point out, because this has been raised previously, that whatever requirements are put in place in respect of radio transmissions, they will apply equally to all providers. There will be a level playing field. There can be no question of one standard being applied, for example, to cable and wireless and a different standard to Telecoms.

**4.7 Deputy S.C. Ferguson:**

Is the Minister aware that the Stuart report made very strong recommendations that there should be no transmitters located within a short distance of schools or highly populated residential areas? He has not mentioned it this morning.

**Senator S. Syvret:**

Yes, I am aware of that. In my defence, I would point out that the report by the Health Protection Department has only been completed in the last 10 days or so, and I have in fact been out of the Island, and I have not yet had time to consider each of its recommendations in detail, but certainly I would say at this stage my personal preference would be that where any station is sited that is within the distance recommended by the Stuart report, my preference would be for those stations to be moved so that they do comply with the recommendations of the Stuart report, but this is a matter I will be sitting down and discussing with the officers of the Health Protection Department once I have had time to fully digest the material.

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

Still on the same subject, I would like to ask the Minister whether he would confirm that in fact, as claimed in the media, he will undertake to monitor the effects caused by the mast and possible

health risks involved and furthermore, could he confirm or otherwise whether or not the incidence of cancer is currently monitored and recorded on an Island-wide basis, and whether there are indeed any hotspots currently on the Island? Thank you.

**Senator S. Syvret:**

As far as monitoring is concerned, the monitoring that is going to be carried out will be monitoring on the strength of the radio wave signal within the region of the transmitters. It may be very, very difficult to monitor supposed effects on people of these stations, because the evidence would appear to indicate that there are no significant effects occurring, but as far as health intelligence is concerned, we do monitor overall cancer rates in the Island of every description. I think though it is fair to say that the health intelligence database that we presently have in the Island is not as good and as comprehensive as we would like, so it is being expanded and this is something the new Medical Officer of Health is working on and developing at the moment. I am no expert in these subjects, but my understanding is that there are certain methodological and statistical difficulties in trying to monitor health impact in very small, localised cohorts of people, for example, on a particular housing estate and so on, and extrapolating from that statistically robust and useful information, particularly given the nature of population mixing within the Island, and indeed, the mobility of people within the community. So, while I am certainly happy to ask the Medical Officer of Health to take these things into consideration, it may not be methodologically feasible to reduce the monitoring of health effects on individuals down to the very, very small cohorts.

**4.9 Deputy P.N. Troy:**

Can I ask the Minister: the report that he has had for the last 10 days from his department, is it being circulated to States Members? Certainly, Deputy Power and myself have been approached by a large number of people in St. Brelade who are concerned regarding the unit to be placed at the western fire station. Can he give an undertaking that that report will be circulated to Members?

**Senator S. Syvret:**

Yes, I am perfectly happy that it be circulated and made public.

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

Along with the composting issues and the health impacts and the effects on residents, I made a call in my proposition for the Health Protection Team or the Health Department to assist residents in monitoring areas where their lives were being affected by pollutants. Could the Minister briefly touch upon how he intends, if at all, to address the interaction between the population in respect of the possible effects from the composting at La Collette, and also from the water pollution at St. Peter?

**Senator S. Syvret:**

I am not sure I entirely understand, Sir, the reference to the water pollution at St. Peter. As far as the health monitoring in respect of the La Collette composting site is concerned, it has been monitored regularly now for some time by the Health Protection Unit, and the advice I have from them, and indeed, the evidence available to them in respect of referrals to the hospital from GPs (General Practitioners) that have patients in the area is that there was no evidence of any health impact from the composting site. This is the professional, clinical view. Now, I cannot argue with that. I am not going to stand here and just assert, as some Members do, that there is ill health effects, because there is no evidence, I am afraid.

**The Deputy Bailiff:**

I think fairness dictates, the Connétable of St. Brelade has been trying to catch my eye for some time.

#### **4.11 Connétable M.K. Jackson of St. Brelade**

In view of the impending closure of McKinstry and Leoville Wards at Overdale, and the closure of the Secker Ward, could the Minister let the House know what the long-term plans for Overdale Hospital are, in view of the considerable value of the site?

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

I am not aware that there are any plans in existence at the moment. The point is certainly true, the site is valuable. It is a large site in a good location, and many of existing buildings on the site are extremely obsolete, wholly inadequate, and should be demolished and no longer used, but it is worth pointing out that a variety of other Health and Social Services buildings also on the same site are extremely modern, of a very high standard, very high quality, delivering very good standards of care. A variety of services are provided at Overdale and will continue to be provided there, so it might be that the rest of the site that has the obsolete buildings on it might well be utilised at some point in the future for future Health and Social Services activities. A decision has not been taken yet on the site, and I imagine that when it is, it will be part of the overarching States of Jersey property policy that is going to be developed.

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

I was trying to ask before, Sir - maybe I did not put it across clearly - there has been an issue of contamination in St. Peter, which was denied at first, rebuffed, and now has been acknowledged, and the residents have been - and are in - an ongoing process in relation to being supplied with water free of charge by the States because of a pollutant. I concur and agree wholeheartedly with [Interruption] ...

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

I am sorry, is this the clarification of a question then ?

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

This is clarification to my question, Sir. I concur and wholeheartedly agree with the Minister's statement that politicians are not qualified in these areas, and what I was asking was would he help facilitate the accumulation of evidence that is required, because I am being presented with people telling me they are ill, they are going to their doctors, they are coming back, they are going off work. They are telling me that they are being affected by these pollutants at La Collette. Would the Health Minister undertake to help me facilitate the correlation of these cases so we can get the evidence ? I have been asked recently to provide the Health Protection Department with letters and evidence so that they can go along to the JEC (Jersey Electricity Company Limited) and ask them about their smut emissions over the last 12 months. I cannot do this, I am not resourced for this, I am not qualified for this. Will the Minister undertake to ask his department to help me correlate the evidence that is clearly in front of me that I cannot put clearly in front of the House?

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

I am absolutely certain that if the Deputy has evidence that he is not qualified to expound that the Health Protection Unit will be more than happy to sit down with him and discuss that evidence. Certainly, it is absolutely valid that pollution from the La Collette power station chimney is potentially a health risk, possibly a worse health risk than anything emanating from the composting site, but the fact is, when you are making decisions about ill health effects on people, these really are decisions that are best left to the clinically qualified, and this is why I always say to people who approach me privately about various health issues they may have in respect of, for example, waiting times to the hospital and things of that nature, that if you have concerns about your health, the appropriate path of action is to go to your GP and if your GP is satisfied clinically, professionally that you have a problem, you have an issue - especially one that might need secondary health care -

then they will refer you to the hospital, where you will receive appropriate treatment, and that has to be the advice to people in the region. If they are having genuine health problems, the appropriate pathway is for them to go their GP and then for their GP to refer them to the hospital if needed. It is wholly, completely disastrous, I would suggest, if we, as individual politicians, start trying to involve ourselves in clinical assessments of what ill health effects people may or may not be suffering from.

**The Deputy Bailiff:**

That concludes questioning of the Minister. There are no matters under J. Under K, the Chairman of the Privileges and Procedures Committee will make a statement regarding matters relating to investigations under the Code of Conduct for elected Members.\*

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**5. Connétable D.F. Gray of St. Clement, Chairman, Privileges and Procedures Committee:**

The Privileges and Procedures Committee has now concluded its first 2 investigations since the Code of Conduct for elected Members was given a formal effect in the new Standing Orders. The 2 investigations were related and rose out of an exchange of emails that took place in February 2006 between Deputy Le Claire and Senator Syvret concerning the proposition on the private hospital scheme. Although the Committee concluded its initial investigation in early March, it was only able to finalise its deliberations shortly before Easter, as it was necessary to seek further information in relation to one of the complaints. The first matter investigated by PPC was a complaint by Senator Syvret about the language used by Deputy Le Claire, both in the email exchange and in his report and proposition on this matter. The Committee found that Deputy Le Claire was wrong to have implied in an email message that the Social Affairs Scrutiny Panel would not be able to review this matter in an impartial way. The Committee was pleased to note that Deputy Le Claire said that he had been wrong to make this statement, and had sent an apology to the Chairman of that Panel. The Committee did not uphold the other complaints made by Senator Syvret, as despite asking Senator Syvret to clarify his concerns, it could find no evidence in the emails written by Deputy Le Claire, or in the report accompanying his proposition that substantiated the complaint. The second investigation related to the tone and content of the email sent to Deputy Le Claire by Senator Syvret. I should point out that under Standing Order 157, the PPC is able to investigate a potential breach of the Code of Conduct even without a complaint from the third party, and the Committee exercised this power in this case, as it was concerned about the language used. The Committee found that some of the language used in the email sent by Senator Syvret did not meet the standards of courtesy and respect for a colleague that should be expected between Members. The Committee does not propose to take any further action in this matter. The Committee's impression was that the emails in question escalated from an initial brief message from Deputy Le Claire into a more heated exchange. The Committee must urge all Members to be aware of the tone and language used in messages to colleagues, and reminds the Assembly that paragraph 5 of the Code of Conduct requires all Members to, and I quote: "Treat other Members of the States, Officers and members of the public with respect and courtesy and without malice, notwithstanding the disagreements on issues and policies which are a normal part of the political process." The Committee considers that it does nothing for the integrity of the States if email messages circulated to all Members contain discourteous language, as happened in this case. Thank you, Sir.

**The Deputy Bailiff:**

Very well, no questions arising there. Can we move on? Deputy of St. Martin.

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

Could I ask the President to confirm that this matter involving the exchange of emails by Deputy Le Claire and the Social Affairs Panel was dealt with between the Social Affairs Panel and Deputy Le Claire in a most amicable way immediately after, within a matter of days, and therefore, while it was of concern to the Committee, the matter was dealt with by Social Affairs and Deputy Le Claire themselves. Will you confirm that, please?

**The Connétable of St. Clement:**

Yes, I would confirm that.

## **PUBLIC BUSINESS**

### **6.1 Political activities by States employees (P.17/2006)**

**The Deputy Bailiff:**

Very well. We come then to public business, and the first matter on the agenda is Projet 17, Political Activities by States Employees, presented by the Council of Ministers, and I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion: (a) to agree that the present restrictions on the ability of public sector employees and office holders to engage in political activities, including standing for election to the States, should be amended and that: (1) public sector employees and office holders should be categorised as either politically eligible or politically ineligible as set out in Appendix 2 to the report of the Chief Minister dated 24th February 2006; (2) those employees who are categorised as politically eligible should be able to participate in political activities in accordance with the conditions set out in paragraphs 5(1) to 5(6), proposed standards of conduct for public sector employees engaging in political activities of the said report; (3) those employees and office holders who are categorised as politically ineligible should be able to stand for election for the States in accordance with the conditions set out in the said paragraphs 5(6) to 5(10) and 6(1) to 6(3); (b) to charge the Chief Minister after consultation as necessary with the States Employment Board to bring forward for approval the necessary legislation to give effect to the proposals.

