

**STATES OF JERSEY**  
**OFFICIAL REPORT**  
**TUESDAY, 16th MAY 2006**

1.1	WRITTEN QUESTION TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY THE CONNETABLE OF ST. HELIER REGARDING THE FUNDING OF TOP-UP FEES .....	14
1.2	WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY CONNETABLE A.S. CROWCROFT OF ST. HELIER REGARDING HEALTH MATTERS RELATED TO COMPOSTING OPERATIONS .....	14
1.3	WRITTEN QUESTIONS TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY THE CONNETABLE OF ST. HELIER REGARDING EARLY CHILDHOOD EDUCATION AND CARE, AND THE PROVISION OF A NURSERY UNIT AT THE NEW ST. PETER'S SCHOOL .....	17
1.4	WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING MATTERS CONTAINED IN THE ZERO/TEN DESIGN PROPOSALS (R.37/2005) .....	19
1.5	WRITTEN QUESTION TO THE CHIEF MINISTER BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE ISLAND'S TAXATION COMMITMENTS .....	20
1.6	WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING PROVISIONS FOR PARENTS WHO HAVE DEAF CHILDREN IN THEIR CARE.....	22
1.7	WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING AUTHORITATIVE BODIES USED TO DETERMINE WHETHER JERSEY'S BUSINESS AND CORPORATE TAX PROPOSALS MEET INTERNATIONAL AND EU REQUIREMENTS .....	23
1.8	WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING THE LEVEL OF EXPENDITURE REQUIRED TO COMPLETE IMPLEMENTATION OF THE JOB FAMILIES AGREEMENT.....	23
1.9	WRITTEN QUESTION TO THE MINISTER FOR HOUSING BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING CONTROLS ON SPECULATIVE PURCHASING .....	24
1.10	WRITTEN QUESTION TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY CONNETABLE A.S. CROWCROFT OF ST. HELIER REGARDING THE MONITORING OF COMPOSTING OPERATIONS .....	25
<b>2.</b>	<b>Oral Questions .....</b>	<b>29</b>

2.1 Deputy P.V.F. Le Claire of St. Helier of the Chief Minister regarding whether any evaluation of risk for emergency planning purposes has taken place following the experiences learned from the recent Buncefield incident:.....	29
Senator F.H. Walker (The Chief Minister): .....	29
2.2 Senator L. Norman of the Minister for Planning and Environment regarding when the report required consequent upon the adoption by the States in January 2005 of 'Sites of Special Interest and Buildings of Local Interest: financial implications' (P.166/2004) will be published: .....	29
Senator F.E. Cohen (The Minister for Planning and Environment):.....	29
2.2.1 Senator L. Norman:.....	30
2.2.2 Connétable A.S. Crowcroft of St. Helier: .....	30
2.3 Deputy S. Power of St. Brelade of the Minister for Economic Development regarding comparative figures in 2006 for the total number of passengers arriving by sea from the United Kingdom and from France during the 3-month period February to April 2005: ..	30
Senator P.F.C. Ozouf (The Minister for Economic Development):.....	30
Deputy A.J.H. Maclean (Assistant Minister for Economic Development):.....	30
2.3.1 Deputy S. Power: .....	31
2.3.2 Deputy A. Breckon of St. Saviour: .....	31
2.3.3 Deputy R.G. Le Hérissier of St. Saviour: .....	31
2.3.4 Deputy G.C.L. Baudains of St. Clement:.....	31
2.3.5 Deputy G.C.L. Baudains:.....	32
2.3.6 Deputy J.B. Fox of St. Helier:.....	32
2.3.7 Deputy G.P. Southern of St. Helier: .....	32
2.4 Senator B.E. Shenton of the Minister for Education, Sport and Culture regarding a post-project review on Phase 1 of the Hautlieu School rebuilding project: .....	33
Senator M.E. Vibert (The Minister for Education, Sport and Culture):.....	33
2.4.1 Deputy R.G. Le Hérissier: .....	33
2.4.2 Senator B.E. Shenton: .....	33
2.4.3 Deputy R.G. Le Hérissier: .....	33
2.4.4 Deputy G.P. Southern: .....	33
2.4.5 The Connétable of St. Helier: .....	34
2.4.6 Deputy C.H. Egré of St. Peter:.....	34

2.4.7 Deputy G.P. Southern: .....	34
2.5 Connétable D.J. Murphy of Grouville of the Minister for Planning and Environment regarding the steps taken to investigate the benefits of tidal energy: .....	34
Senator F.E. Cohen (The Minister for Planning and Environment):.....	35
2.5.1 The Connétable of Grouville: .....	35
2.5.2 Deputy P.V.F. Le Claire: .....	35
2.5.3 Deputy P.J.D. Ryan of St. Helier: .....	35
2.6 Deputy R.G. Le Hérisssier of the Minister for Transport and Technical Services regarding whether recent initiatives such as offering free bus travel to dogs fall within an approved Transport Strategy:.....	36
Deputy G.W.J. de Faye of St. Helier (he Minister for Transport and Technical Services): .....	36
2.6.1 Senator P.F.C. Ozouf: .....	36
2.6.2 Deputy R.G. Le Hérisssier: .....	36
2.6.3 Deputy F.J. Hill of St. Martin: .....	37
2.7 Deputy J.A. Martin of St. Helier of the Chief Minister regarding the implementation of a categorised register for the Island population and the provision of individual unique evidence of registration for the purpose of accessing public services, employment opportunities and accommodation: .....	37
Senator F.H. Walker (The Chief Minister): .....	37
2.7.1 Deputy G.P. Southern: .....	37
2.7.2 Deputy A. Breckon: .....	37
2.8 Deputy R.G. Le Hérisssier of the Minister for Education, Sport and Culture regarding programmes in place for the on-Island training of primary and secondary teachers:.....	38
Senator M.E. Vibert (The Minister for Education, Sport and Culture):.....	38
2.8.1 Deputy R.G. Le Hérisssier: .....	38
2.8.2 Deputy G.P. Southern: .....	38
2.8.3 Deputy R.G. Le Hérisssier: .....	38
2.8.4 Deputy G.P. Southern: .....	39
2.8.5 Deputy R.G. Le Hérisssier: .....	39
2.9 Deputy P.V.F. Le Claire of the Minister for Transport and Technical Services regarding composting in close proximity to the fuel storage containers and facilities at La Collette: .....	39

Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):.....	40
2.9.1 Deputy P.V.F. Le Claire: .....	40
2.9.2 Deputy P.V.F. Le Claire: .....	40
2.9.3 The Deputy of St. Peter:.....	40
2.9.3 Deputy P.V.F. Le Claire: .....	41
2.10 Senator B.E. Shenton of the Minister for Treasury and Resources regarding the current fiscal strategy, and the “20 means 20” proposals in particular: .....	41
Senator T.A. Le Sueur (The Minister for Treasury and Resources): .....	41
2.10.1 Senator B.E. Shenton: .....	41
2.10.2 Deputy A.D. Lewis of St. John: .....	42
2.10.3 Deputy G.P. Southern: .....	42
2.10.4 The Deputy of St. John:.....	42
2.11 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the new ‘Zero/10’ taxation proposals:.....	42
Senator T.A. Le Sueur (The Minister of Treasury and Resources):.....	42
2.11.1 Deputy G.P. Southern: .....	43
2.11.2 Deputy G.P. Southern: .....	43
2.11.3 Deputy G.P. Southern: .....	43
2.11.4 The Deputy of St. John:.....	44
2.12 Deputy G.P. Southern to the Minister for Treasury and Resources regarding why the Jersey Financial Services Commission will no longer need to know the beneficial owners of the proposed Jersey Incorporated Investment Companies under the new 0/10 proposals: .....	44
Deputy G.P. Southern:.....	44
2.12.1 Deputy G.P. Southern: .....	45
2.13 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the department’s maintenance schedule for standby and emergency plant: .....	45
Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):.....	45
Deputy J.J. Huet of St. Helier (Assistant Minister for Technical and Transport Services): .....	45
2.13.1 Deputy R.G. Le Hérissier of St. Saviour:.....	45
2.13.2 Deputy G.C.L Baudains: .....	46

2.13.3	Deputy G.C.L Baudains: .....	46
2.14	The Deputy of St. Martin of the Chief Minister regarding action taken to prepare legislation to give effect to proposals adopted under “Share Transfer Property: Stamp Duty” (P.211/2004):.....	46
	Senator F.H. Walker (The Chief Minister): .....	46
2.14.1	The Deputy of St. Martin: .....	46
2.14.2	The Deputy of St. Martin: .....	47
2.15	Deputy G.C.L. Baudains of the Minister for Planning regarding powers under Article 15(1)(a) of the Island Planning Law 1964 and their use in respect of site H4(15), Samares Nursery: .....	47
	Senator F.E. Cohen (The Minister for Planning and Environment):.....	47
2.15.1	Deputy R.G. Le Hérissier:.....	47
2.16	Deputy S. Power of St. Brelade of the Minister for Transport and Technical Services regarding the identification of sufficient alternative car parking space prior to redevelopment of the Esplanade car park site: .....	48
	Deputy G.W.J. de Faye (The Minister for Transport and Technical Services):.....	48
2.16.1	Deputy J.A. Hilton of St. Helier:.....	48
2.16.2	Deputy S. Power:.....	48
2.16.3	Deputy I.J. Gorst of St. Clement: .....	48
2.16.4	Connétable K.A. Le Brun of St. Mary: .....	49
2.16.5	Deputy J.A. Hilton: .....	49
2.16.6	Deputy S. Power:.....	49
2.17	The Deputy of St. Martin of the Minister for Home Affairs regarding whether law drafting instructions have been submitted for the proposal adopted under “Speeding fines: allocation of funds to parishes” (P.156/2005):.....	50
	Senator W. Kinnard (The Minister for Home Affairs):.....	50
2.17.1	The Deputy of St. Martin: .....	50
<b>3.</b>	<b>Questions to Ministers without notice - The Minister for Education, Sport and Culture.....</b>	<b>50</b>
3.1	Deputy J.A. Martin: .....	50
	Senator M.E. Vibert (The Minister for Education, Sport and Culture):.....	51
3.2	Deputy S. Pitman of St. Helier: .....	51

3.3	Connétable A.S. Crowcroft of St. Helier: .....	51
3.4	Deputy S. Pitman: .....	51
3.5	Deputy A.E. Pryke of Trinity:.....	51
3.6	The Connétable of St. Helier: .....	52
3.7	Senator B.E. Shenton: .....	52
3.8	Deputy S. Pitman: .....	52
3.9	Deputy R.G. Le Hérisssier: .....	53
3.10	Senator J.L. Perchard: .....	53
3.11	Deputy J.A. Hilton: .....	53
3.12	The Connétable of St. Helier: .....	54
3.13	Deputy J.A. Hilton: .....	54
3.14	Deputy S. Pitman: .....	54
<b>4.</b>	<b>Questions to Ministers without notice - The Chief Minister .....</b>	<b>55</b>
4.1	Senator B.E. Shenton: .....	55
	Senator F.H. Walker (The Chief Minister): .....	55
4.1	Deputy S. Pitman: .....	55
4.1.1	Deputy S. Pitman: .....	55
4.2	Deputy R.G. Le Hérisssier: .....	55
4.3	The Deputy of St. John: .....	56
4.4	Deputy C.J. Scott Warren of St. Saviour: .....	57
4.5	Deputy D.W. Mezbourian of St. Lawrence: .....	57
4.6	Deputy J.A. Martin: .....	57
4.7	Senator J.L. Perchard: .....	57
4.8	Deputy G.P. Southern: .....	58
4.9	The Connétable of St. Helier: .....	58
4.10	Deputy R.C. Duhamel of St. Saviour:.....	58
	<b>PERSONAL STATEMENT .....</b>	<b>59</b>
<b>5.</b>	<b>Deputy S. Power: .....</b>	<b>59</b>

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY .....59**

**6.1 Senator F.H. Walker (The Chief Minister) regarding the Strategic Plan: .....59**

6.1.1 Deputy G.P. Southern: .....60

6.1.2 Deputy J.A. Martin: .....61

6.1.3 Deputy A. Breckon: .....61

6.1.4 Senator J.L. Perchard: .....61

6.1.5 Deputy R.C. Duhamel: .....62

**The Bailiff: .....62**

6.1.6 Deputy G.C.L. Baudains: .....62

6.1.7 Deputy R.G. Le Hérisier: .....62

6.1.8 Deputy J.A. Martin: .....63

**6.2 Senator W. Kinnard (The Minister for Home Affairs) regarding ‘abuse of position of trust’ provisions: .....63**

6.2.1 Deputy G.C.L. Baudains: .....63

6.2.2 The Deputy of St. Martin: .....64

6.2.3 Deputy A. Breckon: .....64

6.2.4 Deputy P.J.D. Ryan: .....65

**DOCUMENTS PRESENTED OR LAID .....65**

**7. The Bailiff: .....65**

**PUBLIC BUSINESS .....65**

**8.1 Draft Taxation (United States of America) (Jersey) Regulations 200- (P.264/2005)....65**

8.1.1 Senator F.H. Walker: .....65

8.1.2 Deputy G.C.L. Baudains: .....66

The Bailiff: .....66

Deputy P.J.D. Ryan, Chairman of the Corporate Services Scrutiny Panel: .....66

8.1.4 Senator F.H. Walker: .....67

The Bailiff: .....67

8.1.5 Senator F.H. Walker: .....67

The Bailiff: .....	67
<b>8.2 Draft Employment Relations (Amendment) (Jersey) Law 200- (P.5/2006) .....</b>	<b>67</b>
8.2.1 Deputy G.P. Southern: .....	67
8.2.2 Senator P.F. Routier (The Minister for Social Security): .....	68
The Bailiff: .....	68
<b>8.3 Draft Employment (Amendment No. 2) (Jersey) Law 200- (P.270/2005).....</b>	<b>68</b>
8.3.1 Deputy G.P. Southern: .....	69
8.3.2 Senator P.F. Routier:.....	71
8.3.3 Senator L. Norman:.....	73
8.3.4 Deputy R.G. Le Hérisssier: .....	73
8.3.5 Deputy C. J. Scott Warren: .....	74
8.3.6 The Deputy of St. Peter:.....	74
8.3.7 Deputy A. Breckon: .....	74
8.3.8 Deputy P. N. Troy of St. Brelade:.....	75
The Bailiff: .....	77
<b>LUNCHTIME ADJOURNMENT.....</b>	<b>77</b>
8.3.9 Deputy S.C. Ferguson of St. Brelade:.....	77
8.3.10 Senator M. E. Vibert: .....	77
8.3.11 Deputy D.W. Mezbourian: .....	77
8.3.12 Deputy G. P. Southern: .....	78
The Greffier of the States (in the Chair): .....	79
<b>8.4 Bailiff’s Consultative Panel (P20/2006) .....</b>	<b>79</b>
8.4.1 The Deputy of St. Peter:.....	80
The Greffier of the States (in the Chair): .....	80
8.4.2 The Connétable of St. Helier: .....	80
8.4.3 Senator M.E. Vibert: .....	81
8.4.4 Deputy G.C.L. Baudains:.....	81
8.4.5 The Deputy of St. Peter:.....	81

8.4.6 Deputy P.V.F. Le Claire: .....	81
8.4.7 Senator P. Ozouf: .....	82
8.4.8 Deputy C. J. Scott Warren: .....	82
8.4.9 Deputy R. C. Duhamel:.....	82
8.4.10 The Connétable of St. Mary: .....	83
8.4.11 Senator J.L. Perchard: .....	83
8.4.12 The Connétable of St. Helier:.....	83
The Bailiff: .....	84
8.4.13 The Connétable of St. Helier:.....	84
The Bailiff: .....	84
8.4.14 Senator M.E. Vibert: .....	85
8.4.15 Deputy S. C. Ferguson: .....	85
8.4.16 Deputy J. G. Reed of St. Ouen: .....	85
8.4.17 Senator F.H. Walker:.....	85
8.4.18 Connétable K.A. Le Brun of St. Mary: .....	85
8.4.19 Connétable G.W. Fisher of St. Lawrence: .....	85
8.4.20 Deputy Lewis .....	85
8.4.21 The Deputy of St. Martin: .....	85
8.4.22 Deputy J.J. Huet: .....	85
8.4.23 Deputy J.B. Fox:.....	85
8.4.24 Deputy S. Power:.....	86
8.4.25 The Deputy of St. Mary: .....	86
8.4.26 Senator P. Ozouf: .....	86
8.4.27 Senator M. E. Vibert: .....	86
8.4.28 Senator W. Kinnard.....	86
The Bailiff: .....	86
<b>8.5 Bellozanne Waste Treatment Works: petition (P.34/2006) .....</b>	<b>87</b>
8.5.1 Deputy J.B. Fox: .....	87