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

This proposition is on the back of a certain amount of debate in this House, and a promise I made when I was President of the Policy and Resources Committee was to bring this proposition forward and to recommend a change in this position. Currently, whole sections of the public sector workforce are barred from any involvement in political activity, and it is considered - rightly, in my view, and in the view of the Council of Ministers - that that is no longer acceptable, and indeed, it is very unlikely that it is compliant with human rights. This report and proposition clearly sets out the proposals of the Council of Ministers to allow much wider participation: much wider, but not covering all, and quite deliberately not covering all States employees, because there is here - as with so many things - a need for balance; a need for balance between freedom of the individual and the human rights compliance on the one hand, but ensuring political impartiality - which the public have every right to expect - on the other. In the proposition, the employees are categorised as politically eligible and politically ineligible. 'Politically ineligible' is restricted to those States employees who occupy senior positions, who advise politicians, who play an active part in policy formulation and development or who have a senior position in law enforcement. Appendix 1 sets out the current position; Appendix 2 sets out the position proposed by the proposition. I think it is important to identify that even those employees categorised as politically ineligible can participate in political activity, but under different circumstances, under controlled circumstances which are

laid out in the report. It is also important to note that there is the right of appeal by an employee who thinks he or she has been incorrectly categorised as ineligible. I believe this proposition is non-controversial. It meets the clearly stated wishes of the House last year. I believe it is an important step forward in freedom of the individual and in our compliance with human rights, and I recommend it to the House.

**The Deputy Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak?

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

Can I very briefly, Sir, congratulate the Council of Ministers on a proposition that I agree with - for once - and thank them for bringing this to the Assembly today.

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

Regrettably, I will not be supporting this proposition. To my mind, mixing politics with public services is a minefield. I agree with the sentiments entirely: that everybody, as far as possible, should be able to stand for political office, but I am concerned about various aspects, one of which of course is the fact that somebody aspiring to politics very rarely decides to go into politics on the spur of the moment, and what they tend to do is think about politics for some time, and it could well be that people in public office will therefore be running a particular political agenda for maybe 2 or 3 years before they stand for office, and obviously such an action would be unacceptable. As I said, I agree with the sentiment of the proposition, but as the Chief Minister said, it is a question of balance, and I am not sure that we have the balance right here. I am concerned of potential problems that it could create.

**The Deputy Bailiff:**

Does any Member wish to speak? Deputy Southern.

**6.1.4 Deputy G.P. Southern:**

Yes, just briefly to wholeheartedly commend this initiative, this proposal. It has been, I believe, long overdue that the right to be active in politics should be extended to as many people as possible. If anything - if I had any criticism - I would say perhaps it does not go far enough. Why, for example, should head teachers not be able to engage in political activity? It seems to me they are committed to their communities and to aspects of their community, and that political commitment is part of their involvement, but nonetheless, I wholeheartedly support this particular move.

**6.1.5 Senator M.E. Vibert:**

I was on the body that helped draw this up, and can I say it is a matter of balance; and it is difficult, because you are trying to reconcile 2 potentially opposing principles: that is of allowing people to take part in a democratic society, but also maintaining a politically impartial public service. Because of that, what we have come up with is allowing many more people to take part. The eligibility is based on whether an employee is involved in policy making, providing advice directly to elected Members, speaking on behalf of the States to the media, or involved in law enforcement. We agonised about the categories - including head teachers - long and hard, and we discussed it with the people concerned and talked about should it be deputy heads and where should the line be drawn, and we have drawn some lines, as Members can see in the appendices and so on. But there is also - and I think very importantly - an ability for anyone to appeal against which category they are put in, and I think that is an important safeguard, and if anyone thinks they should be politically eligible and they are currently regarded politically ineligible, the States' existing grievance procedures will review any decision as to eligibility, so I think this is a very important step forward.

I think it is important that we try to involve as many people as possible in the democratic life of the Island, and we have put in safeguards such as ensuring the way people behave if they are employed by the public, and that they must not destroy the confidence and trust that rests in them, otherwise they could find themselves under internal grievance procedures. But there is also the ability for anyone who feels they should be allowed to appeal. It is a difficult balance, but I believe we have got it right. We are trying to involve as many people as possible being free to take part, while maintaining the impartiality of the public service, and I commend the new procedures to the House.

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

There is just one issue that I have been struggling with, with regard to this proposition, and perhaps the Chief Minister will be able to address it for me, and it is this: that if an eligible States employee or civil servant stands for election, speaks publicly against a Minister, Council of Ministers on a raft of current policies, including perhaps the Strategic Plan, and equally, promotes alternative ideas on existing policy and then does not get elected, it is suggested here that the certain employees will still be entitled to be reinstated in their same duties. The concern is how does this person's position remain tenable, and what safeguards will be in place to ensure that this particular situation would not arise?

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

Does any Member wish to speak? Senator Syvret.

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

Yes, I am moved to speak by the comments of Deputy Baudains. I would ask him to reconsider his position in voting against this. As the originator of this issue, when I sought to amend the States of Jersey Law to enable public employees to run for election, I believe in this quite strongly. We have a very, very significant number of employees in the public sector in Jersey. The States is by far and away the largest employer in the Channel Islands, and there are a variety of very professional, well informed, committed individuals out there, such as teachers and others, who would indeed have a lot to offer and bring a lot to the electoral process, so personally, I absolutely welcome this. I think it is quite unnecessary and quite obsolete to imagine that these public employees cannot run for election. Effectively, you are disbarring them from full and proper participation in the democratic processes, and I just think you have to be forward looking. This is the 21st century, and people must be enabled, as far as is practical, to participate in the democratic process.

#### **6.1.8 The Connétable of St. Brelade:**

I am very concerned, Sir, of the costs of this. It strikes me that every 3 years, we are going to have potentially enormous costs in that people are going to have to be replaced, perhaps on a temporary basis, while they stand for election, and also, there is going to be enormous disruption to the public service, probably again, once every 3 years, and I would ask the Chief Minister to consider how this may be addressed.

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

Does any other Member wish to speak? Very well, I call upon the Chief Minister to reply.

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

I am grateful to those speakers who have spoken in favour of the proposition, and very pleased that it is one they favour, I think rightly so. I would echo Senator Syvret's comments and request, really, to Deputy Baudains, who says he agrees with the sentiment, but is not sure we have got the balance right. Well, really, if he agrees with the sentiment and yet he is worried about the balance, I think he should still support the proposition and maybe bring an amendment at a later date which

corrects the balance in his eyes, but supporting the sentiment and voting against this proposition does not seem to me to be a very positive way forward. I think the only other comments I will deal with are those of the Deputy of St. Ouen, and I think his concerns are very clearly dealt with in paragraph 5(6) of the report, which makes it, I think, abundantly clear that this is not an unfettered right. It makes it abundantly clear that Members of staff - public sector staff - will have to abide by certain conventions when taking part in political activity, and it seems to me, if we are going to proceed along these lines - which I believe we must - then the controls and the regulatory approach, if you like, shown in paragraph 5(6) is absolutely appropriate and absolutely right. Similarly, the Connétable of St. Brelade, I think his concerns are dealt with in paragraph 7(1). We are looking here at eligible employees having unpaid leave, and it is considered - and this has been widely consulted upon across the whole of the public sector - that the actual financial implications of this proposition are indeed minimal. That is not to say there will not be some, but they are considered to be minimal, and certainly on a balance perspective, we believe the balance is very much in favour of the proposition, even if it does carry a small cost, but it will be a small cost. I again thank all those who have spoken, particularly those who have spoken in favour of the proposition and I put it to the House.

### **The Deputy Bailiff:**

All those in favour of adopting the proposition: the Appel is asked. Very well, I invite Members to return to the Chamber, and the Greffier will open the voting.

### **POUR: 32**

Senator S. Syvret  
 Senator F.H. Walker  
 Senator W. Kinnard  
 Senator P.F. Routier  
 Senator M.E. Vibert  
 Senator T.J. Le Main  
 Senator B.E. Shenton  
 Connétable of St. Ouen  
 Connétable of St. Saviour  
 Connétable of St. Mary  
 Connétable of St. Clement  
 Connétable of Trinity  
 Connétable of St. John  
 Deputy R.C. Duhamel (S)  
 Deputy J.J. Huet (H)  
 Deputy of St. Martin  
 Deputy J.B. Fox (H)  
 Deputy G.P. Southern (H)  
 Deputy S.C. Ferguson (B)  
 Deputy of St. Ouen  
 Deputy of Grouville  
 Deputy of St. Peter  
 Deputy G.W.J. de Faye (H)  
 Deputy P.V.F. Le Claire (H)  
 Deputy J.A. Le Fondré (L)  
 Deputy of Trinity  
 Deputy S. Power (B)

### **CONTRE: 3**

Connétable of St. Peter  
 Connétable of St. Brelade  
 Deputy G.C.L. Baudains (C)

### **ABSTAIN: 0**



Deputy S. Pitman (H)  
Deputy K.C. Lewis (S)  
Deputy of St. John  
Deputy I.J. Gorst (C)  
Deputy of St. Mary

## **6.2 Draft Restriction on Smoking (Vending Machines) (Jersey) Regulations 200- (P.21/2006)**

### **The Deputy Bailiff:**

The next matter of public business is the Draft Restriction on Smoking (Vending Machines) (Jersey) Regulations, Projet 21, in the name of the Minister for Health and Social Services, and I will ask the Greffier to read the citation of the Regulations.

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

The Draft Restriction on Smoking (Vending Machines) (Jersey) Regulations 200-. The States, in pursuance of Articles 1, 1(b), 1(d), 1(g) and 2 of the Restriction on Smoking (Jersey) Law 1973 have made the following Regulations.

### **The Deputy Bailiff:**

I ask the Minister to propose the principle.

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

Thank you, Sir. These are the first of a set of 3 Regulations the Assembly is being asked to approve this morning. All of these Regulations simply give legal effect to decisions already taken by the Assembly, and the Regulations are fairly simple and self-explanatory, so I do not propose to spend a great deal of time talking about them. The first set of Regulations is designed to make sure that vending machines are not sited in locations where it is likely that children - people below the age of 18 - will have access to them, in order to be able to buy cigarettes when they in fact cannot, and will not be able to buy them from retailers. I think the object of the Regulations is clear, and I think the wording is also clear, Sir, so I propose the preamble. **[Seconded]**

### **The Deputy Bailiff:**

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. Minister, do you want to propose the Regulations *en bloc*? Although I must first ask the Chairman of the relevant Scrutiny Panel - which is the Social Affairs Panel - whether he wishes to have the matter referred to him, and that is the Deputy of St. Martin.

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

No thank you, Sir.

### **The Deputy Bailiff:**

Very well. Minister, do you want to propose the Regulations *en bloc*?

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

Yes, I shall propose all of the Regulations *en bloc*, and I will attempt to answer any questions that Members may have.

### **The Deputy Bailiff:**

Are the Regulations seconded? **[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting the Regulations, kindly show; those against. Regulations 1 to 8 are adopted. Do you propose the Regulations, the third reading? **[Seconded]** Does any Member wish to speak in third reading? All those in favour of adopting the Regulations in the third reading, kindly show; those against. The Regulations are adopted in third reading.