8.5.2 Senator P.F.C. Ozouf: .....	88
8.5.3 Deputy J.J. Huet: .....	89
8.5.4 Senator J.L. Perchard: .....	89
8.5.5 Senator Vibert: .....	89
8.5.6 Deputy C.J. Scott Warren: .....	89
8.5.7 Deputy P.V.F. Le Claire: .....	90
8.5.8 Senator F.H. Walker: .....	90
8.5.9 The Deputy of St. John: .....	90
8.5.10 The Connétable of St. Helier: .....	91
8.5.11 Deputy G.W.J. de Faye: .....	91
8.5.12 Senator B.E. Shenton: .....	93
8.5.13 Deputy S.C. Ferguson: .....	93
8.5.14 Deputy J.A. Martin: .....	93
8.5.15 Deputy G.P. Southern: .....	94
8.5.16 Deputy K.C. Lewis of St. Saviour: .....	94
8.5.17 Deputy J. Gallichan of St. Mary: .....	94
8.5.18 Senator S. Syvret: .....	95
8.5.19 Deputy J.B. Fox: .....	96
The Bailiff: .....	97
<b>8.6 Draft Social Security (Television Licence Benefit) (Jersey) Regulations 200-</b> <b>(P.37/2006) .....</b>	<b>98</b>
8.6.1 Senator P.F. Routier: .....	98
8.6.2 Senator M.E. Vibert: .....	99
8.6.3 Deputy R.C. Duhamel: .....	99
8.6.4 Deputy C.J. Scott Warren: .....	99
8.6.5 Senator P.F. Routier (Minister for Social Security): .....	100
The Bailiff: .....	101
Senator P.F. Routier: .....	102

The Bailiff: .....	102
The Deputy of St. Martin (Chairman of the Scrutiny Social Affairs Panel): .....	102
8.6.6 Connétable T.J. du Feu of St. Peter: .....	102
8.6.7 Senator P.F.C. Ozouf: .....	102
8.6.8 Senator P.F. Routier: .....	103
The Bailiff: .....	103
8.6.9 Deputy C.J. Scott Warren: .....	103
8.6.10 Senator P.F. Routier: .....	103
The Bailiff: .....	103
<b>8.7 Draft Social Security (Television Licence Benefit) (Jersey) Law 200- (P.36/2006) ....</b>	<b>104</b>
8.7.1 Senator P.F. Routier: .....	104
8.7.2 Senator M.E. Vibert: .....	104
8.7.3 Senator P.F. Routier: .....	104
The Bailiff: .....	104
<b>8.8 Charing Cross: vacant site - petition (P.38/2006) .....</b>	<b>105</b>
8.8.1 The Connétable of St. Helier: .....	106
8.8.2 Connétable R.E.N. Dupré of St. John: .....	108
8.8.3 Deputy P.V.F. Le Claire: .....	109
8.8.4 The Connétable of Grouville: .....	109
8.8.5 Senator T.J. Le Main: .....	109
8.8.6 Deputy J.J. Huet: .....	110
8.8.7 Deputy G.W.J. de Faye: .....	110
8.8.8 Deputy C.J. Scott Warren: .....	111
8.8.10 Deputy J.B. Fox: .....	113
8.8.11 The Deputy of St. John: .....	114
8.8.12 Senator M.E. Vibert: .....	115
8.8.13 The Connétable of St. Helier: .....	115
The Bailiff: .....	116

<b>NOTIFICATION OF LODGED PROPOSITIONS .....</b>	<b>117</b>
<b>9. The Bailiff:.....</b>	<b>117</b>
<b>PUBLIC BUSINESS (continued...) .....</b>	<b>117</b>
<b>10. Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law 200- (P.39/2006) ...</b>	<b>117</b>
10.1 Senator S. Syvret:.....	118
10.2 Deputy G.W.J. de Faye:.....	119
10.3 Deputy G.W.J. de Faye:.....	120
10.4 Deputy C.J. Scott Warren: .....	120
10.5 Senator P.F.C. Ozouf: .....	120
10.6 Deputy G.C.L. Baudains:.....	121
10.7 Senator L. Norman:.....	121
10.8 Deputy P.V.F. Le Claire: .....	122
10.9 The Deputy of St. Ouen: .....	122
10.10 Senator S. Syvret:.....	122
The Greffier of the States (in the Chair): .....	124
10.11 Senator S. Syvret:.....	126
10.12 Senator M.E. Vibert: .....	126
10.13 Deputy G.W.J. de Faye:.....	126
10.14 Senator P.F.C. Ozouf: .....	127
10.15 Deputy G.C.L. Baudains:.....	128
10.16 Deputy S. Power: .....	128
10.17 The Deputy of St. Martin: .....	129
10.18 Senator S. Syvret:.....	129
The Greffier of the States (in the Chair): .....	131
<b>11. Draft Planning and Building (Jersey) Law 2002 (Appointed Day Act) Act 200- (P.46/2006).....</b>	<b>132</b>
11.1 Senator F.E. Cohen: .....	132
11.2 Deputy C.J. Scott Warren: .....	133

**CONSIDERATION OF ADJOURNMENT .....135**

**12. The Connétable of St. Helier: .....135**

The Greffier of the States (in the Chair): ..... 135

**PUBLIC BUSINESS (continued...) .....136**

**13. Jersey Community Relations Trust: replacement of Chairman (P.47/2006).....136**

13.1 Senator F.H. Walker: ..... 136

The Greffier of the States (in the Chair): ..... 136

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS.....136**

**14. The Deputy of St. Peter (Vice-Chairman, Privileges and Procedures Committee): ..137**

14.1 Senator F.H. Walker: ..... 137

14.2 Deputy G.P. Southern: ..... 137

The Greffier of the States (in the Chair): ..... 137

**ADJOURNMENT .....137**

**The Greffier of the States (in the Chair).....137**

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

**1.1 WRITTEN QUESTION TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY THE CONNETABLE OF ST. HELIER REGARDING THE FUNDING OF TOP-UP FEES**

**Question**

Would the Minister inform members how it has been possible for £250,000 extra funding to be found from within the Department's existing revenue budget to cover the cost of top-up fees for the first term of the next academic year?

**Answer**

When the Council of Ministers made the recommendation that the £1,350 per annum 'top up' fees levied by U.K. universities should not be passed onto students, or their parents, from September 2006 no decision was taken as to how the shortfall in funding would be met. However, I have committed to bring forward a new higher education funding strategy for consideration by the Council of Ministers during 2006 which will include measures to reduce the overspend in 2006 and beyond, and the evaluation of the possible introduction of student loans from September 2007.

**1.2 WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY CONNETABLE A.S. CROWCROFT OF ST. HELIER REGARDING HEALTH MATTERS RELATED TO COMPOSTING OPERATIONS**

**Question**

- (a) In his written answers on 25th April 2006 on the subject of the relocation of composting from Crabbé in St Mary to La Collette in St Helier in 2002, the Minister stated that "There are few remaining records of complaints to the Health and Social Services Department relating to issues at Crabbé". Would the Minister inform members whether this is because records have been lost or destroyed?
- (b) Would the Minister indicate the exact dates, and the nature, of the six complaints that relate to composting at Crabbé referred to in his written answers and inform members what action was taken in relation to them?
- (c) Did the Environmental Health Department engage in any consultation with the Parish of St Mary in relation to the odour and health impacts of the composting operation while it was situated at Crabbé?
- (d) In his written answers the Minister stated that the Health Protection Unit stipulated to the Planning and Environment Committee that there should be a health impact assessment carried out in relation to the move of the composting facilities to La Collette in which "health effects are thoroughly investigated." Would the Minister explain why no such an assessment was carried out during the three and a half years of the operation of the site in St Helier, in spite of the fact that complaints including reports of breathing difficulties were being received?
- (e) As no Health Impact Assessment was carried out over a period of three and a half years, would the Minister explain on what basis he stated, during the debate on Composting facilities at La Collette II: approval by States Assembly (P.31/2006) on 4th April 2006, that "as long as the operation is adhering to best practice and all reasonable practical steps have

been taken to minimise any smell or nuisance then it will comply with the standards required by the [Statutory Nuisances] Law”.

- (f) Has the Environmental Health Department engaged in any consultation with the Parish of St Helier in relation to the odour and health impacts of the composting operation while it has been situated at La Collette?
- (g) In his written answers the Minister stated that, of 21 recorded complaints, “there have been two occasions when odour from the compost site have (sic) been confirmed and four occasions when the source has been confirmed as seaweed.” Would the Minister inform members of the outcome of the other complaints?
- (h) Why did the Minister not insist that the potential environmental health problems created by the composting site at La Collette were thoroughly investigated in a timely fashion in view of the “precautionary principle” in best environmental practice?

The Minister further stated in his answers that his “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 themselves”. In light of his statement on 4th April 2006 during the debate on Composting Facilities at La Collette II: approval by States Assembly (P.31/2006) that “The fact is La Collette, for good or ill, is there now and it is our major industrial site, and that is where industrial operations should go” would he confirm that the Health Impact Assessment will be an impartial or objective study without any presumption that La Collette is the only possible location for the composting facilities?

#### **Answer**

- (a) The Health and Social Services Department has not “lost” any records concerning complaints about the composter when it was located at Crabbé. It is the practice of the Department’s Health Protection Unit to dispose of all service requests and complaints, those which have been fully responded to, that is, three years after a business or an operation has ceased to trade or ceased to operate. This policy was implemented with regard to the cessation of composting at Crabbé in St Mary.
- (b) The six complaints which relate to the composting at Crabbé in St Mary are as follow -:

Four complaints on 17th and 21st July, and 14th and 20th August 1997, were complaints about obnoxious odours created by the composting facility. The Environmental Health Department, (now called the Health Protection Unit), investigated these complaints and it was the judgement of the Environmental Health Department that the obnoxious odours were caused by the introduction of waste potatoes and green waste material into the process. These potatoes and this green waste had been stored on site since 1995 and when introduced into the composting stream, these obnoxious odours were released.

One complaint on 12th August 1999, was a similar complaint about obnoxious odours. It was the judgement of the former Environmental Health Department that the offensive smell was caused by the inclusion of potato waste into the composting process.

The above five complaints were referred directly to the then Department of Agriculture and Fisheries for action. This was because neither the Health and Social Services Department, nor specifically its Environmental Health Department, had statutory powers at that time to take action against such “nuisances”. This was remedied on 31st December 1999, when the Statutory Nuisances Law came into effect.

The sixth complaint on 24th July 2002, was a complaint about the presence of rotting potatoes at the Crabbé site. It was the judgement of the former Environmental Health Department that the probable cause was the way in which composting material was being treated rather than the composting material itself. This technical matter was discussed with the Crabbé site staff to minimise the effect.

(c) There are no records within the Health and Social Services Department to indicate that the former Environmental Health Department, nor any other team from within the Department, engaged in any formal consultation with the Parish of St Mary in relation to the complaints of obnoxious odours or concerns about the possible health impacts of the composting activities at Crabbé.

(d) In response to the consultation process which ultimately would transfer the composting facility from Crabbé to La Collette, the Health and Social Services Department formally advised the Planning Department that it should undertake a Health Impact Assessment (HIA) as part of a more general Environmental Impact Assessment to inform decision making. It is an indication of the fact that the Planning Department took little notice of the Health Protection unit at that time. A planning permit for the transfer of composting to La Collette was issued without a Health Impact Assessment having taken place.

Since that time the Health Protection Unit has worked closely with Technical and Transport Services (TTS) to ensure that complaints are fully investigated and that there is a positive working partnership between these parties. The Health Protection Unit has been actively involved with TTS in constantly examining means by which odours can be minimised through changes to working and processing practices.

(e) Since the transfer of composting from Crabbé to La Collette, the composting process is subject to the same legal controls as any other commercial or other industrial operation in Jersey. This is because the Statutory Nuisances Law relates as much to States of Jersey operations as it does to private and commercial activities. This Law requires that the composting process should take place in such a way as to ensure the best practicable means of controlling a nuisance, but not entailing excessive cost. The Statutory Nuisances Law does not permit the States of Jersey to prevent a business or operation from operating provided that that business or operation complies with this requirement.

(f) The Health and Social Services Department has not engaged in any formal consultation with the Parish of St Helier in relation to complaints of odours and environmental health considerations in connection with the composting operation while it has been located at La Collette.

(g) The other 17 complaints alleged that there were odour nuisances. However, members of the Health Protection Unit failed to identify any such odour nuisances. The Health Protection Unit is very mindful of the fact that an odour nuisance can be lessened or increased by environmental and ambient factors such as wind direction and temperature. Thus, the practice of the Health Protection Unit is not simply to present itself at La Collette and make a judgement at one moment in time. Rather, it is to revisit the site at different times to seek to take account of these factors.

(h) The Environmental Health Department (now the Health Protection Unit), through the Health and Social Services Department, is not a statutory consultee under the States of Jersey's Planning Laws. The advice provided by the Health Protection Unit to the Planning and Environment Minister is informal. Once planning consent has been granted, the Health Protection Unit's powers exist only through its responsibilities for the implementation of the Statutory Nuisances Law.

(i) The Health Impact Assessment will be impartial and objective. The work of the Health Protection Unit is carried out professionally and completely independently of my personal views. The early “scoping” exercise for the Health Impact Assessment has commenced. However, the States of Jersey has to make a decision as to the location of the Energy from Waste plant and the composting operation. Health Impact Assessments can only proceed when sites have been formally identified. It is possible that the States might choose entirely different locations to those discussed so far. Only when an unambiguous ‘short-list’ of sites has been identified can they be subject to an EHI assessment. Needless to say, when the sites are formally identified the Health Impact Assessment process will involve taking serious counsel from key stakeholders and from residents who live proximate to the sites. It is clearly in everyone’s interest for the States of Jersey to now be unequivocal and definitive and to make a decision as to the location of the Energy from Waste plant and composting operation. It is this decision which will enable us all to move forward and to reduce the concerns of residents through the construction of modern facilities which, using state of the art technologies, will process waste materials with the minimum of discomfort and irritation.

It must be reiterated that by far the most pressing environmental health issue in Jersey is the Bellozanne incinerator. Its emissions pose a health risk and it must be shut down without any further delay. I repeat it is crucial that the States finally ends several years of prevarication and makes the decision. Any further delay by the Assembly could not be viewed as anything other than a gross betrayal of the public interest.

### **1.3 WRITTEN QUESTIONS TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY THE CONNETABLE OF ST. HELIER REGARDING EARLY CHILDHOOD EDUCATION AND CARE, AND THE PROVISION OF A NURSERY UNIT AT THE NEW ST. PETER’S SCHOOL**

#### **Question 1**

Would the Minister inform members –

(a) whether officers and members of the former Education, Sport and Culture Committee attended the meetings organised by the Parents Action Group in the Town Hall on 13th July and 22nd September 2004, at which concerns were raised about the States’ policy on early years child care and, if so, how many members and officers, and which members?

(b) whether the Minister of Education, Sport and Culture, or the former Education, Sport and Culture Committee, received representations by letter or email from members of the Parents Action Group or Jersey Early Years Association about the States’ policy in early years child care, and/or suggestions as to how more equitable provision might be achieved and, if so, when were these received?

(c) of the exact date when the decision was taken to build a nursery unit as part of the rebuilding of St. Peter’s Primary School?

#### **Answer**

(a) Three members of the former Education, Sport and Culture Committee and three officers attended the meeting at the Town Hall on 13th July 2004. Three members and four officers attended the meeting on the 22nd September 2004. The members who attended one or both of these meetings were, Senator Michael Vibert, Deputy Ben Fox, Deputy Judy Martin and former Deputy Julian Bernstein.

(b) Representations in respect of the States' policy for early education and care were received from both the Parents Action Group and the Jersey Early Years Association prior to 30th September 2005, the closing date for consultation.

(c) The decision to continue building nursery classes at provided primary schools was taken by the States on 18th February 1997, when the former Education Committee lodged its Proposition in respect of Child Care Provision. Whilst the former Committee had been considering the refurbishment of St. Peter's School for some time, it was formally submitted as a bid to the Capital Development Plan on 24th March 1999.

### **Question 2**

Would the Minister supply a detailed breakdown of the capital and revenue costs provided on 25th April 2006, in relation to the nursery unit at the new St. Peter's School?

### **Answer**

The capital costs of £225,000 were determined by calculating the savings that would accrue to the project if the nursery class was not built. As the nursery unit is an integral part of the specification for the building a detailed breakdown of costs would need to be undertaken by the quantity surveyor. This would incur additional fees.

The revenue costs at 2005 values would be:

1 x Nursery teacher	£43,952
2 x Teaching Assistants	£42,040
1 x Lunchtime Supervision	£ 2,000
Total:	£87,992

It is likely that further costs of approximately £9,000 per annum would be borne by the school's budget in respect of supplies, services and premises.

### **Question 3**

Would the Minister indicate whether he intends to fulfil the pledge made in the consultation document, Investing in Our Future: a vision for early childhood education and care for children in Jersey (R.C. 54/2005), that following the consultation period which ended on 30th September 2005, all the responses received would be used to assist in the formation of more detailed options for the future which, it was stated in the report, were due to be published later in 2005 and, if so, when will he do this?

### **Answer**

As I indicated previously in my answer to this question on 28th March 2006, the development of an Early Childhood Education and Care strategy is a complex piece of work partly because it involves predictions based on significant uncertainties including the availability of additional States funding but also because any resultant model needs to dovetail with the new Income Support System due to be introduced in 2007.

Discussions continue between the Departments for Education, Sport and Culture and Employment and Social Security to develop proposals which will be presented to the States in due course. However, I would remind members that the vision of the former Education, Sport and Culture

Committee, set out in the document “Investing In Our Future”, was an aspiration to take effect in 2008.

**1.4 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING MATTERS CONTAINED IN THE ZERO/TEN DESIGN PROPOSALS (R.37/2005)**

**Question**

Following the publication of the Zero/Ten Design Proposal (R.37/2006) on 5th May 2006, would the Minister –

- a) inform members whether the new proposals mean that the previous proposals on look-through have been abandoned?
- b) give members a breakdown of the revenues that are now expected to be gathered from each of the taxes or charges contained in the new zero/ten design proposal and, in particular, state how much will be generated from the Regulation of Undertakings and Development (RUDL) charge and whether the new proposals to replace look-through will produce the same amounts as the previous proposals?
- c) state whether the proposed RUDL charge is, in effect, a tax on jobs and what impact, if any, it is anticipated to have on job creation and economic growth in the non-finance sector?
- d) reassure members that, as the proposals have been designed by finance experts, they have not been designed solely to suit the finance sector?
- e) indicate whether the mechanisms for Foreign Incorporated Investment Companies will meet the requirements of the EU code on Business Taxation?

**Answer**

(a) The previous proposals on look-through have not been abandoned but merely reduced in scope in aiming to strike the balance between the need for ‘look-through’ mechanisms which allow for anti-avoidance provisions pertaining to personal tax payers (Jersey based shareholders) and both the practicality of administering such mechanisms and the wish to permit a degree of re-investment by Island based businesses consistent with our economic growth objectives.

These are only proposals at the current time, so only a rough analysis of the tax yield from the Regulation of Undertakings and Development (Jersey) Law 1973, (RUDL), charge has been undertaken. This suggests a yield in the range between £ 5 - 7 million. If the proposals are agreed, the exact detail will be determined and the yield calculation refined. For those who do not opt to trade through the Limited Trading Partnership (LTP) vehicle and who thereby become subject to the distribution provisions, I can confirm that eventually all the tax on their profits enjoyed by shareholders as personal income will be collected, albeit with a timing difference. As a consequence of continuing ‘look-through’ on investment holding companies, and the tax charged on those who now choose to trade through a Limited Trading Partnership rather than being subject to the distribution provisions for a zero rate trading corporate vehicle, it is estimated that overall income in these areas will ultimately be broadly the same as under previous outline proposals.

The proposed RUDL charge is not a tax on jobs but a charge reflecting a licence to operate in the Island. Where shareholder taxes are paid these can be used to reduce or eliminate the impact of the RUDL charge. This can occur either through ‘look through’ to the shareholders of companies with such employees, or by those businesses registering as Limited Trading Partnerships subject to

normal Jersey Income Tax provisions. The primary intention behind the RUDL charge is to ensure that those wishing to set up businesses in Jersey, using the Island's scarce resources, but without Jersey connections, do make some contribution to the running costs of the Island. This they will do either by registering as an LTP, or by paying the RUDL charge; the choice is theirs.

The proposals have been designed by people who understand the complexities of taxations systems in Jersey and elsewhere. Like many other jurisdictions, including the United Kingdom, Jersey has utilised the best expertise in both the public and private sectors to ensure that the 0/10 design proposals are the very best solution for Jersey as a community. To have done otherwise would have been a dereliction of duty and I am confident that the policy now presented for consultation gives a balanced solution to address both the competition issues facing us as well as ensuring voluntary compliance with Ecofin requirements. In particular, it endeavours to level the playing field between those who currently pay their taxes to help support the running costs of the Island and those who, because of their location, would not. Accordingly, I can confirm that these proposals were not designed solely to suit the finance sector.

Yes. These companies will be zero rate vehicles but will pay an annual corporate residence fee, not a tax, in a similar fashion to Jersey incorporated companies. As this is a mechanism concerned with incorporation fees rather than a tax it is actually outside the remit of the EU Code of Conduct on Business Taxation.

#### **1.5 WRITTEN QUESTION TO THE CHIEF MINISTER BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE ISLAND'S TAXATION COMMITMENTS**

##### **Question**

(a) Following recent public statements, would the Chief Minister clarify for members what has and has not been agreed concerning the island's taxation commitments, and by whom, by publishing the e-mails that he has referred to publicly as evidence of such agreement and, if not, will he inform members whether the agreement covers -

- i) only the Island's stated intention to eliminate non-compliant business taxation; or
- ii) the replacement of such taxes with the zero/ten mechanism; or
- iii) the principles of "look-through" relating to zero/ten?

(b) Would the Chief Minister inform members whether this agreement has been reached with -

- i) the Paymaster General, representing the UK government;
- ii) the Paymaster General, as chair of the EU Code of Conduct group;
- iii) the International Director of Tax at HM Treasury;
- iv) the EU Code of Conduct group;
- v) ECOFIN?

(c) Would the Chief Minister state whether the items listed in (a) above have been presented to, or discussed with, any of the authorities listed in (b) above?

(d) Have the detailed proposals contained in the Zero/Ten Design Proposal (R.37/2006) published by the Minister for Treasury and Resources on 5th May 2006 been presented to, or

discussed with, any of the authorities listed above yet and, if not, will they be presented for approval and, if so, by whom?

**Answer**

(a) It is not my practice to publish written inter-governmental communications without the express agreement of the other party. The extracts previously quoted were aimed at dealing with the substance of this question. The quoted extracts were:

‘The public statement made in the Ecofin conclusions of June 2003 was that the Council:-

“Notes that the descriptions in Annex 1 of 14812/02 FISC 299, as updated by the descriptions in Annex A of 7018/1/03 FISC 31 REV 1 (en), form an agreed basis for the evaluation of rollback.

· Notes that the Code Group has considered the proposed revised or replacement measures of Member States and of dependent or associated territories for those listed in Annex C of SN 4901/99 against the established criteria of the Code of Conduct and, as set out in Annex B of 7018/1/03 FISC 31 REV 1 (en), has found that none of these are harmful within the meaning of the Code.

· Agrees that the proposed revised or replacement measures are adequate to achieve rollback of all the harmful features of the 66 measures listed in Annex C of SN 4901/99.”

There are a few points which your Minister could usefully make –

- (a) Jersey’s ongoing commitment to fair tax competition (including going back to Senator Le Sueur’s time) and the part zero/ten plays in that;
- (b) Jersey has made specific commitments to remove tax measures found harmful under the Code of Conduct;
- (c) those commitments, including the timetable and broad scope of the new regime, were agreed by ECOFIN;
- (d) Jersey is developing detailed proposals with the aim of complying with those commitments; and,
- (e) the U.K. reports annually to the Code of Conduct on Jersey’s progress towards meeting those commitments.’

In terms of this specific question I would reply as follows –

i) and ii) I can confirm that agreement has been reached with all parties referenced under b - i) to v) on the reasonable assumption that there is no practical distinction to be drawn between the EU Code of Conduct Group and its Chair. In addition the position of both is covered by the statement (quoted above) made by the ECOFIN Council on 3rd June 2003, following receipt of recommendations received from the EU Code Group.

That statement demonstrates that the ‘proposed revised or replacement measures of ...Jersey regarding the commitment to rollback and the zero/ten plans were presented to and evaluated by the Code Group/ECOFIN

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On this basis, noting in particular the ECOFIN conclusions referenced above, the Island has no reason to believe that the ECOFIN statement of 3rd June 2003, on the proposed system for Jersey will not continue to apply.

The remit of the Group limits it to matters of business taxation. Provisions such as 'look-through' that are concerned to address personal tax anti-avoidance issues do not in our view fall within the remit of the Group and our discussions with U.K. officials would suggest that they are of the same view agree.

Look-through provisions are not a pre-condition for the implementation of a zero-ten tax system but in some form are desirable for the management and limitation of tax avoidance possibilities within Jersey's personal tax base. The agreement to 0/10 detailed above is sufficient in itself for Jersey's fiscal plans to proceed.

(b) Please see response to part (a) above.

(c) Please see response to part (a) above.

(d) These detailed proposals were made public on 5th May 2005, and were made available to H.M. Treasury at the same time as to States Members. As stated in part (a) this will enable the U.K. to provide input on behalf of the Island to the Code of Conduct Group and ECOFIN on the continuing monitoring of the 'rollback' process.

It is important to be clear that we will not be presenting these proposals for approval, because to do so would undermine Jersey's constitutional rights. Jersey has domestic competence in fiscal affairs and the suggestion that an EU body has to approve our proposals is to undermine that competence. It should be noted that the Code of Conduct Group is not a body with the power to enforce, even amongst the EU member states themselves, and this is a process in which Jersey is participating voluntarily because the Island is not in the EU's fiscal territory. Nevertheless, regard will be had for any views expressed by the Code of Conduct Group in line with our position as a 'good neighbour' to the EU.

#### **1.6 WRITTEN QUESTION TO THE MINISTER FOR SOCIAL SECURITY BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING PROVISIONS FOR PARENTS WHO HAVE DEAF CHILDREN IN THEIR CARE**

##### **Question**

What improvements, in terms of financial support, if any, is the Minister contemplating for parents who have deaf children in their care?

##### **Answer**

A full review of Disability Benefits was undertaken in 2003, resulting in a report to the States the following year on "Disability Benefit System : Reform". The States approved the way forward and more detailed proposals were subsequently approved by the States as part of the new "Income Support System" proposals (P.86/2005). In summary, existing benefits will be replaced by a disability component for those in receipt of Income Support.

The amount of the component will depend on the degree of disability. Work is progressing on this at present but I can say that it is not the intention of the new system to single out one particular group of disabilities.

**1.7 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING AUTHORITATIVE BODIES USED TO DETERMINE WHETHER JERSEY'S BUSINESS AND CORPORATE TAX PROPOSALS MEET INTERNATIONAL AND EU REQUIREMENTS**

**Question**

Would the Minister name the authoritative bodies who will determine whether Jersey's business and corporate tax proposals meet international and EU requirements?

**Answer**

Jersey has undertaken to comply with 'rollback' and 'standstill' in respect of corporate taxation. It will be for the United Kingdom authorities to confirm to Ecofin through the EU Code of Conduct Group that Jersey is indeed taking suitable steps, and the U.K. Treasury review our progress at regular intervals. They have been notified of our current 'zero/ten' proposals and will no doubt advise as they see fit. In my view the current 'zero/ten' proposals are consistent with our aforementioned undertakings.

It is important to be clear that we will not be presenting these proposals for approval, because to do so would undermine Jersey's constitutional rights. Jersey has domestic competence in fiscal affairs and the suggestion that an EU body has to approve our proposals is to undermine that competence. It should be noted that the Code of Conduct Group is not a body with the power to enforce, even amongst the EU member states themselves; this is a process in which Jersey is participating voluntarily because the Island is not in the E.U.'s fiscal territory. Nevertheless, regard will be had for any views expressed by the Code of Conduct Group in line with our position as a 'good neighbour' to the EU.

**1.8 WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING THE LEVEL OF EXPENDITURE REQUIRED TO COMPLETE IMPLEMENTATION OF THE JOB FAMILIES AGREEMENT**

**Question**

Would the Minister identify the estimated sums of expenditure which will be needed to complete implementation of the Job Families agreement?

**Answer**

On Wednesday 8th March 2006, the Staff Side of the Nurses and Midwives Joint Consultative Committee and I reached an agreement which resolved the grievances which the Staff Side had concerning the implementation of the Job Families Agreement. The grievances focused upon the appeal mechanisms included in the Job Families Agreement should Nurses and Midwives be dissatisfied at the point of their assimilation (that is, their assimilation from the old nursing and midwifery grades to the new ones) and various other forms of appeal.

The resolution of the grievance was based upon a mutual appreciation of the fact that the original review mechanisms contained in the Job Families Agreement did not meet best modern practice. Since that agreement was struck, both Management and Staff Sides have been working together to implement the Job Families Agreement in general and these new appeal mechanisms in particular. This work culminated last week when both sides met with a national expert from the English NHS who had accrued many years of experience of implementing a new pay and grade structure which is very much akin to the Job Families Agreement.

Of crucial importance is the recent establishment of a joint Working Party. The remit of the Working Party is to now proceed apace with full assimilation and appointment of nurses and midwives to all of the appropriate grades within the new structure, and to train “a pool” of Staff Side, Management Side and other practitioners in order that they can participate in the appeals process. The national expert was able to give useful advice to the joint Working Party as to how it should conduct its business.

It is in this context that my answer to the Deputy’s question must be considered. Given that the new appeals process is now jointly agreed to be equitable, transparent and open, there can be no artificial constraint or political or managerial “steerage” to fit the cost of the appeals process within the reserved sum. It would not be in the public interest to reveal the reserved sum as there is a danger that it may be seen as some form of ‘pay award’ of which the entirety was earmarked for staff as-of-right. Thus, there are three scenarios –

- (1) the reserve meets exactly the full cost of the appeal mechanisms;
- (2) the reserve has been over estimated (and this will mean that any surplus monies will be returned to the Treasury); and,
- (3) the reserve is insufficient and this will mean that the Health and Social Services Department will have to manage this as a cost pressure balancing the need for the full implementation of the Job Families Agreement against other competing priorities.

The Department is fully aware of the financial risk that is being run (with regard to the third scenario) but has informed the Staff Side that this will not influence the “purity” of the appeal mechanisms, now mutually agreed.

## **1.9 WRITTEN QUESTION TO THE MINISTER FOR HOUSING BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING CONTROLS ON SPECULATIVE PURCHASING**

### **Question**

What controls, if any, are in place, or contemplated by the Minister, to prevent the purchase of apartments for speculative purposes and does the Minister have data on the prevalence of such purchases?

### **Answer**

There are no controls contemplated to prevent the purchase of apartments or other accommodation for speculative purposes, whether by qualified residents, or in the case of share transfer properties, by unqualified residents or persons outside the Island. While anyone can purchase share transfer properties, strict occupancy controls are placed upon all such properties, preventing their occupation by individuals without residential qualifications.

Currently, with a market with many apartments for sale, I do not believe that the impact of speculative purchases on the market is significant, nor that there are an abundance of speculators wanting to purchase residential accommodation. Furthermore, it should be noted that some fringe element of speculative purchase is required to maintain a healthy market for rental properties.

Checks are conducted to make sure that properties are not being unlawfully occupied, especially in the case of any recently built share transfer apartments where there are no recent housing transactions. There are, currently, several under investigation for possible unlawful occupation, which are taken extremely seriously, and these will be dealt with by prosecution in the courts.