### **6.3 Draft Restriction on Smoking (Public Transport) (Amendment) (Jersey) Regulations 200- (P.22/2006)**

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

We come next to Projet 22, the Draft Restriction on Smoking (Public Transport) (Amendment) (Jersey) Regulations, and I will ask the Greffier to read the citation.

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

Draft Restriction on Smoking (Public Transport) (Amendment) (Jersey) Regulations 200-. The States, in pursuance of Articles 1 and 2 of the Restriction on Smoking (Jersey) Law 1973, have made the following Regulations.

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

As with the previous Regulations, Sir, these are simply giving legal effect to decisions already taken by the Assembly. These Regulations create a new offence and stronger penalties for the offence, which is obviously relating to smoking on public transport. Again, this is, I would have thought, a fairly non-contentious step forward, and I propose the preamble, Sir.

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

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principle? All those in favour of adopting the principle, kindly show; those against. The principle is adopted. Deputy of St. Martin, do you wish to have this referred to the relevant Scrutiny Panel? Do you propose the Regulations en bloc, Minister?

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

Yes, I do.

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

**[Seconded]** Does any Member wish to speak on any of the individual Regulations? All those in favour of adopting Regulations 1 and 2, kindly show; those against. The Regulations are adopted. Do you propose the Regulation in Third Reading?

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

Yes, Sir.

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

**[Seconded]** Does any Member wish to speak in Third Reading? All those in favour of adopting the Regulations in the Third Reading, kindly show; those against. The Regulations are adopted in the third reading.

### **6.4 Draft Restriction on Smoking (Sales of Cigarettes to Children) (Amendment No. 2) (Jersey) Regulations 200- (P.23/2006)**

**The Deputy Bailiff:**

We come next to the Draft Restriction on Smoking (Sales of Cigarettes to Children) (Amendment No. 2) (Jersey) Regulations 220 (Projet 23) in the name of the Minister for Health and Social Services, and the Greffier will read the citation.

**The Greffier of the States:**

Draft Restriction on Smoking (Sales of Cigarettes to Children) (Amendment No. 2) (Jersey) Regulations 200-. The States, in pursuance of Articles 1 and 2 of the Restriction on Smoking (Jersey) Law 1973 have made the following Regulations.

**6.4.1 Senator S. Syvret:**

Again, Sir, giving legal effect to a decision already made by the Assembly. This is putting into Law the fact that it will not be permissible to sell tobacco products to people below the age of 18. It is absolutely clear that the vast majority of people who start smoking do so when they are children, and therefore, if we are going to succeed in helping people to give up smoking, or indeed, to minimise smoking, then one of the things we have to do is really do all we can to target smoking by children and do all we can to prevent it, so I propose the preamble, Sir.

**The Deputy Bailiff:**

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

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

Yes, and in seconding, may I also say, Sir, that when the strategy was going through the Health Committee - and I was a member of Senator Syvret's Health Committee - it was a suggestion of Senator Syvret's that this occur, and it has been identified as a very progressive suggestion that is being adopted in other areas and other jurisdictions, so hats off to the Health Minister for this. It is the young that are the ones that get hooked. I saw recently on the back streets where I live a child that could not have been no more than 4 or 5 years old with a cigarette in its mouth, and I found it appalling, so congratulations to the Health Minister for this.

**The Deputy Bailiff:**

Does any Member wish to speak on the principle of the Regulations? Yes, Deputy of St. Ouen.

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

There are just a couple of areas that I would like the President to comment on. The first question is regarding how many people have been prosecuted over the last 5 years for selling cigarettes and tobacco products to those under age under the existing Restriction on Smoking (Jersey) Law 1973? And equally, this Law is aimed to address - and it is Law - and was designed to address the sale of these products. However, in my view, we seem to be currently struggling to implement laws such as underage drinking, so how are we practically going to implement such laws as these? It is very easy to use words alone, but they do nothing. If we are serious about bringing in laws such as this, then we must make sure that these laws are able to be implemented. If they are not, we should reconsider the actual introduction of such laws. So, maybe the Minister can explain how is he going to implement this Law, how effective does he believe it will be, how effective has existing legislation been - with evidence - and how does he believe that this new Law and the increase in fines will make a difference? Thank you.

**The Deputy Bailiff:**

Does any other Member wish to speak on the principle? Deputy Fox.

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

I think it is very important that we have a law such as this brought in, because at the end of the day... the previous speaker was just talking about implementation. But of course implementation can only be done if you have a Law in place. And implementation is a safeguard to protect our youngsters and their health in this particular case, and it is important that we do have the amenity to be able to do that. On the other hand, we are not seeking to criminalize our young people. What we are seeking to do is to prevent them from injuring their health, and indeed, encouraging others to do so. I perceive this as a preventive measure and a measure in which prevention - which is something that I very much believe in - is of benefit to all our young people. For that also, we do have to have Regulations such as this to be able to enforce any severe or protracted offender, or the people that enhance such practices by encouraging or selling or permitting or any one of a number of different things. I think that is all I need to say at this point. Thank you, Sir.

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

I very much want to endorse what Deputy Fox has said. Really, most of this will all be around really making sure that there is a law in place to try to prevent young people getting involved in smoking in the first place. We hope there will be, and we know there is quite a part being played by education to ensure that people - young people - are told that it is wrong to smoke. Some of us did get that advice when we were very young, and we did stop smoking, but there are others who did start young and have carried on smoking, but I think it is quite understandable. I think young people do, at some stage or other, experiment with cigarettes at a young age, and hopefully, this piece of legislation makes them quite aware that there is a law in place, and it should hopefully be enforced by an enforcement officer, because I think the purpose of my question this morning was how do you enforce this law? But I think what is very important, there is a law in place, and the Law is in place is for people's benefit - for people's health - so I certainly will be supporting this piece of legislation.

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

Yes, just to continue the theme of the previous speaker and expand it slightly, while agreeing with the principle on this - and no, I will not be voting against it - the situation does occur to me that it is all very well to have these Laws and Regulations, but what does it achieve? Will it serve the purpose that we are hoping it will serve, and that is help to prevent young people from smoking. I am thinking, Sir, of all the laws that we have for drinking, and yet if you go around town, you can see any number of children, perhaps as young as 12 or 13 years of age rather the worse for wear for drinking alcohol, so it clearly does not work in that regard. Will it work for smoking?

#### **6.4.7 Deputy A.D. Lewis of St. John:**

Just a quick question of the Minister, really. Within the 1992 Regulations, is there a Regulation there that suggests that people that are over the age of 18 cannot buy cigarettes and then supply them to children under the age of 18? I am assuming there is something in that Regulation. I am just wondering if you could clarify that, because even under the current Regulations, clearly people of age to buy cigarettes are supplying them to younger children. I just want him to confirm that that will not be permitted within the current Regulations. Thank you, Sir.

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

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

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

To address that last point first, I am not aware that these Regulations do in fact make it an offence for somebody over the age of 18 to give cigarettes to somebody under the age of 18. I think the offence is selling them - that is the offence- and I think this mirrors the requirements of the law in

respect of the sale of alcohol to people under the age of 18, and I think that is correct. I am sure that the Solicitor-General will correct me if my interpretation is incorrect. The Deputy of St. Ouen asked how effective will this Law really be. Well, I am satisfied that it will be genuinely effective. I do not believe that there will be a requirement for a great deal of enforcement, or indeed, a great deal of prosecutions, to address the other point he made about how many prosecutions have there been in the last 5 years. I am not aware of any. Also, it is quite rare for premises to be prosecuted for selling alcohol to people under the age of 18, and the reason for this is that, generally speaking, the retail industry acts with great responsibility, and does adhere properly to these laws, so I do not see that there is any issue here about enforcement. Indeed, it is to the credit of many retailers that, in fact, when the States made the in-principle decision to raise the sale of tobacco products from the age of 16 to 18, that many, many institutions, many shops went immediately to raising of the age from 16 to 18 on that basis. So, I am absolutely satisfied that these Regulations are the right way forward. It will help and assist in preventing young people from taking up the extremely damaging habit of smoking, and as I mentioned in a different context earlier this morning, it is important to understand just how much health harm smoking causes. It does not just cause lung cancer and fatalities because of cancer; it causes a variety of serious, chronic ill health effects, I think something like 50 separate ill health effects are scientifically identified as being caused or enhanced by smoking. For example, I understand that smoking and the resultant clogging of the arteries is the leading cause of lower limb amputation in the British Isles, so let no Members be in any doubt about this. Smoking is a thoroughly dangerous habit. It is also immensely addictive, and for that reason, we have got to do all that we can to make sure young people do not begin this habit. I propose the preamble, Sir.

**The Deputy Bailiff:**

Very well. All those in favour of adopting the principle of these Regulations, kindly show; those against. The principle is adopted. Deputy of St. Ouen, you do not wish to have it referred to the Scrutiny Panel? Thank you. Minister, do you propose the 2 Regulations?

**6.4.9 Senator S. Syvret:**

Yes, Sir, I do.

**The Deputy Bailiff:**

**[Seconded]** Does any Member wish to speak on any of the Regulations? All those in favour of adopting the Regulations, kindly show; those against. The Regulations are adopted. Are you proposing the Third Reading, Minister?

**6.4.10 Senator S. Syvret:**

I do, Sir.

**The Deputy Bailiff:**

**[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.

**6.5 Draft Restriction on Smoking (Amendment) (Jersey) Law 2006 (Appointed Day Act) 200- (P.28/2006)**

**The Deputy Bailiff:**

We come next to the Draft Restriction on Smoking (Amendment) (Jersey) Law 2006 (Appointed Day Act) 200- (Projet 28) in the name of the Minister for Health and Social Services. I will ask the Greffier to read the Act.

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

Draft Restriction on Smoking (Amendment) (Jersey) Law 2006 (Appointed Day Act) 200-. The States, in pursuance of Article 9(2) of the Restriction on Smoking (Amendment) (Jersey) Law 2006 have made the following Act.

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

This is simply the Appointed Day Act that will give actual practical effect to the Regulations we have just passed. Assuming this is approved by the Assembly now, the Regulations we have just approved will come into force one month from today, Sir, and I propose the Appointed Day Act.

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

Is the Act seconded?

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

**[Seconded]** It is, Sir, and may I very briefly just commend the long-outstanding hard work of the past Medical Officers of Health, Mrs. Val Garnier and Mr. Steve Harvey, who have worked for many years in bringing forward to a successful conclusion. Congratulations to them.

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

Does any Member wish to speak on the Act? Yes, Deputy of St. John.

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

Just following on what I mentioned earlier on about supplying children with cigarettes being purchased by other young people that are over the age of 18, I understood with alcohol that if you bought an alcoholic drink for somebody that was under the age of 18 on licensed premises, that was an offence. Now, obviously we are not necessarily buying cigarettes on licensed premises, albeit there are restrictions on that now too with vending machines. It is a great concern to me that minors can still be supplied with cigarettes from adults or young adults that are perhaps only just 18, but are supplying 16 or 17 year-olds with cigarettes. That is how many children get hold of cigarettes at the moment. Would the Minister not be considering further legislation to prevent that? Thank you, Sir.

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

Does any other Member wish to speak on the Act? I call on the Minister to reply.