**1.10 WRITTEN QUESTION TO THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES BY CONNETABLE A.S. CROWCROFT OF ST. HELIER REGARDING THE MONITORING OF COMPOSTING OPERATIONS**

**Question**

(a) In written answers tabled on 25th April 2006, in relation to the effects of fungal spores produced by open windrow composting the Minister for Health and Social Services stated that monitoring had been undertaken by the former Public Services Department around both the Crabbé and La Collette composting sites. Would the Minister inform members of the number of occasions during the three and a half years' operation of the composting site at La Collette when such monitoring was carried out, and supply the dates when this took place?

(b) The written answer further stated that "The results were found to be in line with those investigations into open windrow composting undertaken on behalf of the UK 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". Would the Minister give members precise details of the above results?

(c) Is the Minister satisfied that all of the research carried out by the Environment Agency on behalf of the UK Government is robust enough to be applied to Jersey, and has he requested his officers to have such advice peer reviewed?

(d) In the written answers it is further stated that air monitoring 'in the case of Crabbé' involved comparison with a control site. Would he indicate whether a control site has been used in respect of the air quality monitoring carried out in respect of La Collette and if not, why not?

**Answer**

(a) The department tests for *Aspergillus Fumigatus*, Thermophillic actinomycetes and total bacteria.

The test dates for the la Collette operation are as follows:

In 2003 the department tested on five occasions –

06/03/03, 13/08/03, 20/08/03, 03/09/03, 11/09/03.

In 2004 the department tested on nine occasions –

31/03/04, 13/04/04, 26/04/04, 11/05/04, 08/06/04, 22/06/04, 01/09/04, 14/09/04, 20/10/04.

In 2005 the department tested on five occasions –

09/03/05, 30/03/05, 12/04/05, 09/08/05, 11/10/05.

In 2006 the department has tested on 1 occasion to date –

19/04/06.

For each test 18 agar plates are placed at three sampling locations with 6 plates at each location. In addition, the Environment Department conduct testing every three months as a control.

(b) The sampling techniques adopted are based on the Composting Association guidelines: “Standardised Protocol for the Sampling and Enumeration of Air-borne Micro-organisms at Composting Facilities”.

The protocol defines certain criteria including varying the sampling and control points; these include sampling at sensitive receptors and at positions where complaints have occurred. The department has a substantial amount of data on a range of site locations and weather variances.

Attached are the test results from the on site weighbridge and results from a property whose owner is a regular complainant.

(c) Regarding peer review of research carried out for the U.K. Environment Agency on bio-aerosols from composting facilities; this research<sup>1</sup> was carried out on three composting facilities (two windrow facilities processing green waste, and one in vessel facility processing mixed green and kitchen waste).

Two years later, a critical review of published information on the potential health impacts of bio-aerosols from composting operations by the U.K. Composting Association and the Health and Safety Laboratory was carried out on behalf of the U.K. Health and Safety Executive. This review covered papers where there was evidence of scientific peer review and also presented original material rather than reviewed data. The review report<sup>2</sup> made the following comments and recommendations –

The distance of 250m provides an additional “safety factor” over the 200m suggested by Gilbert & Ward (1999) which in turn is greater than the distances suggested by Millner et al (1994).

“While most published studies indicate that bio-aerosols are reduced to background levels within the 250m distance currently prescribed by the Environment Agency for risk assessment purposes, some experimental studies and dispersion modelling exercises suggest that bio-aerosols sometimes may exceed concentrations chosen as background levels at distances greater than 250m”.

“There is no published evidence that exposure to bio-aerosols disseminated from compost facilities cause respiratory ill health in residents or workers at nearby locations, or that slightly greater than background bio-aerosol levels represent a significant excess risk. However, because there is no agreed ‘safe’ value and range for background concentrations, and exposure measurement data and health-related dose-response data is limited, it is recommended that no change should be made to the 250m ‘limit’ until further research is completed which can supplement knowledge where published evidence is absent.

From the above it is clear that the original research for the Environment Agency has been peer reviewed and that a peer review was conducted on behalf of the HSE. On this basis, I am satisfied that the information has been thoroughly reviewed and I have not requested the department to undertake further peer review. In addition, the Health Protection Department responsible to the Minister for Health and Social Services undertake their own reviews and have access to data from the medical profession as well. Both departments work closely in monitoring the site and Havre des Pas neighbourhood.

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<sup>1</sup>“Health Effects of Composting – A Study of Three Composting Sites and Review of Past Data, Environment Agency, 2001.

<sup>2</sup>“Occupational and Environmental Exposure to Bio-aerosols from Composts and Potential Health Effects - A Critical Review of Published Data”, HSE, 2003

The nearest residence to the open windrow site is approximately 750 metres, and from the green waste reception area, approximately 350 metres.

(d) The protocol adopted by the department defines the 'control site' within the test regime. In addition the tests include an upwind sample to confirm background levels on the operational site.

In 1998 CAMR ( Centre for Applied Microbiology & Research) carried out "Microbial Air Sampling at Composting Facilities in Jersey" for the Agriculture & Fisheries Committee.

The CAMR scientist carried out sampling both at the Airport composting site and at Crabbé. He also took background samples at the roadside in St Peter's Valley, and at the roadside on Mont Gavey.

The results from this background sampling are very similar to results from samples the department took in 2005 in St Peter's Valley and most of the off-site locations sampled in the past few years.

In the discussion of the results, the scientist remarks "There is a great deal of debate on safe levels for airborne micro-organisms in Germany and Scandinavian countries suggesting levels of 10,000 micro-organisms per cubic metre as an occupational exposure limit. However, these are eight-hour weighted averages for personal samplers and the concentrations measured by the personal filter sampler in this survey were well below these levels. Most experts feel that levels of between 1,000,000 and 100,000,000 micro-organisms/m<sup>3</sup> are required to cause allergenic respiratory effects. These levels were not detected during the surveys".

These levels have not been detected in any of the samples taken since.

The department continues to use remote sites for comparative purposes.

**Psd Bioaerosol Testing – Estimated Concentrations of Airborne Micro-Organisms**

Site:	Background	Site Operator:	PSd									
Sampling Date:	11/10/2005	Type of Materials Processed on	Green Waste									
Location†	Sample reference number	Distance from boundary of operational area / screening operation (metres) ‡	Difference in bearing of samples from boundary / source and mean direction wind blows to (°)	Sampling times	Sampling Duration (minutes)	Microbial type*	Site activity	Materials processed	Calculated concentration of airborne micro-organisms† (cfu m <sup>-3</sup> )	Arithmetic mean of parallel samples (cfu m <sup>-3</sup> )	Comments relating to any activities occurring during the sampling period that might affect the concentration of airborne micro-organisms	
Abattoir	1	320 & 526	070	09.15	10	B	Reception of garden waste and packaging timber, vehicles entering and leaving Reclamation and Green Waste Site Moving shredded overs on slab, commercial workings on Aggregate Recycling Centre.	NO on-site processing due to wind direction.	201	<b>2.01 x 10<sup>2</sup></b>	Location: N 49°10'51.9" W 002°06'61.2" JEC to SE of location, traffic on road, and blood tank adjacent to sampling location	
Abattoir	2	320 & 526	050	09.30	10	TA			81	<b>1.18 x 10<sup>2</sup></b>		
Abattoir	3	320 & 526	065	09.44	10	AF			135	<b>1.66 x 10<sup>2</sup></b>		
Abattoir	4	320 & 526	230	10.12	10	B			166	<b>5.1 x 10<sup>1</sup></b>		
Abattoir	5	651 & 949	235	10.28	10	TA			57	<b>0.4 x 10<sup>1</sup></b>		
Abattoir	6	651 & 949	240	10.40	10	AF			46	<b>2.1 x 10<sup>1</sup></b>		
La Reveille	7	878 & 1200	268	11.05	5	B			78	<b>9.5 x 10<sup>1</sup></b>		Location: N 49°10'71.4" W 002°06'38.8" Location above Tunnel, in cul-de-sac.
La Reveille	8	878 & 1200	273	11.14	5	TA			113	<b>0.7 x 10<sup>1</sup></b>		
La Reveille	9	878 & 1200	268	11.22	5	AF			7	<b>5.7 x 10<sup>1</sup></b>		
Omaroo Car Pk	10	2600 & 2800	200	11.45	10	B			42	<b>3.7 x 10<sup>1</sup></b>		Location: N 49°10'86.5" W 002°05'90.6" Close to road, noticeable seaweed odour.
Omaroo Car Pk	11	2600 & 2800	205	11.58	10	TA			71	<b>0</b>		
Omaroo Car Pk	12	2600 & 2800	215	12.10	10	AF			35	<b>2.5 x 10<sup>1</sup></b>		
Green Island Slip	13	4700 & 4800	004	13.15	5	B			39	<b>9.9 x 10<sup>1</sup></b>		Location: N 49°09'7.90" W 002°04'48.4" Almost near tide, seaweed on beach.
Green Island Slip	14	4700 & 4800	004	13.25	5	TA	0	<b>0</b>				
Green Island Slip	15	4700 & 4800	004	13.35	5	AF	18	<b>2.5 x 10<sup>1</sup></b>				
Green Island Slip	16	4700 & 4800	004	13.57	5	B	32	<b>2.23 x 10<sup>2</sup></b>	Location: N 49°12'48.8" W 002°08'86.0" Located on roadside, traffic passing close to samplers.			
Green Island Slip	17	4700 & 4800	004	14.05	5	TA	49	<b>4.6 x 10<sup>1</sup></b>				
Green Island Slip	18	4700 & 4800	004	14.12	5	AF	21	<b>0</b>				
Mont Ferial/ Mont Cambrai	19	6900	110	13.57	5	B	28	<b>2.5 x 10<sup>1</sup></b>	Location: N 49°13'0.86" W 002°10'38.0" Located next to slow flowing stream, road within 10m. Deep leaf litter.			
Mont Ferial/ Mont Cambrai	20	6900	110	14.05	5	TA	191	<b>2.23 x 10<sup>2</sup></b>				
Mont Ferial/ Mont Cambrai	21	6900	110	14.12	5	AF	254	<b>4.6 x 10<sup>1</sup></b>				
St Peter's Valley	22	6900	110	14.12	5	AF	42	<b>0</b>				
St Peter's Valley	23	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	24	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	25	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	26	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	27	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	28	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	29	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	30	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	31	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	32	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	33	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	34	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	35	6900	110	14.12	5	AF	0	<b>0</b>				
St Peter's Valley	36	6900	110	14.12	5	AF	0	<b>0</b>				

‡ Measurements from GIV reception and the Slab

\* AF = Aspergillus fumigatus; TA = Thermophilic actinomycetes; B = Bacteria

† Rounded to the nearest whole number

## **2. Oral Questions**

### **2.1 Deputy P.V.F. Le Claire of St. Helier of the Chief Minister regarding whether any evaluation of risk for emergency planning purposes has taken place following the experiences learned from the recent Buncefield incident:**

May I ask the Chief Minister what evaluation of risk for emergency planning purposes, if any, has taken place following the experiences learned from the recent Buncefield incident, in particular relating to the siting of a number of industrial processes at La Collette in close proximity to the existing fuel storage facilities?

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

The incident which occurred at Buncefield in December 2005 is the subject of an investigation by the UK authorities and this investigation is being overseen by an independent board. To date, the board has published 3 progress reports, the third of which was released on 9th May. I am advised that this latest report is presently being reviewed by the Health and Safety Inspectorate of the Social Security Department. The fuel farm at La Collette is designed to current safety standards and I can assure the Deputy that the outcome of the Buncefield investigation will be thoroughly reviewed by the Emergency Planning Officer. The Emergency Planning Officer will be working with relevant States' Departments to assess whether there are any lessons to be learnt from the incident which can be applied to La Collette.

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

I thank the Chief Minister for his response.

### **2.2 Senator L. Norman of the Minister for Planning and Environment regarding when the report required consequent upon the adoption by the States in January 2005 of 'Sites of Special Interest and Buildings of Local Interest: financial implications' (P.166/2004) will be published:**

Sites of Special Interest and Buildings of Local Interest: financial implications, (P.166/2004), which was adopted by the States in January 2005, requested the former Planning and Environment Committee, in consultation with the former Finance and Economics Committee, to research and report to the States within 6 months on the additional financial burden placed upon the owners of S.S.I.s and B.L.I.s. Will the Minister state when that report will be published?

#### **Senator F.E. Cohen (The Minister for Planning and Environment):**

Sir, the Committee of the day accepted the proposition because it recognised the desirability of undertaking such a review. However, the work was not undertaken because the department did not have the resources to undertake it. In July 2005, the department lost the senior member of staff in the Historic Building Section, leaving only one officer. The period has coincided with a heavy workload in historic buildings applications, principally related to the restoration work at Mont Orgueil. Accordingly, the department concentrated on its statutory obligations at the expense of other matters. However, we are presently advertising to fill the senior post and I am endeavouring to appoint consultants within a few weeks to assist with the current workload. To facilitate the production of a meaningful report on the financial implications of historic listing, as required by Projet 166, I propose to seek input from Jersey Heritage Trust and possibly English Heritage. This, in addition to the consultation with the Treasury producing a thorough document, will have

significant time-resource implications and it could take some months before I am able to report back.

**2.2.1 Senator L. Norman:**

I wonder if the Minister could indicate how many months he means by “some months” and also whether the report of the investigation would look at the equity situation, bearing in mind that the States have spent some £750,000 on their own S.S.I.s for use as tourism accommodation on ports and towers, whereas private owners of hospitality accommodation concurrently are restricted to a £10,000 grant.

**Senator F.E. Cohen:**

I expect to report back, certainly within the next 6 months and hopefully sooner. But this is a matter of which I was unaware until very recently and I consider the appropriate way to deal with this is not just in consultation with Treasury but with the relevant experts, being Jersey Heritage Trust and possibly English Heritage. As far as grants are concerned generally, we are very severely constrained. The grants available have fallen from £75,000 in 2004 to £60,000 in 2006.

**2.2.2 Connétable A.S. Crowcroft of St. Helier:**

The Minister stated, with regard to the former senior officer in Building Conservation, that the officer was lost. Could he enlarge upon that and explain exactly what he means, particularly in the light of the fact that he has pledged to replace the post?

**Senator F.E. Cohen:**

The senior officer left voluntarily. I have advertised recently. We have had responses and, as I have said, I am making sure that the post is effectively temporarily filled by going out and getting professionals to assist with this on a consultancy basis.

**2.3 Deputy S. Power of St. Brelade of the Minister for Economic Development regarding comparative figures in 2006 for the total number of passengers arriving by sea from the United Kingdom and from France during the 3-month period February to April 2005:**

Would the Minister inform Members how the total number of passengers arriving by sea from the United Kingdom and from France during the last 3 months compares to the same period in 2005, and would he inform Members what steps, if any, he is taking to stop the decline in Jersey's sea routes?

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

Deputy Maclean has responsibility for harbours and airport and I would ask that he be rapporteur.

**The Bailiff:**

Very well. Assistant Minister.

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

For the period from January to April 2006, sea arrivals from the U.K. were down 17 per cent, while arrivals from France were down by approximately 8 per cent, compared to 2005. But, as a matter of further interest, if we compare 2006 figures to the same period in 2004, this shows that U.K. routes, although down 16 per cent, France was up by 2 per cent, despite the regrettable loss of the

Emeraude service last December. Members will be aware that statistics covering short periods of time can be misleading and are of strictly limited commercial relevance. In order to secure and develop Jersey sea routes, my department continues to work with all operators. This includes marketing and advertising support and the introduction of incentives such as reduced harbour dues for new routes. All operators will shortly be able to benefit from a new incentive to encourage a daytrip market, which is especially valuable to the economy. Further details of the extensive activities which have been undertaken in France in support of ferry operations were given in my response to Constable Crowcroft's oral question on 14th March. Thank you.

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

For the sake of clarification, Sir, could I ask the Assistant Minister if he sees a correlation on the decline between passengers not using some of those routes and a boycott? Can I also seek clarification from the Minister that, on month-on-month statistics between 2006 and 2005 - particularly March - it shows a decline of 43.1 per cent on the U.K. route and 32.5 per cent on the continental route?

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

I am afraid I see no instance of boycott at all in the statistics. As I have said, it is quite interesting to see that in fact, based on 2004 figures, the French market was 2 per cent up. The U.K. market statistics are fairly level over the period 2004 and 2005. As far as looking at individual months, during any year you will see fluctuations depending on demand, season, occasions like Easter and so on. So identifying one particular month, as I have said a moment ago, is of no particular relevance. Thank you.

### **2.3.2 Deputy A. Breckon of St. Saviour:**

Sir, the question you asked about the total number of passengers: I have heard a lot of percentages but I have not heard any other figures. I wondered if the Assistant Minister could tell the House if the figures are easily available and, if so, where from and, if not, why not.

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

Yes, the figures are very easily available. They are on the Jersey Tourism website at the present time. In terms of actual numbers, if the Deputy would be interested, in 2006 for the period January to April 40,779 arrivals and, from the U.K., 14,987.

### **2.3.3 Deputy R.G. Le Hérisier of St. Saviour:**

Is it the Assistant Minister's considered view that the rationale for allowing open seas to France for the operator on the U.K. route has ended up with a strengthening of the U.K. portion of the route?

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

I do not think the U.K. portion of the route has strengthened particularly. The figures seem to indicate that, in fact, the numbers are fairly similar to what they were previously.

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

Does the Assistant Minister agree that proper and understandable timetables are a virtue when it comes to encouraging casual travellers? Would he ensure that they do in fact exist? Would he also agree that there is a disincentive for local people to travel, given the disparity between the charges from here to the U.K. compared with from the U.K. to here?

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

Yes, I thoroughly agree with the Deputy in connection with timetables. In fact, fairly recently comprehensive timetables were published in a document which was inserted in the *Jersey Evening Post*. We have received also assurances from Condor that they will be keeping regular updates on their website of timetables and issuing written and printed timetables, which in fact are available for both the northern and southern routes as I speak. With regard to disincentivising members of the Jersey public from travelling, although there are some differentials, they are obviously market-led. The U.K. is a very large catchment area. It is very competitive with a number of different routes and obviously we have got to be very careful - or certainly the operators have got to be very careful - in how they market. So you will find in certain instances different price differentials, which are purely market-driven. Jersey is still, in my opinion, reasonably competitive, as far as sea travel is concerned from a cost perspective and that is proven by the figures, which are fairly stable.

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

Will the Assistant Minister not agree that if it costs, for argument's sake, £300 to travel from the United Kingdom to Jersey and back again with a car and a couple of adults, but twice the amount to go the other way round, then in fact the travelling public of Jersey are subsidising the travelling public from the U.K.?

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

No, I would not necessarily agree with that. As I said a moment ago, as far as I am concerned, it is market-driven. There is a very large catchment area in the U.K. and there is not from the Channel Islands and specifically from Jersey. Clearly, we are concerned with having sustainable sea routes. We are concerned with an operator that is going to be financially viable. We are also very concerned that the fares charged are fair and reasonable in present market conditions and we are working towards ensuring that that is the case. If necessary, as has previously been mentioned, the likes of the Jersey Competition Regulatory Authority (JCRA) will in fact be brought to bear on the issue of pricing.

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

Perhaps I could ask the Assistant Minister when the Jersey Competition Regulatory Authority will be examining the pricing structures and when we would expect to have a result of their deliberations?

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

The JCRA at the moment is in the early stages of being contacted with regard to this issue. It is a complex issue relating to sea routes in total with regard to service level agreements, which are in the draft stage. It would be later on this year before we believe that it would be appropriate for them to look more closely at the pricing issue.

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

Could the Minister define for me what the "early stages of being contacted" means? Have they been contacted or not?

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

Yes, we have spoken to them in principle about looking at pricing structures for sea routes.

## **2.4 Senator B.E. Shenton of the Minister for Education, Sport and Culture regarding a post-project review on Phase 1 of the Hautlieu School rebuilding project:**

Would the Minister confirm whether a post-project review has been undertaken on Phase 1 of the Hautlieu School rebuilding project and is the Minister satisfied with the management of this capital project to date?

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

A post-project review has not been undertaken on Phase 1 of Hautlieu School as Phase 1 is not yet contractually complete. The project has been managed within the framework of Treasury Code of Direction No. 8 and Phase 1 has been subject to 3-stage internal audits, which has established the department has maintained satisfactory control of the project.

#### **2.4.1 Deputy R.G. Le Hérisssier:**

Would the Minister outline what the problems have been? For example, is he happy with the computer-controlled heating conditioning system within the school?

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

There have been a number of snags in Phase 1. It was a £26 million project. I regret that there were any snags at all but unfortunately in projects of that size it would be unusual, if not absolutely exceptional, for there to be no snags when it is finished. Why Phase 1 has not been contractually complete is that we are withholding retention monies and ensuring that all these snags are ironed-out. Yes, we have had snags with the heating; we have addressed the acoustics issues; we have replaced flooring in the canteen and done a number of other issues. I regret, as I say, there have been any problems with it. But what I am pleased to say is we have an excellent school delivering excellent education in excellent facilities and I hope everyone is supportive of that.

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

Would the Minister confirm that he will let me have a copy of the full post-project report when it is finalised, and also could he confirm that he will advise the number and cost of the consultants employed on the project?

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

No problem at all, if a post-project review is done and the Treasury are reviewing their Code of Direction on that. I would be pleased for Senator Shenton to see it and also, when the project is complete, he can look at all the fees, et cetera, to his heart's content.

#### **2.4.3 Deputy R.G. Le Hérisssier:**

Would the Minister confirm whether or not the major faults found, e.g. the canteen floor and the heating system, were faults in design or faults in construction and installation?

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

Each snag is looked at individually and then it is tried to work out why it has occurred and they are resolved, either through the contractor taking liability, through insurance, through contingency, whatever is appropriate for the time, whether it is a design fault or contractual fault.

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

On that very theme, can the Minister account for the design fault that means that the entire school cannot be addressed together in the hall? Why was the hall built too small for these rather large size 14 to 18 children?

**Senator M.E. Vibert:**

The size of the hall, which has been raised before, was designed in conjunction with the school to accommodate the whole school.

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

The Minister stated that he is satisfied with the building, at least to date. Could he confirm whether the teaching staff and the head teacher are fully satisfied with the building that they have got?

**Senator M.E. Vibert:**

When I visited the school, Sir, not only the head teacher and the teachers but all the children enjoy their new premises. Of course, they would like all the snags that there have been ironed-out, which we are working on, but it is an excellent school delivering excellent facilities and an excellent education. When I have been up there, the people seem to be enjoying very much the superb facilities they now have.

#### **2.4.6 Deputy C.H. Egré of St. Peter:**

Sir, could the Minister confirm that one of the snags reported was a fire in the air conditioning system?

**Senator M.E. Vibert:**

It was not a snag; that was a fire. There was a fire in the air conditioning system and ventilation equipment. That has been investigated by insurers. Replacement kit has been ordered and will be fitted from June.

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

Can the Minister confirm that while the hall was designed to fit the entire school in it, it simply has failed to meet its design and cannot?

**Senator M.E. Vibert:**

There have been discussions about whether it can accommodate the whole school or not and that is to do with the position of the stage and so on. As I say, the hall was designed in conjunction with the school and was fitted out as the school applied for it to be fitted out. On reflection, perhaps it could have been a bit bigger, but we designed it in conjunction with the school and it is a superb facility for those who have attended anything in the hall. I would hope that, when required, the whole school on the occasion it is required for the whole school to be in the hall, they will be accommodated in the hall. Of course, the bigger the hall, the bigger the cost.

#### **2.5 Connétable D.J. Murphy of Grouville of the Minister for Planning and Environment regarding the steps taken to investigate the benefits of tidal energy:**

What steps, if any, is the Minister taking to investigate the benefits of tidal energy and has any contact been made with the Alderney group who are already investigating this matter?

**Senator F.E. Cohen (The Minister for Planning and Environment):**

The Connétable of Grouville will be aware that the Council of Ministers has recently charged my department with producing an energy policy for Jersey. This policy will take a very broad overview of all aspects of energy policy, including economic, security of supply, resilience, international obligations and environmental impacts. The project has cross-departmental significance and a political steering group, consisting of Senator Ozouf and Senator Syvret and myself, will guide the process. Our first meeting will be on 30th May. I can confirm that the energy policy will include consideration of the various options that exist for us to make use of locally derived energy sources such as tidal energy. I expect to be able to report back on this work towards the end of 2006. My department has recently been in contact with Alderney Renewable Energy. This is a private company that has been granted a 5-year concession by the States of Alderney to use areas of Alderney's coastal water for the purpose of attracting developers of tidal energy technology to carry out their experimental trials. Tidal energy systems are estimated to be around 15 years away from market readiness. Currently, the delivered cost of tidal stream energy would be at least twice as expensive as the conventional generation and the operational costs of maintaining the kit are still untested. However, these issues will be overcome and the cost of tidal power will become more attractive as production costs are reduced by better design and increased scale, particularly if the global price of conventional generation of energy rises.

**2.5.1 The Connétable of Grouville:**

Is the Minister aware that in fact the first mass-producing tidal energy turbine is finishing construction off Lynmouth in Devon and is going on-stream into the national grid at the end of August? It has taken I think about 2 years to build, so I would question and would he please confirm that when he said 15 years that it was not serious? Thank you.

**Senator F.E. Cohen:**

I am no expert on tidal energy but I have had a trawl round the internet recently and read a few articles about the subject. It is very clear that the current cost of producing tidal energy is around twice conventional generation and that the projects that are being put in place around the world are effectively experimental, although they are generating energy which is being put into a number of grids around the world.

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

Would the Minister undertake in his investigations with the Health Minister to investigate the procedures in relation to the agreement with the J.E.C. (Jersey Electricity Company Limited) and the French net. At the moment, I am led to believe that there is an agreement whereby if the French grid needs electricity, the Jersey Electricity Company can sell them back electricity and the practice of burning oil in the past few months has occurred in order for them to do so. Would he undertake, with his group, to look into the environmental impacts that that is having?

**Senator F.E. Cohen:**

Sir, yes, I will.

**2.5.3 Deputy P.J.D. Ryan of St. Helier:**

Could the Minister confirm, as part of the energy strategy that he will be looking into, that he will be prepared to look at the liberalisation of the Jersey grid?

**Senator F.E. Cohen:**

Sir, yes, I am.

**2.6 Deputy R.G. Le Hérisier of the Minister for Transport and Technical Services regarding whether recent initiatives such as offering free bus travel to dogs fall within an approved Transport Strategy:**

In the light of recent initiatives such as offering free bus travel to dogs, would the Minister confirm whether these initiatives fall within an approved transport strategy?

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

Firstly, can I apologise to you and the States Members if I sound a little husky. **[Laughter]** Deputy Le Hérisier is a nice chappie and of course an old chum of mine from the former Legislation Committee. He is not one to lie down and roll over on matters of public transport, which he really likes to chew over to get at the real meat of the subject. Following a complaint, I investigated fares for dogs on buses and discovered the situation was completely barking. **[Laughter]** For example, guide dogs were allowed to travel free, but dogs that did not know their way around Jersey had to pay 50p. As Members will know, few dogs receive any pocket money. When asked to pay a fare, they were reduced to gazing pleadingly into their best friend's eyes, desperate for financial support. This sort of begging is very demeaning for dogs and their owners can get hot under the collar as well. So there is no question that, over the years, dogs have had it rough. **[Laughter]** Sir, I think I hear howling from the Senators' benches. I am not going to give way. So have their owners, which makes it rough-rough. I am determined to take a lead on this issue and, by extension, I hope dog owners will take advantage of this free offer to extend their dog-walking activities. But I should emphasise that dogs must be bus-trained and will only be carried at the driver's discretion. Additionally, they may not occupy a seat, otherwise I would have to count them as a subsidised fare. This latest initiative, together with the experimental airport express service, falls under Projet 60/1999, Sustainable Island Transport Policy, approved on 29th June 1999 by 30 votes to 5, aimed at improving the overall bus service for all users, including dogs. Sir, if following his supplementary question the Deputy needs any further information, perhaps he could contact me later on the dog-and-bone. **[Laughter]**

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

Is there any limit on the amount of dogs that could be allowed ... **[Laughter]**

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

Yes. I have drawn a line at 101 Dalmatians, Sir. **[Laughter]**

**The Bailiff:**

I think we are going to move to the next question.

**2.6.2 Deputy R.G. Le Hérisier:**

Would the Minister not agree that the tail is wagging the dog, in the sense that every evening in the *J.E.P.* he is announcing a new transport initiative and we have yet to see the overall strategy?

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

I am doing my best, Sir, to operate within the existing strategy and I intend to bring a brand new strategy forward as soon as possible.

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

Quite an important question. Will the Minister be issuing rover tickets for dogs? [Laughter]

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

Dogs no longer require ticketing.

**2.7 Deputy J.A. Martin of St. Helier of the Chief Minister regarding the implementation of a categorised register for the Island population and the provision of individual unique evidence of registration for the purpose of accessing public services, employment opportunities and accommodation:**

When will bullet point 4 of paragraph 5.4 of the document *Migration: Monitoring and Regulation* (P.25/2005), regarding the creation of a categorised register for Island population and the provision of individual unique evidence of registration, mainly for the purpose of accessing public services, employment opportunities and accommodation, be implemented and have there been any changes in this respect, such as persons who may be exempted from registration?

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

The Migration Advisory Group has recently considered its timetable for P.25/2005 and this will be published shortly. The current objective is to have the full range of new policies, including registration, in place by early 2008, as always planned. Members and the public will be kept fully informed and they will be consulted on the detailed proposals. A significant number of complex policy issues yet need to be considered and significant administrative and technical solutions must be identified. Work has begun on the registration system. The wider objective of the migration policy is to enable the States, as the question said, to effectively monitor and manage demands on accommodation, the environment and infrastructure. There are no changes proposed and there are no proposals to exempt people from registering.

**2.7.1 Deputy G.P. Southern:**

Has any consideration been given to using the individual unique registration for the purposes of registration to enable residents of the Island to vote?

**Senator F.H. Walker:**

Not that I am aware of, but I do not know whether that is a useable idea or not. But I will certainly take it up.

**2.7.2 Deputy A. Breckon:**

Sir, has the Minister given any consideration of how this may fit or not fit with the U.K.'s proposals to bring in identity cards?

**Senator F.H. Walker:**

No, Sir. That is not what the States agreed when they agreed to introduce registration. The Advisory Group and the relevant Ministers are working to the States' decision.

## **2.8 Deputy R.G. Le Hérisier of the Minister for Education, Sport and Culture regarding programmes in place for the on-Island training of primary and secondary teachers:**

What programmes, if any, are in place for the on-Island training of primary and secondary teachers and, if there are none, what, if any, are proposed?

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

Over the past 5 years, 20 secondary teachers have been trained locally in partnership with the Institute of Education, University of London. Eight primary teachers have been trained over the past 2 years in partnership with Bradford College. These programmes are not operating at present, partly because of funding constraints, but also because there is now a surplus of primary teachers on the Island. If required, these programmes could be resumed in future.

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

Would the Minister not acknowledge that there is a tremendous programme by his department to bring returning teachers back and it is very difficult for people to plan their career when there is an on-off approach of the kind exhibited by his department? Can there not be some kind of continuity in the provision of this on-Island training?

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

What we do, Sir, is look at the demand, both for teachers and for people wishing to train as teachers locally and we will react accordingly. Therefore, you could describe it as reacting to demand or, as the Deputy said, on and off. It has happened in the past. We have stopped it, we have resumed it and we react to demand as we interpret it.

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

Is the Minister aware that there is currently a serious problem with the recruitment, in particular of secondary teachers, with fields being narrowed-down to having to make an appointment from a mere 2 or 3 candidates?

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

There is a problem with the recruitment of secondary teachers, which is a problem that is U.K.-wide with secondary teachers. Obviously, we try to attract as high a quality as possible and we have been operating a programme equivalent to the U.K.'s graduate teacher programme for secondary teachers, a programme supported again by the Institute of Education, University of London. There will be 2 unqualified secondary teachers following this programme from September, one mathematician and one scientist, both in shortage areas. The programme is training-while-teaching and is well supported. This is one way we are trying to look at the difficulty of shortages in this area. If necessary and if there is a demand, we would resume our secondary teacher training programme but, of course, that takes time and the people wishing to train are not always in the shortage areas.

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

If I can ask the Minister: has the department analysed the retirement profile of its staff and when these staff are going to retire so that it is prepared? Secondly, Sir, is he not aware that a lot of people who wish to take up teaching are people who, because of family commitments, cannot easily get off-Island for long periods?