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

I am not sure entirely what that comment has to do with relevance to the Appointed Day Act, but nevertheless, I will try to address it. It is true that it is an offence to buy alcohol and supply it to people under the age of 18 on licensed premises. I do not think it is an offence if somebody goes into a supermarket and buys alcohol and then gives it to a person under the age of 18 afterwards outside somewhere. The Deputy is essentially asking whether we in fact ought to make it a criminal offence for anyone to supply alcohol or tobacco products to people under the age of 18, having purchased it for them, or something of that nature. That is a possibility. It is something I would have to consider but the implications of it in terms of enforcement and the likelihood of prosecutions - often of people who are young themselves, perhaps 18 or 19 or thereabouts - one really has to ask whether in fact that form of prosecution is the right way forward, rather than seeking to persuade people not to supply tobacco and alcohol to people under 18 through a process of education. It is something I am prepared to consider, but certainly so far we have not sought to make the supply a criminal offence. I maintain the Appointed Day Act, Sir.

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

All those in favour of adopting the Act, kindly show; those against. The Act is adopted.

## **6.6 Draft Housing (General Provisions) (Amendment No. 24) (Jersey) Regulations 200-(P.25/2006)**

### **The Deputy Bailiff:**

We come next to the Draft Housing (General Provisions) (Amendment No. 24) (Jersey) Regulations (Projet 25) in the name of the Minister for Housing, and I will ask the Greffier to read the citation.

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

Draft Housing (General Provisions) (Amendment No. 24) (Jersey) Regulations 200-. The States, in pursuance of Articles 14 and 21 of the Housing (Jersey) Law 1949, have made the following Regulations.

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

I have no intention of spending a lot of time on this. It is agreed principal policy of this Assembly that as soon as practical, the Housing Regulations would reduce gradually down to 10 years, and the full investigation that has taken place by my department's officers has given me a great sense of satisfaction in being able to propose this Regulation this morning, and such reducing the qualifying period from 14 to 13 years is only fair and equitable. There is a good supply of homes in the marketplace at the moment. The Housing Minister in fact very, very rarely now gets any hardship cases, so there is a good supply generally all round, and there is going to be of course a cost to the Ministry, and we are confident that that cost can be met within our budget. Sir, I would like to propose it - and I think it is in the interests of fairness to many of these people who have lived and worked in the Island all these years, the Jersey-born families - that we reduce it and support this today, Sir.

### **The Deputy Bailiff:**

Is the principle of the Regulations seconded? **[Seconded]** Are you able to do so, Deputy? I am not sure that we have noted your absence, have we? Yes. You were excused in your absence. I am sure that the Assembly agree to note that Deputy Hilton is back, and now you second it.

### **Deputy J.J. Huet of St. Helier:**

Sir, I would like, with your permission, to withdraw, because I have properties that I rent and that obviously could make a profit, and it certainly would because of the reduction in time, they would be eligible to people that they were not before, so I feel that I have to declare an interest.

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

Excuse me, Sir, I think I ought to declare an interest as well, on the basis that I have an estate agency business and I feel that that may also be a conflict of interest possibly, so I feel I should withdraw.

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

Sir, could I also raise a point then, if everyone who owns a second home should go, in which case I do, that I ought to also withdraw, if that is the case.

### **Deputy T.J. Le Main:**

I urge Members not to all leave the Chamber, I want to get this through. **[Laughter]**

### **The Deputy Bailiff:**

I do not think this is a direct financial interest, it is a much more general nature, so there is no obligation to withdraw. This is a matter for Members.

**6.6.2 Senator P.V.F. Le Claire:**

There is an obligation to declare, but you can continue to debate the issues and vote as well, and I will be supporting. I do not have a house or a second house, but I will be supporting the proposition today.

**The Deputy of St. Martin:**

Sir, just for clarification's sake then, I make it clear that I do have a second home. I too may well benefit from it if I do let it out to somebody, but I make that declaration now.

**Senator W. Kinnard:**

Sir, could I make a declaration that I do have property that is rented out? Thank you.

**Senator F.H. Walker:**

Sir, if we are coming to this, I will make the same declaration.

**Deputy P.N. Troy:**

So too will I, Sir, Deputy Troy will do the same.

**The Deputy Bailiff:**

Can I suggest all those who have second properties and may rent them out - or have any properties they may rent out - please stand up and it can be taken as a declaration of interest. Very well, thank you very much. I suppose they ought to be noted by Greffier. **[Laughter]**

**The Deputy of St. Martin:**

They were they not declarations of interest, Sir.

**The Deputy Bailiff:**

Well, I think technically under Standing Order, probably what is being followed is right, is it not, Greffier? Yes. Sorry, could you all stand up again so the Greffier can make a note? Very well, thank you. **[Aside] [Laughter]**

**The Deputy Bailiff:**

Now, does any Member wish to speak on the principle of these Regulations? Deputy Baudains.

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

As I was previously on the Housing Committee and saw the hardship cases that were coming before us on an almost weekly basis, I am glad to hear from the Minister that there are now rarely any hardship cases, so clearly the proposal to move downwards in years is proving successful. I am, however, getting slightly concerned that the percentage seems to be rising so that we are now reaching the situation where one has to take a view on the balance, because looking at page 8, for example, we are looking at possibly 19, 130 additional households. There is also a rising cost involved in this case, a possibility of rent rebate, which is another subject I do wish would come before this House to be sorted out. It has been going on for too long. Just to draw attention to the fact, Sir, that I am becoming aware that we are now approaching what I think is a balanced situation, where the benefits are becoming close to the disadvantages. Thank you.

**The Deputy Bailiff:**

Does any Member wish to speak on the principle? Deputy Fox.



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

I agree with this particular proposal, and I hope and look forward to 2007, when we can reduce it down to 10 years, because in this day and age, I think we are asking people to come to our Island and live in our Island to support our economy and bring up their families, but we should be giving them an equal right to be able to have the opportunity of living in quality accommodation. I agree with the principles that the support that is currently in existence needs to be reviewed, but it is being reviewed, and that is a process that we will be going through. I am pleased to say that as a district Deputy in St. Helier, I do not think I have had a (g) category application for consideration for at least 2 years now, so it shows that there is improvement in the system, or I am not receiving the requests, I do not know. Clearly, from my perception that things are improving, as has already been indicated, there is an awful lot of new flats that are available on the market, and I am also aware that there are many flats still in existence that have not been brought up to an appropriate standard, and I think this is an area that we still must be conscious of, that there are people living in appalling conditions still, and we need to find ways of improving their lot, along with propositions such as this, which I hope will support it. Thank you, Sir.

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

Does any Member wish to speak? Deputy of St. Ouen.

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

Yes, I would like to just make a number of observations, and possibly at the same time remind the House that we have recently - or perhaps not that recently now - approved a migration policy with obviously, as the report stated, the aim of reducing the housing qualifying period to 10 years. However, when the States approved that policy, it was with the understanding that the policy for housing consent, monitoring employment and Regulation of Undertaking would be integrated so as to simplify and streamline the processes involved. It also approved 3 categories of registration with aligning criteria to act as both employment and accommodation, and it also charged the Chief Minister's Office to bring forward the necessary legal and other measures. So, simply reducing the qualifying period, while not addressing all the other issues, is not good enough. Even in the report, under the heading Financial Implications, it states: "The effect of a further reduction on the States rental waiting list is difficult to quantify. It speaks of 413 consents during the last 5 years with only 20 new qualifiers becoming States renters. This is not a complete picture. The total additional qualifiers amount to 1,056" and yet, as has already been stated quite clearly, over the last 5 years, 413 consents have been issued. That does not mean to say that approximately 600 individuals over the last 5 years are still not eligible for consent. Obviously, as we have been told in the report, there are demands on rental subsidy and the local housing market, so what happens, as I said before, if those additional qualifiers seek housing consent? If we are to manage the housing market, then we must stop - as the migration policy recognised - this piecemeal approach. That is why the States signed up, in fact, to the migration policy. That is why the States expect that policy to be progressed. It is now almost a year since that policy was agreed, and yet very little has been done to implement it. The policy is far more than just reducing qualifying period. It was designed to address many inequities that currently exist, such as the different rental costs associated with the housing categories. Mention is made of the current fluid housing market, but part of the reason for encouraging new housing is to try and make housing more affordable, it is not to create new demand for the new property. We have as yet no clear view of how many people are on our Island, and therefore it is difficult to determine the effect of adjusting the housing qualifying period. We currently do not know how many householders are not residentially qualified, as the last figures were gathered in 2001, and I did contact the Statistics Unit, and even they said they were struggling. Sadly - and I say sadly - I also have found out in my research that although we know how many (j) categories are and have been employed in the private sector, we currently seem

unable to provide that similar number regarding the public sector. Now, I think that is a poor indictment of this government. We are told in the private sector this year alone there have been 100 extra (j)s. That equally adds to the demand of property. Furthermore, by reducing the qualifying period by a year, it doubles the demand, because in effect what is happening is that over a period of a year, a group of individuals would turn from 13 years into 14. By reducing it automatically by one year, you not only include all those that would have normally qualified in that period, but you start introducing the next group. So, I would just say I am going to support this proposal but this is the last time I will say to the States Chamber, we have agreed our migration policy, we have approved a way forward, we have an expectation which we have raised with the general public that the issues highlighted in that migration policy will be addressed, and we must not continue to pursue what I call this piecemeal approach of trying to address the situation. Thank you.

#### **6.6.6 Deputy I.J. Gorst of St. Clement:**

I welcome the Deputy's approval of this proposition. However, I am slightly concerned to hear some of the comments which have just been made. Maybe it falls to me to put his mind at rest - excuse me for my croakiness - I am pleased to confirm to the Deputy and to the Chamber that the Population Office has in fact been set up, and a civil servant has been appointed to that office. It is, as the Deputy pointed out, part of the Chief Minister's Department, and quite rightly, its objective is to develop and implement the States-approved migration policy, of which this proposition reducing the years from 14 to 13 is, as the Minister has already pointed out, part of this approved migration policy. The Population Office will also continue to administer the Regulation of Undertakings and the Housing Controls Laws in the interim period. The Deputy will know better than I that things in government take time. However, I am sure he will agree with me that it is always to the advantage of good government for things to go steadily and cautiously, rather than quickly and coming to the wrong decision. I am pleased, as I said earlier, that the Deputy will indeed be support this proposition, and I urge all Members to support this proposition. I can assure them, as I am sure the Minister will do shortly, that these reductions are considered, the impact is monitored, and consultation takes place at each step, and Members will see within the proposition that it is proposed that that will continue to be the process until, in December 2008, we hope to be at the 10-year level, which was, as the Deputy pointed out, approved in the migration strategy. Thank you.