**Senator M.E. Vibert:**

Yes, I am aware and that is why we ran a programme in which 20 secondary teachers have been trained locally over the past 5 years and 8 primary teachers in the past 2 years, for the very reason that we appreciate that for some people it is very difficult for them to get off-Island. We do look at the retirement profile of teachers but, of course, it is not just a retirement profile. Teachers can retire within a window. Some retire early; some continue teaching for a few years past the age at which they can retire. Of course, some leave and then change professions, as a number in this House have done.

**2.8.4 Deputy G.P. Southern:**

Will the Minister outline to Members what measures he proposes to enhance protected time to ensure that conditions of service on the Island at least match those in the U.K.? Will he address the issue not only of recruitment but of retention and is he aware that some mature teachers, in the light of changes to higher education grants, are considering moving back to the U.K. in order to avoid heavy bills to pay for their children to go to university?

**Senator M.E. Vibert:**

A number of questions there. We are in discussion with the unions about conditions of service. Of course, conditions of service are normally linked to pay and Jersey's pay is considerably higher than the U.K.. We have some different conditions of service, which were freely negotiated some years ago by the teachers' unions concerned. The recruitment and retention of staff: I would hope that the salaries we offer and the ambience we offer and the facilities in our schools will mean that we will continue to be attractive to teachers wishing to teach in the Island. As for teachers leaving because of potential changes in higher education fees for their children, I think those teachers would need to look very carefully at how much they would end up paying in the U.K., where the maximum grant is £3,000 if you earn under £20,000. Most students there now are going to home universities - a preponderance of them - because of the difficulties that their parents are having in funding them to attend universities away from their home. Higher education, as everyone knows, is a difficult issue and I will be doing a complete review of it, so that Members can decide in the end how they wish the Island to support their local students in higher education.

**2.8.5 Deputy R.G. Le Hérisier:**

Could the Minister please give us the average rates of teachers leaving the profession every year during the last 5 years, be it for illness, proper retirement or whatever? Secondly, Sir, can he confirm that all grants have been stopped for all students who express a wish to go to the mainland to train as teachers, given the policy he has outlined?

**Senator M.E. Vibert:**

I am bemused by the second part of the question. Of course all grants have not been stopped for teacher training. In fact, if the Deputy would like to look at the Education Law, he will see we are bound to give grants to people who qualify for teacher training. It is a statutory requirement. As for average rates of leaving the profession over 5 years, I think I might need a slight notice of that question as I have not got those figures to hand. If the Deputy would like to write to me and the department, of course we will endeavour to provide him with what information he requires.

**2.9 Deputy P.V.F. Le Claire of the Minister for Transport and Technical Services regarding composting in close proximity to the fuel storage containers and facilities at La Collette:**

Given the recent lessons of the Buncefield Oil Fires, has a review been undertaken with the emergency services on the practice of composting in close proximity to the fuel storage containers and facilities at La Collette?

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

Sir, I think it is first important to understand that the Buncefield Oil Storage Depot is of a massive order of magnitude and difference. It is much vaster than the oil storage facilities that we have in St. Helier down at La Collette. Despite the reports, it is difficult at this stage to see what the lessons to be learned from Buncefield precisely are. It appears that the containment system broke down, causing a form of leak and it is still to be determined which of a number of possible sources of ignition were the cause of the fire. There is no particular review being undertaken in respect of the relationship between the oil storage facility at La Collette and the composting site, other than the reviews that are already in process as a matter of standard procedure and anything that the Emergency Planning Officer may decide to do when the full meaning of what happened at Buncefield has become clear. However, I would like to assure the Deputy and Members, as well as the public, that although heat is produced in the process of composting, it is not of anywhere near sufficient heat to cause either combustion or ignition. Indeed, the composting process works largely by the composting rows being kept damp. As such, there is no danger either of the composting causing a fire or, likewise, fire having any serious effect on the composting operation.

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

I am pleased with some of the answer, in effect, that the Chief Minister has given me this morning and also the fact that the Minister answering this question has outlined that there seems to be a joint approach to this. May I just put it to the Minister that it might be of consideration to his department and himself that the evidence from the Buncefield oil fires has determined that the leaking fuel travelled across the topography of the land until it met the ignition point, which is yet to be determined. Because of the fact that the fuel tanks at La Collette could follow a topographical journey towards an ignition source, perhaps being the composting site, that it might be of benefit - whether or not the Minister would agree with me - for the Fire Department to correlate the risk with his department.

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

It is the nature of any leaking fuel that is heavier than air to follow the topography of the surrounding land. That is a well-known fact. I reiterate once again. There is absolutely zero risk of the composting operation being the source of any ignition and I see at this stage no need for any special investigation.

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

Does that mean the Minister is saying he will not undertake to ask the Fire Department whether or not there is a risk and he is giving us his personal view or the department's personal view that there is no risk?

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

The oil storage area is matter for the Harbours Department.

**2.9.3 The Deputy of St. Peter:**

Is the Minister aware that the actual site itself is a COMAH (Control of Major Accident Hazards), which is a Control of Major Accident Hazard site and it is at a top-tier level because of the nature of the storage there, not just fuel but also LPG (Liquid Petroleum Gas)? Further, was he aware that at Buncefield, initially, when it was designed, it was a green field site, kept well clear from any industry? Because of the pressures on land bordering Hemel Hempstead, industry came close to the actual site and, as a result, great damage was caused.

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

Yes, I am aware of that, Sir.

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

The Minister responded to my last question - whether or not he would call in the Fire Department to ascertain whether or not there is a risk - by saying that the fuel tanks are the responsibility of the Harbours Department. They certainly may be, but what I am asking is whether or not the Minister will undertake to ask his department to contact the Fire Department to establish whether or not, in conjunction with the Chief Minister's Office, there is a risk from the composting site, which is his department's responsibility?

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

Despite the fact there is absolutely no risk from the composting operation, I am happy to undertake, on behalf of the Deputy - who is perfectly capable of doing it himself - to contact the Fire Department and see if there is indeed a risk.

### **2.10 Senator B.E. Shenton of the Minister for Treasury and Resources regarding the current fiscal strategy, and the "20 means 20" proposals in particular:**

Would the Minister inform Members whether the current fiscal strategy, and the "20 means 20" proposals in particular, are consistent with the requirement for a prudent government to encourage the working population to save a proportion of their income in order that they build up a personal strategic reserve and also fund their retirement?

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

Making adequate provision for pensions and savings is a complex subject. The present Jersey tax system supports pension provision, primarily by allowing tax relief for contributions to approved pension schemes. However, it also acknowledges that many people provide for retirement through the value of their property and tax relief continues to be available for interest on the first £300,000 of mortgages. Others make provisions through life insurance cover. Although interest income is taxable, any capital appreciation is not taxed, allowing investments to be held for long-term benefit. I can confirm that the existing tax relief for contributions to approved pension schemes would continue under the current "20 means 20" proposals and, indeed, under revised proposals, which I shall be publishing shortly. The fiscal strategy is fundamental to securing the economic future of the Island. I would remind the Senator that without good jobs savings become very difficult indeed.

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

The Minister is looking at taking more money out of people to fund university provision for their children, yet there are no incentives to save for this. Under "20 means 20", life assurance relief - I

think - will be removed. The Minister likes to convey himself as a safe pair of hands. Would he not agree that perhaps a pickpocket would be a better description?

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

Pickpockets, Sir, work under cover. I am being perfectly open in what proposals we are putting forward. I suggest that the Senator and Members wait to see what the revised “20 means 20” proposals show when they are published in a few days’ time.

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

Would the Minister consider that it would not have been perhaps better to have capped the level of investment that can be made into an insurance scheme linked to a savings plan for the purpose of encouraging ordinary people to save, rather than to disallow tax relief altogether? Would he give this consideration with the review of the “20 means 20” package?

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

I think we need to understand, Sir, that the purpose of “20 means 20” was to allow for a greater proportion of tax to be payable by those on higher net disposable incomes. There are other strands of fiscal strategy which may need to be addressed in the future, including matters such as the Deputy of St. John raises. But this is primarily a matter for generating a further £10 million from those people with higher disposable incomes.

**2.10.3 Deputy G.P. Southern:**

Will the Minister inform the House whether or not his new “20 means 20” proposals will impact upon a working professional couple earning around, say, £80,000, as the previous “20 means 20” would? At this very moment, should they have a child in higher education, they would be paying out at least £11,500 plus maintenance in order to support that child.

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

I am not going to leak any details of proposals I am going to bring forward in a few days’ time, Sir. The Deputy can wait until they are published and he and other Members will have a full opportunity to consider them and see the effect that they may have on any particular household.

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

Was the Minister aware that some people use the insurance and saving plans method to help them plan and fund university fees?

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

Yes, Sir.

**2.11 Deputy G.P. Southern of the Minister for Treasury and Resources regarding the new ‘Zero/10’ taxation proposals:**

Would the Minister inform Members whether the new Zero/10 proposals reverse the successful taxation policies of the past 40 years by transferring the responsibility for paying for local services solely to residents?

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

I would say, Sir, that the Zero/10 proposals are consistent with the fiscal strategy which the States agreed last year. They do not reverse the successful taxation policies of the last 40 years, as there is no question of local services being paid for solely by local residents. I do concede that local residents will be called upon to contribute more than they currently do and I believe it is fair that we all appreciate our responsibilities and contribute to the running costs of the Island. Financial services companies will be charged at a 10 per cent rate of tax on their trading profits and they will also pay a substantial contribution towards the proposed goods and services tax. Whilst it is true that some local residents will also have to pay more tax, they will not be solely responsible for the tax burden under the Zero/10 proposals, as these comments confirm. I believe that the Zero/10 proposals are essential for the future wellbeing of our economy and will built upon and enhance the success of Jersey as an international finance centre. They are necessary not only because they are essential for international competitive reasons, but also they show our determination to be a good neighbour to our European colleagues. They will enable local residents to continue to enjoy the highest standard of living, which they have enjoyed now for many recent years.

**2.11.1 Deputy G.P. Southern:**

The Minister refers to the contribution to be made by the financial services industry as “substantial”. Can he express whether he considers truly that between £10 million and £15 million is in fact substantial, compared to £45 million, which is going to come out of residents’ pockets?

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

I think the Deputy needs to remind himself that those residents he talks about are very often employed in the financial services industry and that they will be paying indirectly, if you like, for the benefits and success that that industry achieves in being able to provide these people with a good disposable income.

**2.11.2 Deputy G.P. Southern:**

What steps will the Minister take to ensure that the effects of his GST policies are not reflected in raising inflation rates on the Island through raised wage claims?

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

There is a clear danger at any time, Sir, irrespective of fiscal changes, that inflation can drive wage pressures, as indeed many other facts can drive wage pressures. At the end of the day, wages can only be raised if the Island can still remain competitive. Without that adequate competition, there will be no jobs for these people. So, in negotiations, while there may well be compelling social reasons to pay higher wages, unless the businesses can afford to do that by being in a successful economy, they will not be able to pay them.

**2.11.3 Deputy G.P. Southern:**

Can I ask the Minister to answer the question? The question was: what measures will he take, not what will happen to business.

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

I will review the situation regularly under review. In the same way as we deferred “20 means 20” at the last budget because there were perhaps economic consequences of it, so we will continue to keep all our fiscal measures under review and only implement them in such a way that they will not lead to either undue inflationary or deflationary pressures.

**The Bailiff:**

Just as I was announcing the final supplementary, the Deputy of St. John caught my eye, so the last supplementary will come from the Deputy of St. John.

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

I just wonder if the Minister could clarify as to under the 0/10 proposals a Financial Services Company will be determined as such by virtue of it being registered with the JFSC (Jersey Financial Services Commission). Is that how you are going to determine as to exactly what a Financial Services Company is or not?

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

The determination or definition of a Financial Services Company is quite a complex matter and I can only refer the Deputy to the details which are in the consultation paper. It is still, at this stage, a consultation document but what we are trying to achieve is a workable way of defining a Financial Services Company in the simplest way but ensuring that we get the maximum contribution from that sector.

**2.12 Deputy G.P. Southern to the Minister for Treasury and Resources regarding why the Jersey Financial Services Commission will no longer need to know the beneficial owners of the proposed Jersey Incorporated Investment Companies under the new 0/10 proposals:**

**Deputy G.P. Southern:**

Could I seek clarification from the Chair, Sir? I understand that the question as phrased makes no sense. I ask about Foreign Incorporated Investment Companies when I should be asking about Jersey Incorporated Investment Companies. Will you allow me to change that single word in the question, Sir? Otherwise I will just be asking it as a supplementary.

**The Bailiff:**

I am sorry. What do you want to change?

**Deputy G.P. Southern**

“Foreign Incorporated” to “Jersey Incorporated”.

**The Bailiff:**

I am sure that will make life easier for the Minister.

**Deputy G.P. Southern:**

Would the Minister inform Members why the Jersey Financial Services Commission will no longer need to know the beneficial owners of the proposed Jersey Incorporated Investment Companies under the new 0/10 proposals?

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

In a way, the question is better phrased in its original form because it relates to the provision of services to customers around the world which, at the current time, have a predilection for using

companies in the BVI (British Virgin Islands) or elsewhere rather than Jersey companies. The intention behind the recently published proposals is for local professionals to be encouraged to use companies incorporated in Jersey rather than their current desire to use those in other locations. The reason that they used companies incorporated elsewhere in the past has been the speed of incorporation and if we can match that speed of incorporation, then I believe that the Island has a great potential here to do further business. To achieve that what we will need to do is to have a way in which incorporation can be achieved with the beneficial ownership being a matter for the service providers through the 'Know Your Clients' procedures rather than the need for complicated arrangements with the control of Income Tax prior to incorporation. So, in future, there will be proposals that the responsibility will be within the in-house providers of these companies who would, of course, be accountable to the Financial Services Commission through their regular reviews.

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

Can the Minister say whether this may prove a hindrance for his 'Look-Through' proposals or for any anti-tax avoidance or money laundering measures?

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

These proposals need to be considered in conjunction with anti-avoidance measures in terms of local providers and I believe that this, in fact, will be a far better system. At the present time, when people use companies incorporated in places like BVI there is no requirement for any authority in the BVI to know the ownership behind a company. In Jersey we have the requirement that the service providers have to know and be accountable to the Financial Services Commission for their client's activities. I believe that encouraging people to use a reputable jurisdiction like Jersey would only enhance our future position.

#### **2.13 Deputy G.C.L. Baudains of the Minister for Transport and Technical Services regarding the department's maintenance schedule for standby and emergency plant:**

Would the Minister advise whether the department has a maintenance schedule for standby and emergency plants and, if so, whether he intends reviewing any such schedule?

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

With your permission I would like to invite my Assistant Minister, Deputy Huet to respond to this question.

#### **Deputy J.J. Huet of St. Helier (Assistant Minister for Technical and Transport Services):**

The department does have a regular maintenance schedule for operational equipment, including all stand-by and emergency plant. I am assured by the department that the schedules are adhered to and that we have no reason to undertake a review.

#### **2.13.1 Deputy R.G. Le Hérissier of St. Saviour:**

Would the Assistant Minister indicate whether or not there has in the last year or so been a serious break-down of such equipment?

#### **Deputy J.J. Huet:**

We have had a breakdown but it was a recent failure of a generator, temporarily, located at the entrance of the cavern. It was not critical. It was obsolete and it had no commercial value

whatsoever. We obviously had other equipment in place and there was no interruption of the power. We were testing it for loads to see if we could use it at a later stage.

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

Would the Assistant Minister agree that proper maintenance, whether it is on a regular basis or even only when staff are available, saves money in the long term by prolonging the useful life of equipment? To that end would she be prepared to investigate, for example, the standby generator currently in the Snow Hill car park which has sadly been allowed to deteriorate over a number of years through lack of maintenance to the point where I am told that consideration is being made to dump it, and presumably the States will be paying approximately £50,000 to replace it?

#### **Deputy J.J. Huet:**

I am sure that the Deputy will be really pleased to know that the set was bought second-hand about 15 years ago and it was bought for one specific purpose which was to act as a back-up for the sewerage treatment works while we were doing some electrical work up there and it was being upgraded. The purchase at that time was £12,000. So the damage that has been done to this one that was in the car park was serious and it will be subject to an insurance claim as a total loss. But, of course, I am willing to assure the Deputy that I will look into and make sure that we have got everything tip-top and that we keep it that way.

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

Finally, would she agree that if plant is not maintained and is a stand-by emergency plant, it is of no use at all if, when you need it in an emergency, it does not work?

#### **Deputy J.J. Huet:**

Yes, I do agree. But, again, once again I would say to the Deputy for an emergency situation the department has 2 other newer and more mobile units which are regularly used and serviced and load-tested. But, yes, it is only common sense what he is saying.

#### **2.14 The Deputy of St. Martin of the Chief Minister regarding action taken to prepare legislation to give effect to proposals adopted under “Share Transfer Property: Stamp Duty” (P.211/2004):**

On 19th January 2005, the States adopted Share Transfer Property: Stamp Duty (P.211/2004) charging the former Finance and Economics Committee to prepare the necessary legislation for consideration by the Assembly in 2005 to give effect to the proposal. As the Treasury and Resources Minister has not brought forward the legislation to date what action, if any, has the Chief Minister taken to address the situation?

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

Members will be aware that a similar question was asked of the Treasury and Resources Minister on 28th February 2006. At that time, the Minister reported to the Assembly that the legislation was proving to be more complex than originally thought and the Law Officers’ Department have been asked to advise on a number of options that would give effect to the States’ decision. The advice of the Law Officers’ Department has now been received and the matter is being progressed by the Treasury and Resources Department. I do accept that this is an important matter and I have asked the Treasury and Resources Minister to ensure that work in this area is given a high priority.

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

I thank the Chief Minister for his assurances but I think it became quite evident during the debate that the share transfer system is totally unfair. It is a way around paying stamp duty and is costly to the Island. Would the Chief Minister give us some idea of how much is being lost each month to the Treasury as a result of the failure to bring this legislation forward?

**Senator F.H. Walker:**

No, Sir, I cannot give an answer to that question without notice but I am pretty certain those figures were made known during the debate on the Deputy of St. Martin's proposition in 2005.

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

Is it possible to bring those figures back to the House?

**Senator F.H. Walker:**

Yes, Sir.

#### **2.15 Deputy G.C.L. Baudains of the Minister for Planning regarding powers under Article 15(1)(a) of the Island Planning Law 1964 and their use in respect of site H4(15), Samares Nursery:**

Would the Minister confirm whether Article 15(1)(a) of the Island Planning (Jersey) Law 1964 is sufficient to enable him to order structures such as derelict glasshouses to be demolished and, if so, will he use those powers in respect of site H4(15), Samares Nursery, on the grounds of health and safety?

**Senator F.E. Cohen (The Minister for Planning and Environment):**

There are 2 provisions in the Island Planning Law that could, depending on the circumstances of the case, be used to ensure either the demolition or the repair of dilapidated buildings. Article 15 to which the question relates give the Minister the power to serve a notice requiring the removal of any buildings which are in a ruinous or dilapidated condition and to remove any rubbish resulting from the demolition. In the alternative Article 16 of the Law is the power, where the amenities of the Island are seriously injured by the condition of any land, to serve a notice on the owner and occupier requiring such steps for abating the injury to be taken within a specified period. I thank the Deputy for bringing this matter to my attention. I shall visit the property to determine whether it is appropriate or necessary to take any action and, if so, under which article and will notify him accordingly.

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

I thank the Minister for his answer.

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

I wonder, Sir, if the Minister could also inform the House of the related issue of agricultural sheds? What progress is being made in developing a new policy as we are faced, yet again, with the possible extension of massive sheds into the countryside?

**Senator F.E. Cohen:**

This is a matter that I am presently looking at but I am afraid I have made little progress so far but would expect a report back in the coming months.

**2.16 Deputy S. Power of St. Brelade of the Minister for Transport and Technical Services regarding the identification of sufficient alternative car parking space prior to redevelopment of the Esplanade car park site:**

In view of the importance of the Esplanade car park to commuters coming in from the 5 western parishes and its role in reducing traffic congestion in the central town area due to its location, would the Minister confirm that sufficient car parking to replace the spaces in this Esplanade car park will be identified before any redevelopment of the site starts?

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

I thank the Deputy for his question and I can confirm that discussions have been in hand with W.E.B. (Waterfront Enterprise Board) for some time concerning the redevelopment of the Esplanade car park to ensure that the existing public parking contained on the site is included in any redevelopment plan. During the construction period, options for phasing the building works have been investigated with W.E.B., thereby retaining a portion of the existing surface of the car park for public parking. Any displaced drivers will be accommodated in Pier Road and Sand Street multi-storey car parks which have spare capacity.

**2.16.1 Deputy J.A. Hilton of St. Helier:**

Will the Minister confirm that the £15 million set aside in the Car Park Trading Account to provide car parking in the Gas Place area will not be used to offset the loss of public car parking to privatisation or otherwise elsewhere in St. Helier?

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

I am afraid I am not in a position to confirm anything at this stage because, as I am sure the Deputy may understand, we are about to undertake a £100,000 review and report of car parking throughout the whole of St. Helier. Therefore, it would be rather remiss of me to anticipate what the content of that report may be and what recommendations it may make.

**2.16.2 Deputy S. Power:**

Can the Minister assure the Assembly that the replacement car park that will be on the same site on the Esplanade will remain under the management of his department and it will not become a privately owned car park or a car park under private management?

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

I am not in a position to confirm that at this time, Sir. However, I do understand that the intention is to develop a car park that is substantially larger than the existing car park on one or more floors and I anticipate that provision for car parking when the site is finally developed will be much greater than it is now. As to who will be running the car park, that is a matter to be decided.

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

The Minister has just told us that he will be undertaking a review of car parking in town and that review is going to cost £100,000. Could he explain to us how they have come to that cost basis?

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

I do not know if the review will cost £100,000 or not but that is the amount of money that has been set aside. I am sure it has been set aside very sensibly because a decision was taken by the former

President of Environment and Planning and not myself. As I know he was also a member of the former Finance Committee, I am sure he got his sums right.

**2.16.4 Connétable K.A. Le Brun of St. Mary:**

Could I ask the Deputy how many car parking spaces there are in that car park as one of the questions? Because having commuted for many years down St. Peter's Valley and having seen the hold-ups there were years ago before the car park became available, a lot of the people - and myself included - were queuing from Tesson Mill during the proceedings and, certainly, as soon as it came into being it relieved the congestion completely. Going on from what he just said as well before, it is rather disturbing to hear that he is saying that it would use up a vast amount of the Sand Street car park...

**The Bailiff:**

Connétable, this is becoming a speech.

**The Connétable of St. Mary:**

Oh, sorry, Sir. Yes, my apologies. It is just that having said that, the Sand Street car park was a very short-term one and therefore the Esplanade is a long-term one. What would he do about making sure there is long-term car parking and not utilising the short-term one and would he not agree that it would not be beneficial for the town traders not to have their short-term car park?

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

The Constable covers a number of interesting points. I regret to say that as a regular user of public transport as opposed to being a regular user of our car parks I cannot give him, off the top of my head, a precise figure for the number of car parking spaces in the Esplanade car park but I am very happy to look into that matter and give him a precise figure as soon as I can have it. But I would suggest it is probably in the region of 450 or so. He is quite right to point out that there is a difference between the 2 multi-storey car parks. Sand Street is more of a shopper's car park and Pier Road is obviously for more long-stay commuters. There is very substantial space available at Pier Road but I can assure the Connétable and Members of the House that before any work starts on redeveloping the Esplanade car park we will look at the matter in considerable detail to ensure that no commuters or shoppers are going to be inconvenienced in terms of the parking provision required in that area of St. Helier.

**2.16.5 Deputy J.A. Hilton:**

In light of the answer to my previous question I am going to press the Minister on this. It has always been my understanding that the £15 million had been set aside in the Car Park Trading Account, probably since the late 1990s. I understand that there is a car parking strategy being carried out at the present time but I want the Minister's assurance that that money that has been set aside for the last 7 to 8 years will remain earmarked to provide a car parking provision in the Gas Place area.

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

Well, I am slightly puzzled if the Deputy has an understanding but all I can say is that I am not in a position to give her an assurance at this time and I will look into the matter.

**2.16.6 Deputy S. Power:**

Is the Minister aware that in the 5 western parishes about 1,100 new units of accommodation are due for completion in the next 12 months? The provision of car parking and any demolition of car parking is a serious issue. Can the Minister come back to this Assembly as soon as possible and give us a definitive statement on where he is with negotiations with W.E.B?

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

Yes, Sir, I will return to the House with a statement on where we are with continuing negotiations with the Waterfront Enterprise Board as soon as I am able to clarify where we are in negotiations with the Waterfront Enterprise Board.

**2.17 The Deputy of St. Martin of the Minister for Home Affairs regarding whether law drafting instructions have been submitted for the proposal adopted under “Speeding fines: allocation of funds to parishes” (P.156/2005):**

On 31st January 2006 the States adopted Speeding Fines: allocation of fines to Parishes, (P.156/2005), as amended, charging the Minister for Home Affairs to bring forward for approval the necessary amendments to the Road Traffic (Jersey) Law 1956, to give effect to the proposal. Will the Minister advise whether law drafting instructions have been submitted to the Law Draftsman and, if so, when, and when the amendments will be lodged?

**Senator W. Kinnard (The Minister for Home Affairs):**

Thank you, Sir. The Law Draftsman has confirmed that this legislative change can now be dealt with as a minor and routine item. Law drafting instructions which have been prepared by the Home Affairs Department were submitted to the Law Draftsman’s office yesterday but their preparation pre-dates this question. However, following the transfer of functions from Home Affairs to Transport and Technical Services, responsibility for the areas of the Road Traffic (Jersey) Law 1956 which will be affected by this amendment lie with the latter department. It will, therefore, be for the Minister for Transport and Technical Services to lodge the amendments when he sees fit.

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

Could I just ask the Minister is the other Minister aware of his responsibilities? Has there been this dialogue?

**Senator W. Kinnard:**

Yes, the other Minister is aware and, indeed, my department has communicated directly with his department on this matter.

**3. Questions to Ministers without notice - The Minister for Education, Sport and Culture**

**3.1 Deputy J.A. Martin:**

In written questions this morning to the Constable of St. Helier: Question 3 - “Would the Education Minister indicate whether he intends to fulfil the pledge made in the consultation document called *Investing In Our Future: A Vision for Early Years*” and the final line of the answer says it is sort of being looked into but the aspiration was to take effect in 2008. Could the Minister square this with the Strategic Plan which, under “skilled and motivated and qualified local workforce, able to meet the Island’s economy and social objectives and increasing more people back to work” he states - and I am assured that this document was written by our 10 Ministers with a very small officer input at the L’Horizon over a weekend - at 2.6.1: “Bring proposals to the States in 2006 for an earlier strategy which will increase the number of children with access to affordable early years education

and care.” Now, could the Minister tell us which is the correct statement, please? Thank you, Sir.

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

Certainly, Sir. Both. I intend to bring proposals in 2006. It is very complex and in the document it was an aspiration for those proposals to take effect from 2008.

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

Members have heard much from Ministers about the willingness of the Executive to co-operate and work alongside Scrutiny Members. If this is to be taken at face value would the Minister for Education advise the House as to why, after requesting a report namely the BMI Stress Audit 2001 4 times and then requesting it again at a Scrutiny Meeting a month ago, I have not yet received a copy?

**Senator M.E. Vibert:**

I can only apologise, Sir. I asked for a copy to be provided. I will chase it up.

**3.3 Connétable A.S. Crowcroft of St. Helier:**

In his answers to written questions at the last sitting, the Minister said that the decision was taken to commission the work at St. Peter’s Primary School nursery in February of this year, yet in his answers today, when I asked for the exact date - I meant the day of the month - he takes us back to 1997. Could he please enlarge upon the decision that was taken this month that that capital project should go ahead and give us the exact date when it was taken, please?

**Senator M.E. Vibert:**

I cannot remember the exact date offhand but, of course, it will be in the Ministerial Decisions on the website and that was when I signed the plans and the contract. But the decision to go ahead with a nursery class at St. Peter was taken by a previous Education Committee which had been considering it for some time and it had been in the plans because it was part of States policy for some time and then the date given was when it was put forward for inclusion in the Capital Programme.

**3.4 Deputy S. Pitman:**

In light of the Privileges and Procedures Committee and the Council of Ministers seeking methods to attract more Islanders to vote, does the Minister see any correlation between the lack of local cultural and - even more pertinent - local political education in the school curriculum?

**Senator M.E. Vibert:**

Yes, I do and I have been acting accordingly. I am pleased to inform the House that I am seconding an experienced teacher from the beginning of June to work on a programme of study for citizenship in Jersey and his brief will be to construct a programme of study for all key stages in schools that gives a structured delivery of citizenship in Jersey. That will include the political dimension and, in fact, in his brief it is envisaged that he will need to meet a range of stakeholders that will include local politicians, the Connétables and the Bailiff, et cetera.

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

Could the Minister provide any information to Members regarding the potential action of

University lecturers and how this may affect our University students with their end-of-year exams, especially those completing their degrees?

**Senator M.E. Vibert:**

I regret that there has been action in the U.K. that has caused some disruption. The information that we have is that it was hoped that it would go away and will not have a great affect. We are trying to monitor the situation but, of course, when action like this takes place they do not often give notice. Of course, it is all students attending University that are affected. I am concerned about it and I have asked for an eye to be kept on it but unfortunately it is not something we can influence.

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

In his comments to the *Jersey Evening Post* on 24th January 2006, the Minister promised to tackle the inequity between private and public sector nursery provision and I quote: "We hope to get this resolved in the next few months" he said. That was in January. Could the Minister account for the fact that in February, one month later, and notwithstanding the comments and chorus of concern from the private sector nurseries, he went ahead and signed an order for another private sector nursery to commence?

**Senator M.E. Vibert:**

Unfortunately, trying to find an answer to inequity in early years provision, particular education as opposed to care - and there is a difference - has proved a very difficult issue to resolve and a very wide issue. We are in discussions with the Department of Social Security and trying to tie-in with the income support system there. While this is happening there is an extant States policy and that is to provide nursery classes attached to primary schools when they are redeveloped. That is why I have signed an agreement that there should be a nursery class provided at St. Peter's School. It will provide a wonderful early years education which is a great investment in the future for children who attend and in the catchment area of St. Peter's School.

**The Connétable of St. Helier:**

Could I make a point of clarification? I should have said another public sector nursery, not private sector.

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

The Minister has been building-up the number of States nurseries and he has also been increasing the number of teachers employed by the Island at the time when there is a Pensions Fund black hole in the Teacher's Pension Fund. Does he think it is wise to build-up the number of teachers before sorting out this problem?

**Senator M.E. Vibert:**

Yes, Sir, I think it would be absolutely irresponsible not to provide the correct number of teachers we need for teaching our children on the Island and I hope that would have the support of every Member of the States.

### **3.8 Deputy S. Pitman:**

Given the essentiality of States Departments achieving best practice and value for money, as the Minister responsible for the Youth Service, would he advise the House whether he feels the current ratio of a 4-strong management team to just 12 professional youth workers is best use of limited

resources particularly in light that often youth projects run under-staffed?

**Senator M.E. Vibert:**

We did a review of this and this was the suggestion that was needed because it is not just the 12 full-time youth workers. Of course, there are numerous volunteers and so-on and, of that management team, some of the time is designated to be spent on front-line activities. I know the Deputy has a great interest and a great knowledge of the Youth Service and, of course, the Scrutiny Panel is to undertake a review of the Youth Service and we can discuss it then.

**3.9 Deputy R.G. Le Hérisier:**

In previous answers, the Minister has alluded to the fact that he is well-informed on the strategic training and education needs of the finance industry. I wonder, Sir, if he could tell me what his understanding is of what these key needs are and how his department is responding to them?

**Senator M.E. Vibert:**

My understanding is that we will need to maintain a very close relationship with the finance sector so as we can keep abreast of their changing needs because they do change depending on how the finance industry in the Island is developing. We have got in our schools at the moment - in 2 schools in particular - 2 qualifications working with the finance industry that we have set up. We are also working very closely with the finance industry at Highlands. A number of senior people in the finance industry are on the Highlands Board of Governors so that they can keep Highlands in particular well informed of what is required. Also the Higher Education Development Group is contacting and consulting with the finance industry so that we can be assured and we can have good lines of communication so that as and when the finance industry needs change we can react to it.