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

Yes, I am pleased, and I will be supporting this proposition. I do have a couple of comments though, slightly along with the lines of Deputy Reed - a few concerns. We have just heard from the Deputy that these are being measured and considered. Well, next year when we introduce low-income support, we are already reducing people who can have rent rebate or a rent component to 5 years. On asking for evidence of how many people this will encompass, after about 2 months now, we have found no evidence coming forward, and where the research has taken place. I hope that it is forthcoming and I hope that the work has been done. At the same time, we are reducing to 10 years in 2008, when the population policy is fully introduced. Again, I have no problem, as long as we have the homes for the people. I just have one question for the Housing Minister: why, all well and good, we keep reducing the years, and I totally agree that people deserve the right. It is the question of the hardship, and myself and other people who deal with hardship cases, I would say mainly, the most hardship cases are when a partnership - or husband and wife - separate and there are children, but the Housing Law still remains that you do not receive your housing qualifications in your own right until you have been married for 10 years. Well, some people get less for murder, Sir, and I really, really would like this one looked at so we do get less hardship, and if you have made a commitment to marriage and you have children, and to stop any hardship cases, and with the reduction of all people being able to get rent rebate, I would like the Housing Minister to look at 5 years through gaining your qualifications through marriage. Thank you, Sir.

#### **6.6.8 Senator P.F. Routier:**

I just wanted to pick up on a point that the previous speaker mentioned with regard to the introduction of income support and the reduction down to 5 years. The practical situation at the present time is that people who have been on the Island for 5 years can go to the Parish now to receive support for their rental. It seems to be that there is an impression that is being promoted at the present time that by the income support system introducing a 5-year qualification for income support, that there is going to be an almighty big jump in the amounts of money that was required to cover the cost of rental. That is not the situation as far as the development of income support is concerned and the research we have undertaken, because the Parish Welfare System already covers those people. I will be supporting this proposition.

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

Just to pick up on another couple of points the Deputy of St. Ouen made. I like the Deputy of St. Ouen very much, but he does protest a little too much sometimes in relation to the migration policy. We have had all these debates. He is right, or he would have been right to admonish departments for not having information 5 or 10 years ago concerning the number of (j) Cats. ((j) category residents) but he is not right in saying that we have no idea how many (j) Cats. there are. We do know how many (j) Cats. exist in the private sector. We counted every 6 months with the Manpower Return, an innovation that was made when I was on the previous Industries Committee. In addition the census counted the amount. For the first time we asked in the 2001 census how many non-qualified and how many (j)s there were. In the public sector it is done on an estimate of the total workforce and there are moves afoot to absolutely firm-up on that number. But it must be remembered that those (j) Cats. are nurses, doctors and individuals like that in the very great part. So, the Deputy cannot get away with saying that somehow there is a dearth of information. There used to be. There now is not and this proposition sets out clear empirical information with certainty. He will remember, as perhaps I did, 2 or 3 years ago when we debated falls in qualification periods where we were simply faced with all sorts of remarks from Members about the floodgates that were coming in and there were going to be hundreds of people. The estimates that were made by the President and his Committee 3 or 4 years ago have stood the test of time and I have no doubt that the estimates that he is putting before this Assembly are correct again and it should be supported on the basis of fairness and equality for people living in Jersey.

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

Just one small point, Sir. It would have been useful to actually assess how many people who have been continuously resident for periods less than 14 years are still in the system coming forward. We are unable to do so with the existing schedules and I would ask that when we discuss the issue again, in the future, that perhaps consideration is actually taken to give us a full schedule which indicates the continuous residency periods from say 5 years upwards so that we can have an idea of whether or not there is a bulge on its way. Thank you, Sir.

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

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

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

Deputy Baudains' observations, and Deputy Fox's observations and comments, I am not going to respond to. Deputy Reed of course has always had a difference of opinion.

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

Minister, if I may, you are a very senior Member, probably the most senior Member here. It is the Deputy of St. Ouen.

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

Oh, sorry, Sir. The Deputy of St. Ouen, whilst on the Housing Committee and very much involved in the migration policy discussions. He was party very much to it and he had a difference of opinion with other Members on what he views should be the migration policy. My department listened the last time we came to this Assembly for a reduction in housing qualifications and we have, I believe, put before the Members today a very, very comprehensive report on the issues regarding this reduction. As Senator Ozouf has said, it is all about fairness and allowing people to aspire to a decent home and to have decent living conditions. Many of these people, Sir, are doing an excellent job in the community. We could not do without all these people that are currently unqualified. They are all working. Many of them - and most of them - have Jersey-born children. Children that are living in over-priced accommodation with their parents. Not quite so bad now as it was 4 or 5 years ago but some years ago parents were paying 60 or 70 per cent of their gross income into rents. That has now reduced dramatically. So, I have to say that there will always be hardship cases. But the general hardship cases ... when the Housing Committee met in the past it was nothing to sit all morning listening to hardship cases and every politician in this Assembly was involved in many of these cases. Thank God that has now past. Going back to Deputy Martin, Deputy of St. Helier No. 1, [Laughter] she quotes...

**The Deputy Bailiff:**

Except of course that the Minister is still incorrect. [Laughter]

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

She quotes hardship on the break-up of marriages and the requirement that the 10 years should be looked at. I am happy at the moment and in fact my Assistant Minister and myself are looking at all the policies in the Housing Ministry as if we had been starting afresh and I think that every now and then one has to look at the policies to see if they meet the criteria and the needs of the people as they are every so often and we will be looking at that I can assure you. I have to say to the Assembly we get some pretty strange, unbelievable reasons sometimes as to why marriages break up and currently there is a safeguard that if there is any real hardship with a broken marriage and with children the Housing Ministry, or the Housing Officers and the Assistant Minister and myself, do look at it sympathetically. But the 10 years has worked well and there is no reason why, as suggested by the Deputy, that we should not look at it again and I am quite happy to say that we will do so. I do not have a lot more to say, Sir, but thank the Members for supporting it and I hope that Deputy Reed does support it.

**The Deputy Bailiff:**

All those in favour of adopting the principle of the Regulation, kindly show. Those against? The Appel is called for in relation to the principle of the Regulations and invite Members to return to the Assembly and the Greffier will open the voting. All Members have had an opportunity of voting? Greffier will close the voting. The principle is adopted. 40 votes pour, one vote contre.

**POUR: 40**

**CONTRE: 1**

**ABSTAIN:**

Senator S. Syvret  
Senator F.H. Walker  
Senator W. Kinnard  
Senator P.F. Routier  
Senator M.E. Vibert  
Senator P.F.C. Ozouf  
Senator T.J. Le Main

Deputy G.C.L. Baudains (C)

Senator B.E. Shenton  
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 Trinity  
Connétable of St. Lawrence  
Connétable of Grouville  
Connétable of St. John  
Connétable of St. Brelade  
Deputy R.C. Duhamel (S)  
Deputy of St. Martin  
Deputy P.N. Troy (B)  
Deputy J.B. Fox (H)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy S.C. Ferguson (B)  
Deputy of St. Ouen  
Deputy of Grouville  
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 of Trinity  
Deputy S. Power (B)  
Deputy S. Pitman (H)  
Deputy K.C. Lewis (S)  
Deputy of St. John  
Deputy I.J. Gorst (C)  
Deputy of St. Mary

**The Deputy Bailiff:**

Minister, would you wish to propose the Regulations and the Schedules? Just the Regulations *en bloc*. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? All those in favour of adopting the Regulations 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 Third Reading kindly show. Those against? The Regulations are adopted in Third Reading.

**6.7 Draft States of Jersey (Transfer of Functions No. 1) (Home Affairs to Transport and Technical Services) (Jersey) Regulations 200- (P.26/2006)**

**The Deputy Bailiff:**

We come next to the Draft States of Jersey (Transfer of Functions No. 1) (Home Affairs to Transport and Technical Services) (Jersey) Regulations 100- (Projet 26) in the name of the Chief Minister. I will ask the Greffier to read the citation.

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

Draft States of Jersey (Transfer of Functions No. 1) (Home Affairs to Transport and Technical Services) (Jersey) Regulations 200-. The States, in pursuance of Article 28 of the States of Jersey Law 2005, have made the following regulations.

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

This is a very simple matter. It follows a decision of this House last year and it merely proposes that the responsibility for the DVS (Driver and Vehicle Standards) Department should move from the Minister for Home Affairs to the Minister for Transport and Technical Services. I make the proposition.

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

Proposition seconded. Does any Member wish to speak on the principle of the Regulations?

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

I merely wish to commend the Chief Minister on this eminently sensible proposition, with some small exception where matters will remain with Home Affairs. Members will have noted that things such as breath testing and the establishment of a local alcohol limit for driving, are quite clearly a policing matter. The majority of the work that the DVS undertakes clearly does fall under the umbrella of transport and as Members will have read in the report we expect some very positive synergies by bringing the DVS Department under the wing of the Department of Transport and Technical Services. So, whilst I have to admit that this does represent an element of empire-building on behalf of the Ministry I would commend this to Members because it makes sense. It will produce holistic advantages and I believe over time will also produce efficiencies and cost savings. This is a sensible and practical measure and among other things as of 1st May, because currently I do not actually have legal authority for DVS, the Department is effectively running the management. This currently means that anything we do at DVS I have to recommend to the Minister of Home Affairs which is a rather ambiguous way of conducting matters. So, as from 1st May, if the House approves, that rather strange bureaucratic idiosyncrasy will be avoided.

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

Does any other Member wish to speak on the principle? All those in favour of adopting the principle of the Regulations kindly show. Those against? The principle is adopted. Chief Minister, do you wish to propose the Regulations *en bloc*? That of course is if Deputy Duhamel does not want to have it referred to him. Deputy I think it is your relevant Scrutiny Panel. You do not. Very well.

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

Can I propose the Regulations *en bloc*?

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

And the Schedules as well. Very well. Are they seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations or Schedules? All those in favour of adopting the Regulations and Schedules kindly show. Those against? They are adopted. Do you propose the Regulations in Third Reading?

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

Yes, please, Sir.

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

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.

#### **6.8 Draft Amendment (No. 4) of the Standing Orders of the States of Jersey (P.27/2006)**

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

We come then to Draft Amendment (No. 4) of the Standing Orders of the States of Jersey (Projet 27) in the name of the Privileges and Procedures Committee. The Greffier will read the citation.

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

Draft Amendment (No. 4) of the Standing Orders of the States of Jersey. The States, in pursuance of Article 47 of the States of Jersey 2005, have made the following amendment to Standing Orders.

##### **6.8.1 Connétable D.F. Gray of St. Clement:**

I do not intend to speak at length on this proposition as I feel the attached report is comprehensive. PPC is concerned about *ad hoc* amendments to Standing Orders but the Assembly did indicate in a response to a proposal by Senator Vibert at its first meeting that Members were not happy with the shortened midday break. This proposition allows Members to have lunch and have meetings during the break. I would like to propose the citation.

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

Seconded. Does any Member wish to speak on the Standing Order amendment?

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

At the time that the States made the decision to go for a very short lunch adjournment, the decision was made by just 34 Members of the States in the old House at a normal lunch time. I think some Members may have already gone to lunch - I am not sure. It seemed to me to be illogical. It was taken at a time of pressure when there was a lot of States work and it totally disregarded that during the lunch adjournment many meetings are organised and it gives States Members a chance to meet with other States Members in small groups or for presentations and so on. Although some fun was made of the fact in the media that we were having a longer lunch break I do not know anybody who goes out for an hour and a half gourmet lunches. If they do I am sure they would like to invite me but I do not know of any Members. In fact a lot of Members go downstairs, have a quick meal, talk - which is very important we can discuss things - but also there are often other meetings organised. It could be CPA (Commonwealth Parliamentary Association), it could be a Committee - I am on Privileges and Procedures. It could be a meeting between a Minister and some Members. I think it is important that on a States day that there is some time left in the lunch hour for other meetings and I believe that when we had from 1.00 p.m. to 2.15 p.m., not often breaking exactly on time because Members are speaking and quite rightly the Chair waits for the Member to finish before breaking. But it is far better that we have a lunch break slightly extended, 12.45 p.m. to 2.15 p.m. I noticed in PPC's proposition it did ask if any Members wanted it different to bring an amendment. Nobody has, so it is a straight choice before Members of 1.00 p.m. to 2.15 p.m. which is the current Standing Orders, or what is proposed today 12.45 p.m. to 2.15 p.m. I know it is only an extra 15 minutes but I believe it will enable far more work to be done in the lunch hour. As the report says, half an hour for lunch and an hour to do some extra work in. I hope Members will see that it is for work reasons that this is being brought and not just the time to eat lunch.

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

I am unable to support this proposition, I am afraid, and I would like to explain my thoughts for not voting in favour of it. Principally, Islanders working in the private sector will in the main only receive an hour for lunch. They will probably have to use part of that time to go out and buy their

lunch and so may only have 45 minutes left. On many occasions they are likely to have to work through part of their lunchtime. The States get an hour and a quarter and we do not even have to venture outside to find the lunch that is provided for us. I rather feel this is sending completely the wrong message to the public as to how we conduct our affairs. It is not a particularly vital subject, I hasten to add, but I can see it as being thrown back in our faces every time people are dissatisfied with how we operate and the decisions that we arrive at. The only decision the States have made recently is to lengthen their lunch time etc. Reference has been made to being able to hold meetings and presentations in the lunch time period. Well, Sir, surely these matters are not so urgent they cannot be held on another day. Surely any very urgent matters that do unexpectedly arise can be dealt with within the hour. Surely a presentation can be made in less than an hour which still allows us time to offset our ravenous hunger. The point of the fortnightly sittings is to allow the proper planning of Members' time and enable us to concentrate on States business on States days. I would much rather ensure that we utilise our Tuesdays listening to the matters being debated by this Assembly with the hope that we might avoid running into Wednesday wherever possible. Extending the lunch hour is unlikely to assist this, leading us to have to come back for a short time on Wednesday which is not the most efficient use of our time. In conclusion, Sir, I believe we have far more important matters to consider. I believe this is not the time to be considering this proposal and whilst I do enjoy various aspects of French culture and endorse protecting our cultural ties and links with our continental neighbour, the longer lunch is not one of them. The system is still new, let us see how it works before seeking to change it. I do not support the proposition. Thank you, Sir.

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

I disagree with the views expressed by the previous speaker. Members who have been in the Assembly for a period of time will know that the lunch adjournment is in fact often very necessary for meetings and indeed it is emergency meetings that often do have to happen over Tuesday lunch times and the reason why the Tuesday lunch time period is so useful for meetings is because we are so busy it is often extremely difficult to get Members together otherwise on other days, but it is easy to do it on Tuesdays because we are all here in the States Assembly. So, it is very easy compared to other days to organise short emergency meetings for States Members to attend on the lunch time adjournment. Certainly my experience over the years is that certainly I and a significant number of other Members do have to spend a lot of the lunch adjournment doing work. I spend a lot of time emailing downstairs. I have just recently come back from holiday to 172 emails that need dealing with and a stack of correspondence and documents that was a foot high. Now, certainly I will be trying to deal with some of that today during the lunch adjournment but I know as a previous speaker said, very few Members just go off for some kind of gourmet lunch for an hour and a half. The vast majority of Members, in my experience, in fact use the majority of the lunch time adjournment to carry out States work and I do feel that it is an important facility for Members of the Assembly and I will be supporting the proposition, Sir.

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

I really was quite shocked that Deputy Le Fondré has such a poor understanding of his continental heritage. I have always been impressed by the French, *notre cousins*, for their, I think, very pragmatic approach to the value of dining and discoursing at length at the same time and I have lived and worked in France where there is serious value - in fact higher value - placed on lunch hours the further south you go in Europe; in Italy and Spain. None of these nations, or their parliaments appears to suffer too dramatically any way to a sensible approach to lunch hours. It is actually bad for your health to rush your food and I have been very depressed over the past few decades to see a new trend amongst young people, of whom I would regard Deputy Le Fondré as a younger man than myself certainly, and a worrying trend of young people fixated by their VDUs, clutching bottles of Perrier water and refusing even to take lunch breaks and sitting at their desks



and occasionally stuffing-in the odd sandwich. It is not good for your health. It is not good for our culture and Deputy Le Fondré refers to the public sector. I think the public sector may do well to consider the stress factor that is being imposed on employees by only giving them an hour for lunch. Perhaps the public sector may do well to look at work practices and see whether perhaps a lower stressed staff might actually be more productive. There is no question in my mind, and I agree thoroughly with the words of Senator Syvret, that Tuesday is the day when we are all gathered together. It is unquestionably the day when it is easy for us to meet in whichever groupings are appropriate and I know from my own limited experience of 3 years, an awful lot of internal politicking can be achieved over lunchtime and frankly the older period I think - if I had a preference - I would have put in for the extra 15 minutes but I do appreciate the ridicule I might have been subjected to. Consequently, I am happy to support this amendment which I think is a good one.

**The Deputy Bailiff:**

Does any Member wish to speak? Very well. I call upon the Chairman to reply.

**6.8.6 Connétable D.F. Gray:**

Thank you to all Members that have taken part in the debate. I think that Deputy Le Fondré has been adequately answered so I do not think there is any more for me to say on that matter. I would remind Members that as we managed to do this, that this, if passed, would apply to today's lunch break and saying that I hope that this will obviate the necessity to alter the period of lunch times in the future. I so move.

**The Deputy Bailiff:**

All those in favour of adopting. The Appel is asked for. The Greffier will open the voting.

**POUR: 34**

Senator S. Syvret  
Senator F.H. Walker  
Senator W. Kinnard  
Senator P.F. Routier  
Senator M.E. Vibert  
Senator P.F.C. Ozouf  
Senator T.J. Le Main  
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 Trinity  
Connétable of St. Lawrence  
Connétable of Grouville  
Connétable of St. John  
Deputy R.C. Duhamel (S)  
Deputy of St. Martin  
Deputy G.C.L. Baudains (C)  
Deputy P.N. Troy (B)  
Deputy J.B. Fox (H)  
Deputy of St. Ouen

**CONTRE: 8**

Senator B.E. Shenton  
Connétable of St. Brelade  
Deputy J.J. Huet (H)  
Deputy J.A. Martin (H)  
Deputy G.P. Southern (H)  
Deputy J.A. Le Fondré (L)  
Deputy A.J.H. Maclean (H)  
Deputy K.C. Lewis (S)

**ABSTAIN:**

Deputy of Grouville  
Deputy of St. Peter  
Deputy J.A. Hilton (H)  
Deputy G.W.J. de Faye (H)  
Deputy P.V.F. Le Claire (H)  
Deputy of Trinity  
Deputy S. Power (B)  
Deputy S. Pitman (H)  
Deputy of St. John  
Deputy I.J. Gorst (C)  
Deputy of St. Mary

## **6.9 Draft Trusts (Amendment No. 4) (Jersey) Law 200- (P.29/2006)**

### **The Deputy Bailiff:**

We come next to the Draft Trusts (Amendment No. 4) (Jersey) Law 200- (Projet 29) in the name of the Minister for Economic Development and I ask the Greffier to read the citation.

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

Draft Trusts (Amendment No. 4) (Jersey) Law 200-. A Law to amend further the Trusts (Jersey) Law 1984. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

### **Deputy I.J. Gorst of St. Clement:**

If I may, I wish to declare an interest under Standing Order 106(i)(b). I am aware that under section (b) I am not required to withdraw, however on this occasion I will withdraw and will therefore not vote either.

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

It is believed that the concept of a Trust arose in the Middle Ages when Knights leaving for the crusades would give their assets to a friend and entrust that person to use those assets for the benefit of the Knight's family. Whether this is true or not, the basic principle remains, that a Trust is based upon a relationship between a settler - who is a person who provides the asset - and a trustee - the person who holds and administers the assets. Jersey's Trust Law was wisely passed by this Assembly initially in 1984. Today it is the structure on which the Island derives a great deal of economic benefit. The importance of the Trust Sector cannot be underestimated. It is difficult to determine just how much money is governed under the Trusts Law of Jersey but the amounts certainly run into many billions of pounds of assets, investments and cash. There are also approximately 3,000 people who are directly employed in the Sector; more if we count the additional services of accounting, banking and fund administration and legal advice which is generated by Trust work. Jersey's Trusts Law is rightly held up as the foundation for much of Jersey's economic growth as a financial centre throughout the 1980s, 1990s and today. Indeed the Trusts Law of Jersey is of some pride to the Island. It is in fact being copied by a number of other jurisdictions each time a new trust law elsewhere has been enacted. It has evolved and after 20 years it is time to update our Law so that our Law continues to meet the requirements of the modern finance industry. Since 1984 the world of financial services has changed almost beyond recognition. The Trust Sector has been no exception. Jersey's Trust business is now regulated by the Jersey Financial Services Commission, something which was not envisaged in 1984. Increasingly the Island is a leading centre around the world for the use of Trust products for innovative purposes such as structured finance products for real estate financing to institutional

clients around the world. Private clients also remain an important source of work for Trust companies but increasingly the market is demanding Trust products tailored to individual needs. New jurisdictions are also establishing themselves as Trust jurisdictions and whereby in the past the Island's competitors have been mainly perhaps Caribbean jurisdictions, there are new competitors, particularly in the countries such as New Zealand and Singapore. They are not exactly what one would describe as offshore centres but they are now competitors in the Trust world. Only recently on the recent trip in Dubai did we learn about the new Trust law that has been enacted in the Dubai International Finance Centre. The Island has worldwide expertise in Trusts which is second to none. The former Economic Development Committee worked closely with leading industry figures in the Commission in order to ensure that the Trusts Law of Jersey gives the industry the tools it needs to continue to grow this vital sector of the economy. This amendment is wide ranging. It introduces a number of changes. Some based upon developments in other jurisdictions, some new innovations and other minor changes, all aimed at clarifying or making the existing Law easier to use. The goal of this amendment is to make our Trusts Law flexible for the marketplace but without in any way compromising the tough regulatory requirements of the Trust Sector. Indeed it is the strength of our regulatory environment that justifies giving Trust companies greater freedom which can now be used to seek out new opportunities in the marketplace. As ever we want to ensure that our legislation places no barriers in the way of good quality work coming to the Island. This amendment effectively has 3 important changes, some of which as I have said are designed to meet market changes, but particularly the market of high net worth individuals. Firstly, the amendment clarifies that only Jersey law applies when considering the validity of a Jersey Trust and in any foreign judgement in relation to a Jersey Trust it would only be enforceable to the extent that it is consistent with Jersey law. This is likely to be important to advisers and settlors who wish to ensure that the experience and expertise of the Jersey Courts are used to determine any questions arising in relation to the Trust. Secondly, the amendment confirms that the settlor may retain a number of powers in relation to the Trust without the existence of the Trust being called into question. This will be important for settlors wishing to place assets such as the shares in family companies in Trust while retaining some control over how that company is operated, particularly important for the sector of high net worth individuals. Finally, and significantly, it deals with the repeal of the former Article 56 of the Trusts Law which made the directors of a Trust company automatically guarantors of any breach of trust committed by that Trust company. This is a significant change and one which I will spend some time dealing with in the debate on the articles. What I will say at this moment is that this is something which a great deal of effort and debate has occurred within the industry. There have been extensive discussions with the Commission and the industry, including Jersey Finance and officials from Economic Development. It has been a balanced argument. There are clearly arguments in favour; there are arguments against, but I have come down on the view of repeal. What I would say while saying that is that alongside the repeal of this article and perhaps not something that is specifically covered in the Regulations, I have asked the Commission to review applicable codes of practice in the light of the proposed amendment to ensure that the protection of settlors and beneficiaries continues to be appropriately balanced. I understand that a consultation in this respect is due to be approved by the Commission next week and published next month, ahead of this debate today. This amendment also makes a number of smaller amendments to the Trusts Law, all of which aim to ensure that the Law is flexible and meets the demands of the international client base. Among these changes is the introduction of powers enabling the Attorney General or the trustees of a charitable Trust or charitable purpose Trust to apply to the Royal Court for a variation of the Trust where the purpose is for which the Trust was established has been met or no longer an appropriate use of the assets in Trust. This will enable Trust assets to be used in an effective manner that is consistent with the spirit of the original Trust. This whole amendment, as I say, has been the result of a significant amount of consultation. In fact it was almost an inherited position from the previous Economic Development Committee. There has been substantial dialogue and discussion with all Members and all stake holders within the industry. I expect this Trust amendment to be well received by the

finance industry. Trusts have been one of the pillars of the Island's finance industry, however, even when business is thriving it is essential that the Island plans for challenges and market opportunities ahead. This amendment shows that the States are able to develop legislation that is tailored to meet the Island's international client base and, in doing so, listen to the reasonable needs of the industries and other stake holders. It is important that legislative and regulatory developments compliment each other in order to provide an environment which enhances confidence in Jersey as an international finance centre and for this reason, Sir, I move the preamble.

**The Deputy Bailiff:**

Is the principle seconded? [**Seconded**] Just before throwing it open for debate I would like to record that I have a note from Senator Kinnard who of course did not manage to catch my eye, but she has declared an interest through her husband's occupation and has withdrawn. Does any Member wish to speak on the principle of the law? All those in favour of adopting the principle of the law, kindly show. All those against? The principle is adopted. Now, Minister, how do you wish to propose the article?

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

I realise this may be something of which there may not be many questions but nevertheless I do propose to go through the articles in 3 separate chunks, if I may, Sir. I would like to deal with Articles 1 to 5 initially. I will try to be as brief as possible but I think it is important that the Assembly perhaps has an explanation. I would like to start with Articles 1 to 5. Article 2, this amends Article 9 and deals with the extent of application of Jersey law. As I have said it is important for those that chose Jersey...

**The Deputy Bailiff:**

I do beg your pardon for interrupting yet again to ask the Chairman of the Scrutiny Panel. The Chairman is not here. Is there anyone else?

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

I have consulted with him, Sir, and if he is in the precincts he has confirmed that he will not be asking for scrutiny.

**The Deputy Bailiff:**

Is the Vice Chairman of his Panel here?

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

No, he is away. Here he comes.

**The Deputy Bailiff:**

Deputy Southern, my mistake, I forgot to ask you at the time.

**Deputy G.P. Southern:**

No, we do not wish to take it.

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

Article 1 deals with the definition. Article 2 is the amendment to the original Article 9 and deals with the extent of the application in Jersey law. As I said it is important that Jersey Trusts are people that settle assets in Jersey Trusts fully understand the rules of the actual product, the Trust company. This article has been amended to clarify all aspects of Jersey Trust and that they will be governed by Jersey law and that judgements of foreign courts will only be enforceable in relation to a Jersey Trust to the extent that they are consistent with Jersey law. We believe that this will

increase confidence among those seeking to use Jersey and will also give advisers greater certainty when advising on the robustness of Jersey Trusts. There is a new Article 9(a) and those deal with powers reserved by the settlor. In terms of day-to-day importance this is actually probably one of the most important articles before the Assembly this morning. Increasingly, settlors wish to retain a degree of influence over Trust assets. This deals particularly with high net worth families who may wish to set up Trusts in Jersey. Typically, settlors may wish to place shares in a company into Trust and yet continue to manage the company on a day-to-day basis. While this has always been possible under Jersey law it has required extremely careful drafting as the overriding duty of trustees to preserve and enhance assets gives the trustees certain duties in respect to the management of the Trust. Trustees may have felt that for this duty they needed to be on the board of the company, something the settlor might not wish. Other jurisdictions have expressly set out in statute that settlors may reserve certain powers without the validity of the Trust being called into question and settlors increasingly expect to be able to play an active role in the management of Trusts. This role could simply be confined to choosing investment managers or it could give powers to settlors to direct the trustees to make certain investments or distributions. The aim of this article is to give utmost flexibility to settlors and certainty to trustees and it has been closely modelled on the tried and tested approach which has been pioneered in the Cayman Islands and since copied in a number of other jurisdictions. Articles 3 and 4 repeal the former Articles 10(iv) and 10(ix) of the Trusts Law and replace it with a new Article 10(a). These articles replace provisions governing the circumstances in which a beneficiary can claim his interest under a Trust. The previous provisions were regarded by the industry as somewhat convoluted and complex. This article simply provides that subject to the terms of a Trust a beneficiary may disclaim all or part of his interest. This is not a change of vital importance but will give additional flexibility to beneficiaries. So, I move Articles 1 to 5.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak on Articles 1 to 5?

**6.9.4 Deputy P.N. Troy:**

Article 5, Sir. I am just trying to read this because it is numbered differently but Article 5 includes amendments to Articles 15 and 16 and Article 16 refers to the subject to a Trust. A Trust must have at least one trustee.

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

The Member is right. I should have said I was dealing with Articles 1 to 4. I will deal with 5 in a second. I do apologise, Sir. I move Articles 1 to 4.

**Deputy P.N. Troy:**

I am sorry, the numbering is quite confusing.

**The Deputy Bailiff:**

Just to be clear we are confining ourselves to Articles 1 to 4 at present. Does any Member wish to speak on any of those? All those in favour of adopting Articles 1 to 4 kindly show. All those against? Articles 1 to 4 are adopted.

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

Dealing with Articles 5 to 15, Sir. I do apologise again to the Deputy for using the wrong numbering. Article 5 actually relates to the original Articles 15 and 16 of the Trusts Law and concerns the duration of a Trust and the number of trustees. The amended article allows for a Jersey Trust to have an unlimited duration, previously a Trust other than a charitable Trust could only last for 100 years although it was possible to move assets from one Trust to another and thus

extend the period. However, it is now felt that the policy issues that originally led to limitations on the duration of Trusts, principally the desire that land should not be encumbered for generations, do not apply to Jersey Trusts which actually cannot own Jersey land directly and in any case can be easily circumnavigated by, for example, a company having land in shares and held in trust. The minimum number of trustees has been reduced from 2 to 1, subject of course to the terms of any Trust, given that most Trusts of professional corporate trustees a minimum of one is sensible and would reduce administrative costs. Article 6 amends Article 17, relating to the appointment of new trustees. This is a minor amendment aimed at covering the position where a Trust did include a mechanism for appointing new trustees but the mechanism has failed. Article 7 amends Article 19 and relates to the resignation of trustees. The amendment provides that if the remaining trustees of a Trust resign simultaneously, so that no trustees are left, the resignations would have no effect. A similar provision applies to individual resignations. Article 8 repeals Article 20 which governs the position of Trusts where the number of trustees fall below the minimum required. This Article has been deleted as the minimum number of trustees is now required as one. Article 9 relates to the original Article 25 of the Law and concerns delegations. A small amendment to extend the liability of a trustee to delegate and for that delegate to sub-delegate duties. This is needed for example because often a trustee may wish to appoint an investment manager who may in turn appoint other investment managers in other jurisdictions to assist managing Trusts. Article 10 amends Article 30 and governs the liability for a breach of Trust. This amendment replaces the previous Article 19(iii) and provides that if a trustee resigns in order to facilitate a breach of trust that resignation will be effective irreversible of the current position but the trustee will be liable for a breach. Article 11 replaces the original Article 32 and relates to trustees liability to third parties. This change is purely to address relatively minor drafting uncertainty advised in the previous law. It provides that a trustee's liability to third party shall be limited to the value of the Trust assets if the third party knew that the trustee was acting in that capacity. Article 12 deletes part of the previous Article 35 relating to spendthrift Trusts. The deleted provision set out what was meant by a spendthrift Trust or protective Trust however this was felt that it created uncertainty and that settlors and trustees should agree the terms of a Trust at the outset rather than rely upon imprecise phrases such as spendthrift Trusts. Article 13 amends Article 37 relating to variation of Trusts. Again, minor drafting simply to clarify that a Trust can be varied either by a court or in accordance to the terms. It was believed that by the previous position that the drafting could be improved in this article and that has been done. Article 15 amends Article 42 relating to the failure or lapse of interest, another minor change that is simply consequential upon the introductions of the article 15. Article 15 concerns a new sub-article under the original 47 and relates to Trusts for charitable purposes. Charitable Trusts have always been permitted to be of an unlimited duration. As a result a number of charitable Trusts have become rather ineffective in the use of assets. It may be, for example, that the purpose for which they were originally established no longer exists or is now provided in other ways, or this has become obscure or hard to achieve because it is not a practical use to Trust assets. The Guernsey Court gives a general power on application of either trustees or the Attorney General to vary the terms of a Trust established for charitable or non-charitable purposes in such a way that it is consistent with the original intention of the settlor. This will have the practical effect of ensuring that requests for charitable or non-charitable purposes are put to effective use throughout the life of the Trust. The powers that the court is granted when faced with such an application are wide but there is an overriding requirement in all cases to ensure that any change is consistent with the original intention of the settlor to ensure that the spirit of the original settlement is respected. So, I move Articles 5 to 15.

**The Deputy Bailiff:**

Seconded? [**Seconded**]

**6.9.6 Deputy P.N. Troy:**

Looking at Article 16 of the principal Law which is covered under Article 5 of the amending Law, it says: "Subject to the terms of the Trust a Trust must have at least one trustee." This is on page 12. I was slightly concerned about that issue in that certainly I would hope that any financial institution who was giving advice to settlors, where a Trust is being created with a beneficiary who is a minor, I would hope that any financial institution would recommend that there are more than one trustee and I think in some ways having one trustee could create problems through the death of that trustee or if that trustee did not act within the interests of the beneficiary. So, there is just that general concern but I do appreciate that the whole law makes it easier for the management of a Trust but I am concerned that financial institutions who are giving advice give that advice responsibly and in the interests of the beneficiary.

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

I had a similar concern. Obviously this has been brought forward by industry experts so it is nothing that I can purport to have any great contribution to, other than just to question really the issue about the single trustee where there falls the position that that single trustee is no longer in place it states under (3) that that position should be required to be replaced by a new trustee and appointed as soon as practicable, which seems to make sense. I just wonder how that relates in effect to Article 19, as amended, where it says: "If 2 or more trustees purport to resign simultaneously the effect of which would be there would be no trustee, the resignations shall have no effect." So, does that same condition apply whereby if 2 people were to resign in that situation, although there is no effect, although I am not certain what that means, would they be required to appoint new trustees in that situation as soon as practicable? I think personally given the amounts of money involved it just does strike the layman as a little odd that there is only one trustee in cases such as this. I understand that these people are trained, they are in positions of trust and they are lawyers or accountants, but I just wanted to ask clarification in respect of where both trustees might resign and that having no effect, I am not quite sure what that means, and would they be required to then replace as soon as practicable those trustees?

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

Does any Member wish to speak? Very well, I will call upon the Minister to reply.

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

An important question and indeed in preparation I will have to say that I am not an expert on Trusts Law and the Solicitor General will no doubt clarify or correct anything that I say, but what I have done in preparation for this debate - because it is important that, as Minister, that I have a reasonable grasp of the whole concept of trusts - I have carefully considered and read both the previous propositions that came to this Assembly in 1984 and also that original Law and indeed the up-to-date version of it. It is worthy... I know that Members have better things to do than read Jersey's Trust Law, but it is actually - because it is so important as part of the statutory legislation of Jersey - it is worth a read because it does have a whole series of protections. It is for people who are settling assets in that way. That is a general point. Now, in relation to the issue of a single trustee I am advised that what often happens is that a trustee will be a corporate trustee so I do not think that one must confuse the issue of a trustee as an individual compared to a trustee that is actually a corporate entity. So, whilst there may be one corporate trustee, behind that corporate trustee will effectively be a board of trustees or a board of directors or other individuals and that is really where I would say in a very simple way, just to explain to Deputy Le Claire, that there is not simply one individual which is involved in this whole arrangement. I am not sure that I can answer in great detail the whole issue about the resignation of the trustees but these are all covered in great detail in the actual articles and I think that I would ask the Deputy to have faith that every single permutation of a circumstance of a resignation of a trustee and the continuation of it to ensure that a trustee cannot resign or they are not effective until another trustee has been appointed etc. Finally

on that point about the amount of trustees required for a Trust. That obviously will be in addition for the person who originally sets up the Trust and settles resources or assets into it. It will be the requirements of people that will set exactly how many trustees they want in certain circumstances but the corporate trustee is really covered by a number of individuals so I hope that helps. I see the Deputy of Grouville wishes to intervene.

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

It is a more general question really. Could the Minister please explain if there is any particular reason why the settlor and a trustee cannot be the same person, because to my mind the powers are going to be more or less exactly the same. So, case law such as *Rahman v Chase* is going to be redundant from here on in.

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

I think I will ask the Solicitor General if she can assist me in that particular question.

**6.9.10 Miss S.C. Nicolle, QC, H.M. Solicitor General:**

I am not sure that I can really. Is the question related to a provision in the Law, or is it related to a general principle of Trusts Law? The purpose of a Trust is that the settlor is divesting himself of the asset for the benefit of others but if the settlor remains the trustee, or if the settlor is a trustee then effectively he has not divested himself and he is dealing with the asset.

**The Deputy Bailiff:**

All those in favour of adopting Articles 5 to 15, kindly show. All those against? Articles 5 to 15 are adopted. Minister, do you wish to propose Articles 16 to 18?

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

Yes, please, Sir. Article 16 relates to the repeal of an original Article 56. This Article is entitled Liability of Directors of a Corporate Trustee and effectively provides that where a trustee is a corporate entity and is either the trustee of a Jersey Trust resident in Jersey or carrying out business from Jersey, the directors of a corporate trustee will be automatically personal guarantors of the corporate trustee in respect of any breach of trust. This Article, when it was introduced in 1984, was ground-breaking. It was copied by Guernsey, but interestingly and significantly it has not been followed in other jurisdictions. I am advised that Guernsey is also considering amendments to their Trusts Law and is considering the future of their comparative article in their legislation. Industry speculates that they too will be bringing forward arrangements or proposals for the repeal of Article 56. This article has always been controversial and there are a number of reasons for this. It does offend in simple terms the very concept of corporate liability. If a company is negligent it will be liable for its negligence. If a director is in breach of his duties to act prudently he will be liable under the principles of the Companies Law. It is argued then, to impose an additional requirement that reserves the burden of proof so that a director is the guarantor of the company unless he can prove he should be excused, is unnecessary. It is not clear why Trust companies are a special case and singled out for this treatment. This Article, it is argued by the industry, is onerous and is in theory susceptible potentially to abuse. It has actually never been invoked in the Jersey courts. One reason perhaps is that if a Trust company, say, with 10 directors were to sue for a breach of trust and the directors were to be joined in the action, immediately the company and each director would need to take legal advice. Given that directors may wish to be excused from liability on the grounds that it was another's fault, in order to avoid a conflict each director may need to seek separate legal advice. At worst in a complicated structure perhaps 11 lawyers would need to be instructed for the defence. Regardless of the merits of the claim it is regarded by the industry that this would be extremely costly. Thirdly, and the reason why the industry have always argued



against this Article, is that there is no time limit within the period in which claims could be made. A director of a Trust company could be sued 10 or 15 years after he left that trust company but whether he can prove his innocence will largely depend on the records that have been kept by the Trust company. Given that many trust companies that operate in Jersey are international businesses and the Jersey directors in reality as employers of the company, it could be argued that this is unjust and for this reason the industry has lobbied many times over the years for Article 56. It has to be said that that lobbying increased after the introduction of the extension to the Financial Services Law in 2000 which subjected Trust companies to legislation. The argument was put forward that individual directors needed to be approved for the first time to the commission prior to becoming directors and had to meet all sorts of requirements, including prescribed levels of financial resource and existing remedies against directors guilty of wrongdoing existed also under the Companies Law and also what was the purpose of Article 56. A key change was also the increased pressure to repeal when there was a change in the nature of Trust businesses in Jersey. In the 1980s the source of growth with wealthy clients in search of a fairly standard product however as with most financial products offered by Jersey there has been a gradual change in emphasis and the drivers of the Trust Industry are now clients at the most sophisticated end of the market. Particularly, we are interested in developing so-called Private Trust Companies. Those are trusts established for a single client, normally an ultra high net worth family. The board of a private trust will usually include Jersey trust professionals and members of the family as such work fits in with the high value, low footprint model of the economy and we are keen to progress at this particular sector of the Trust Sector. This sector is particularly mobile and there is certainly evidence that this Article 56 is deterring those seeking to place this kind of ultra high net worth in Jersey because of this Article 56 and following consultation in 2005 it was clear that the vast majority of the industry overwhelmingly were in favour of repeal. The Commission was also consulted. However, I should say that the Commission's preferred approach was to amend Article 56 to set out exactly in statute what they believe to be the current position under case law, namely that if a director has been personally guilty of wrongdoing in relation to a Trust, which his company was a trustee, the beneficiaries may bring an action against that director. We debated this issue and certainly I had regard when considering the matter with officials and the Commission that there was no other jurisdiction that took this approach and the Island would be advantaged in seeking to attract private ultra high net worth Trust companies. Those seeking to place work in Jersey would have to factor-in, as they do, a different form of liabilities to other jurisdictions and we were concerned that this would impact the development of this sector of this industry. For these reasons, after a lot of debate and a lot of consultation, I decided with consultation in favour of repeal of Article 56. But what I have done is ask the Commission to look at codes of practice in relation to Trust companies to ensure that their financial requirements imposed on Trust companies remain appropriate - perhaps more appropriate - and now the Commission has agreed to carry out consultation on this matter which will give additional protection under the powers of the Commission. It is an important issue and one that is rightly commanded a lot of discussion and consultation within the industry. I propose Articles 17 and 18, which are self-explanatory. I propose Articles 16 to 18, Sir.

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

Are they seconded? [**Seconded**] Does any Member wish to speak on Articles 16 to 18? All those in favour of adopting Articles 16 to 18, kindly show. All those against? Those Articles are adopted. Do you propose the Bill in Third Reading?

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

I do so, Sir, with pleasure. I realise Members may not have had a lot of questions on this. If they do have questions about Jersey's Trusts Law or about any of the issues concerned that may follow from this important legislative change then I am available and also all members of my department

are available to assist Members. This is a complicated issue and I am grateful for Members' forbearance in going through the issues.

**The Deputy Bailiff:**

Seconded in that reading? [**Seconded**] Does any Member wish to speak on Third Reading?

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

In regard to these international pressures that we are having in international competitiveness, I welcome the changes that have been brought this morning and a good job to the Minister for doing so. I just wondered what effect, if any, would the look-through provisions have in relation to these changes, if they have any at all?

**The Deputy Bailiff:**

Does any Member wish to speak on Third Reading?

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

None at all, Sir. We are dealing with Trusts, as I understand it, but if he would like to come and debate the issues of the fiscal strategy then we are always willing to debate those with him.

**The Deputy Bailiff:**

All those in favour of adopting the Bill in Third Reading, kindly show. Those against? The Bill is adopted in Third Reading.

**6.10 Attendance Allowance Board: appointment (P.44/2006).**

**The Deputy Bailiff:**

Now, finally under public business there is a matter which the Minister for Social Security would like to add. That is Projet 44 - Attendance Allowance Board Appointment. First of all do Members agree to take that additional matter? Very well. I take that as agreement. I will ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide to re-appoint the under-mentioned as members of the Attendance Allowance Board in pursuance of Article 4 of the Attendance Allowance (Jersey) Law 1973 for a further period of 3 years; Dr. Jane Newell, Chairman; Dr. S. Milner; Reverend Dr. A.D. Williams; Dr. A. Reed; Dr. R. Howard Mrs. M. Rebindaine and Mrs. A. Lefebvre.

**6.10.1 Senator P.F. Routier:**

Firstly, I would like to thank the current members of the Board for their service over the last few years and I welcome their willingness to continue in office only until the new income support system comes into place when it will be superceded by the new system. I make the proposition, Sir.

**The Deputy Bailiff:**

Is the proposition seconded? [**Seconded**] Does any Member wish to speak on the proposition? All those in favour of adopting the proposition, kindly show. Those against? The proposition is adopted. That brings us finally to arrangement of public business for future meetings.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**7.1 The Deputy Bailiff :**

Connétable: do you wish to say anything about these matters which are listed on the Order Paper ?

**7.2 Connétable D.F. Gray of St. Clement:**

Nothing at all, Sir, merely to propose them. But to point out to Members that if they are adopted, then there will be at least 2 days work here and possibly 3. Just to warn Members in advance Sir. Any other observations? Does the Assembly agree to approve the list and to take those matters on 16th May? Very well.

**ADJOURNMENT**

**8.1 The Deputy Bailiff:**

That concludes the business of the Assembly which therefore stands adjourned until 9th May 2006.