**3.10 Senator J.L. Perchard:**

Would the Minister advise the Assembly of his opinion as to whose departmental responsibility it is to provide education within the prison?

**Senator M.E. Vibert:**

I think it is the Island's responsibility to provide education within the prison and the whole idea of trying to work together as a Council of Ministers should be to resolve problems like this. I am working very closely with the Minister for Home Affairs and I was able to write a letter the other day to say that with re-arrangement of our alternative curriculum I hope to be able to provide her with a post for a Head of Prison Education from this September. How we are going to fund underneath that is a matter we need to look at together. In the U.K., for example, it is the Home Office which provides education within the Prison Service funding and the Department of Education and Skills then supply what is required and it is funded by the Home Office. But I do not think it is a territorial matter. I think the prison is an issue and the shortcomings at the prison which need to be addressed is an issue that we should address as a whole, as a Council of Ministers and as a States. It is not something that we can be proud of and it is something that we should all work to resolve.

**3.11 Deputy J.A. Hilton:**

Can the Minister confirm that it is in fact his department's responsibility to educate children under 16 who are in custody or serving a term in Greenfields? Thank you.

**Senator M.E. Vibert:**

Yes, Sir, it is and we do.

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

I hope I may be permitted to ask a question about the newly-announced Cultural Co-ordinator while you are in the Chair? I would just like to ask the Minister to confirm with regard to the new post - the choice for which many of us applaud - his previous undertaking that that is being made possible by compensatory staff savings and could he indicate which part of his organisation those savings were made in?

**Senator M.E. Vibert:**

Yes, Sir, I can confirm. Though it may have upset you somewhat, I am very pleased - exceptionally pleased, in fact - about the new Cultural Development Officer we have appointed and I can confirm that it was a result of internal savings of posts. I have not got the exact nomenclature of the posts but I will provide them to the Constable, because I would not wish to mislead him in any way. But I can assure him we will provide, if he wishes, the details of the posts. It was half a post in one area and half a post in the other. But, as I have said and am quite prepared to stand by, we did not create another post, we made savings. I hope as a supporter of culture that he applauds this and that we are putting more effort and energy into culture and I hope he applauds the appointment of a new Cultural Development Officer.

**3.13 Deputy J.A. Hilton:**

The Minister has just confirmed to the House that it is indeed his department's responsibility to provide education to the under-16s. Can he please tell us exactly what he intends to do about that?

**Senator M.E. Vibert:**

We intend to fulfil our obligation. When we are informed that people below statutory school-leaving age are in custody we make arrangements for their education to be provided for. Sometimes it is very difficult because of the reaction of the young people concerned but we do our best. Of course, once the new Greenfields comes onto line we will be better equipped to deal with such issues and the new Greenfields is an example of a number of departments working together to deliver a common good.

**3.14 Deputy S. Pitman:**

Would the Minister advise the House as to what progress, if any, has been made on securing a replacement facility for the "Move On" youth café?

**Senator M.E. Vibert:**

There is a group working on looking at the possibility of providing a replacement for the "Move On Café" in a vessel to be stationary-moored in a part of the harbour area. That is progressing. I have given an undertaking before, and I give the undertaking again, that I will insist as much as I can that the commitment given that there will be youth provision in that area will be met. I am adamant about that - I will do everything I can about that. At the moment the area we are looking at, as the Deputy knows, is the provision of a "Move On Café" type replacement in a vessel which will be moored - but not in the water (so it is stationary) - in the harbour area.

**The Bailiff:**

I am afraid the first question period has now expired. We come to the second question period,

questions of the Chief Minister.

#### **4. Questions to Ministers without notice - The Chief Minister**

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

Is the Strategic Plan a wish list, a manifesto, or a strategic plan that gives the Ministers the power to implement the strategies contained therein?

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

It is none of those 3 things and I am saddened that the Senator should think it has to fall into any one of those categories. The Strategic Plan is a vision for the States to sign up to or not as the States may wish; merely a vision for the long-term direction in which the States wishes Jersey to go. It could also be described as - as the statement I will make shortly makes clear - a work plan for the Council of Ministers as agreed by the States to work to and to come back to the States on the back of, with specific propositions and, in particular, anything relating specifically to the allocation of resources.

##### **4.1 Deputy S. Pitman:**

How does the Chief Minister's proposed scrutiny work with Ministers: during the formulation of policy, with draft policy or when a policy is in its completion?

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

I think that is laid out very clearly in the States of Jersey Law and Standing Orders. The thinking has always been that Ministers would draft policy and at the earliest possible stage that draft policy would be shared with the relevant Scrutiny Panel or Panels and discussions and scrutiny would then take place. Sadly, if the Strategic Plan is anything to go by that has not worked terribly well in recent weeks and months. Again, I will be referring to that in my statement. But let me make it abundantly clear, Sir, again. The system of ministerial governance, if it is to work properly, requires strong independent but disciplined and organised scrutiny if it is to deliver what the people of Jersey expect of it. We have much to do to arrive at that objective. There have been teething problems. One could argue there have been more than teething problems. We have much to do to arrive at that objective but I believe firmly that in the best interests of the people of Jersey we should all - Council of Ministers, Scrutiny Members and all other States Members - sign up to that objective and make sure we deliver on it in the earliest possible time span.

##### **4.1.1 Deputy S. Pitman:**

Sir, could I just comment, please? The thinking of scrutiny is that we work also during the formulation of policy. It is not clear to scrutiny.

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

I think I referred to that and, again, the Council of Ministers would entirely agree.

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

Notwithstanding everyone's commitment to a Strategic Plan as a proper plan, would the Minister indicate whether the vote we will take - assuming we get that far - on the plan will be a binding vote which will bind us to a series of subsequent policies and, if not, what will be the actual significance of that vote?

**Senator F.H. Walker:**

I am delighted this question has been asked although I would have covered it in my statement. The answer is a very categorical: "No." The States is not being asked and nor has the States ever been asked, and nor has the Council of Ministers ever suggested the States should be asked, to bind itself to specific projects, laws or whatever it may be, as a result of the Strategic Plan. The Strategic Plan is exactly the same as it was 3 years ago in concept, when the States - without this sort of debate - approved a general direction which it wanted to take. As I said in answer to a previous question, the Strategic Plan could be taken as a work plan for the Council of Ministers to pursue and to then bring forward either in the form of the business plan - which does cover specifics in terms of resources and allocation - or in the form of reporting propositions on major policies. It is a work plan so you could say it is not binding on the States but it is binding on the Council of Ministers. Once the States have taken a decision, whether that is a Strategic Plan amended or not, it is incumbent upon the Council of Ministers to come back to the States with a business plan. There is no commitment on resources - none whatsoever - until the business plan is agreed. It is also incumbent upon the Council of Ministers to come forward with the detailed propositions or laws as the case may be to follow the instructions of the States to deliver upon the general strategic direction. So, in summary, it is not binding upon the States; the States decision - because the States is paramount - is binding upon the Council of Ministers. I hope that clarifies the obvious misconceptions that have been in many States Members' minds for some weeks. I really do wish that those Members who had those fears had asked me the question or asked it of my fellow Ministers some time ago rather than to allow unnecessary hares to run.

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

Is the Chief Minister aware that under the new Extradition (Jersey) Law 2004, which is based on the U.K. Extradition Law 2003, some European countries and the U.S.A. can request the extradition of Jersey citizens without there being necessary for that country to demonstrate sufficient or significant evidence for the person to stand trial? Is he also aware that there are only very limited circumstances in which extradition to one of these countries can be prevented? Specifically, is he aware that there is no longer any discretion vested in either the Minister for Home Affairs or the U.K. Home Secretary to prevent such an extradition? Is he concerned that the U.S.A. has not implemented reciprocal legislation?

**The Bailiff:**

Too many questions in one go.

**The Deputy of St. John:**

Thank you, Sir.

**Senator F.H. Walker:**

I am aware of the positions that the Deputy puts but I think the Deputy should be aware that the problems he has identified have existed for many years. In fact, the extradition policy or legislation approved by the States in, I think, 2004 improves the matter considerably because it gives Jersey far more say than Jersey ever had previously. Previously, decisions to extradite or not were taken in a Magistrates Court in the U.K. without necessarily any reference to Jersey. But the points the Deputy makes are important points; many of them were addressed during a debate on the extradition law. So I think the best way forward is if the Deputy would provide me with a written and detailed compilation of his concerns. Then I will share those with the Attorney General and do my very best to give a much more detailed response to the Deputy.

#### **4.4 Deputy C.J. Scott Warren of St. Saviour:**

Does the Chief Minister agree that when the States Assembly approves propositions and amendments the necessary funds should be sought in order that these decisions can be implemented as soon as possible?

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

I think providing those funds and resources have been identified at the time of the debate - and it has not always been the case in the past - and providing that they are affordable and do not breach other States decision to contain overall expenditure, and providing a clear means to fund them, then the answer has to be: "Yes." But I think there have to be significant disciplines along the lines I have mentioned for that to be acceptable.

#### **4.5 Deputy D.W. Mezbourian of St. Lawrence:**

In answer to my question on 14th February, the Chief Minister admitted that suspension numbers of public sector staff gave, in his words, cause for concern. Accordingly, he had asked the Chief Executive to carry out an urgent investigation reporting back with recommendations for improvement. Answering me on 14th March, the Chief Minister advised that the investigation was indeed in progress, envisaging completion by mid-April. Would the Chief Minister now please advise the House when we may expect to have sight of, in his words, this urgent review?

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

Within the next 2 weeks.

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

The Chief Minister set up a sub-policy group with many of the Ministries that are covered by a Scrutiny Panel that I work on. Is the Minister prepared to let the States see copies of the agendas for the sub-policy group and also copies of the minutes for the sub-policy group?

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

Sir, can I just clarify which sub-policy group is this?

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

The Social sub-policy group. Sorry, Sir. Thank you.

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

The Deputy's question is can States Members have access to the agendas and the minutes of the policy group. If States Members wish, I see no problem with that whatsoever.

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

I have just changed my question on the back of a question the Chief Minister gave to the Deputy Scott Warren just a moment ago. How can the Chief Minister, given the answer he gave to the Deputy Scott Warren, expect a back-bencher to provide the source of funding for an amendment to the Strategic Plan given the fact that they are simply back-benchers? They are, of course, able to provide manpower and financial implications but the source of funding? How can the Chief Minister honestly expect a back-bencher to be able to do that?

**Senator F.H. Walker:**

I did not necessarily say a back-bencher had to do that. I said that the source of funding had to be identified. I did not say by whom and I think that is an important point. The fact is the States cannot approve on the one hand a limit to the amount of expenditure we are going to spend - cash limits for every single department - and then, at will, change that without coming up with the necessary alternatives. It is totally inconsistent for the States to take a decision on the one hand and then change it without knowing what it is changing or the consequences of that change on the other. That is surely not good government.

**4.8 Deputy G.P. Southern:**

I am torn between the question I wanted to ask and this one but I really have to go with here. Following the answer given to Senator Perchard, is it not the case that the current Strategic Plan as proposed by the Council of Ministers has been costed because my understanding - from previous answers from the Minister - is that it has? As a consequence of that, if a back-bencher were to amend it to add another element in would that not automatically mean costing going up?

**Senator F.H. Walker:**

Of course it has been costed and we have made that clear in the past. If a back-bencher brings an amendment with financial consequences then ultimately it will not be the Council of Ministers, it will be the States that has a decision to take. The States will either decide that it wants to breach cash limits with the consequences of that or the States will decide, upon the recommendation of the Council of Ministers or any other States Member, to take money from one budget which has previously been agreed and put it in another. I am sorry, Senator Perchard, but that is a fact. Either we take money out of a budget to put it into another budget if States Members wish or we add to our overall expenditure. You cannot have it any other way.

**4.9 The Connétable of St. Helier:**

Would the Chief Minister clarify the situation with regard to the mushrooming of nuclear activities on the Cotentin Peninsula? Would he account for the fact that there appears to be no reference to the nuclear activities on the French coast in the Strategic Plan and would he confirm that he is concerned that the element of risk, however small, would have a huge impact on our Island?

**Senator F.H. Walker:**

The current activities in relation to the proposed extension of Flamanville are clouded in uncertainty and there are conflicting messages emanating from various bodies both in Normandy and in Paris. That my department is endeavouring to clarify as this meeting takes place. In so far as the Strategic Plan is concerned if there has been an omission in this context then I would invite the Constable to lodge an amendment which the Council of Ministers - and I am sure the States - would give serious consideration to. In relation to risk I think the risk of a nuclear accident in France has been well documented and discussed on many occasions both in this House and elsewhere. But I am afraid that it is a fact of life for Jersey that a nuclear reactor does exist close to our shore. Given that there are over 50 such nuclear reactors throughout the width and breadth of France it is probably not a surprise. But we do have to monitor risk and in particular - and there is a long outstanding question - we have to look at the insurance issues relating to any possible problem no matter how remote that may be.

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

**[Aside]** I will be brief. The Isle of Man government, in common with other governments and other jurisdictions, decided to conduct their strategic review in line with their budgeting debate. Why has the Council of Ministers indeed brought forward - or intends to bring forward - proposals to separate those 2 debates when the logical process must be to have them on the same day?

**Senator F.H. Walker:**

The straightforward answer is that is exactly what the States instructed us to do in the States of Jersey Law which we have met to the letter.

**PERSONAL STATEMENT**

**The Bailiff:**

We must come now to Personal Statements and I have notice and have given leave to Deputy Power to make a Personal Statement.

**5. Deputy S. Power:**

Thank you, Sir. I would like to make a brief statement about the legal matters in France which have involved me personally since I was elected to this Assembly last year. Under procedures very different to those adopted in this jurisdiction, it had been possible for judgements to be given against me by a French Court, without my knowledge and in my absence, on the basis that it would subsequently be open to me to appeal if I wished. I take this opportunity to reaffirm there that there was no substance whatsoever to any allegation of impropriety against me. Consequently, I did lodge an appeal and on 30th March 2006 I attended a hearing in Nantes with my legal representative. On 20th April 2006 the 3 judges of the Appel Correctionnel delivered a unanimous judgement in which they rejected all the allegations against me, formally dismissed the charges and quashed the previous judgements against me. Having been fully exonerated in this way I do not intend to say anything further about the matter except to express my thanks to this Assembly for its support and to add that I have greatly valued the kindness and confidence of colleagues and parishioners in St. Brelade for what has been a difficult time for me personally. Thank you, Sir.

**STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY**

**The Bailiff:**

I have notice that the Chief Minister wishes to make a statement regarding the Strategic Plan.

**6.1 Senator F.H. Walker (The Chief Minister) regarding the Strategic Plan:**

The Council of Ministers met with the Scrutiny Chairman's Committee on 11th May to discuss their comments on the draft Strategic Plan which was sent to all States Members for consultation on 3rd March and formally lodged on 10th April. The Council will be considering their comments and hope to be able to respond constructively. The public consultation process has also now been concluded; 29 submissions were received from individuals and organisations. The vast majority of these were supportive of the vision set out in the Strategic Plan and made constructive suggestions about how some of the objectives could be achieved. I am very grateful to all those who responded in that way. At this point I would like to slightly depart from the script as written (and I apologise to Members for that and obviously I know you will pull me up if I depart too far) but as I have already said, the period for consultation is complete. The Council of Ministers - and it has always been scheduled as such - was originally intending to ask for the Strategic Plan to be debated on 6th

June, as I said, as planned. However, following a telephone conversation I had this morning with the Deputy of St. Martin at which he expressed some concerns about his Panel's ability, now after such time has elapsed and within a very short time of the planned debate, to do the job it wished to do, I propose to ask - and I have not had the opportunity yet of asking all Ministers and certainly I would propose to ask - the States to agree to a 2-week deferment of the date until 20th June to enable the Deputy of St. Martin's Panel, and other Panels if they wish, to do the job of scrutiny, call Ministers in and put their questions or concerns to us on the Plan. So I will be, at the appropriate time, asking (with the consent of my fellow Ministers) the States to agree to that deferment. I will emphasise though that it is still a very tight time scale if Scrutiny are to do the job they were charged to do in the first place. But the Council of Ministers, I am sure - and my only reservation is I have not spoken to all of them - will co-operate fully with the Scrutiny Panel to enable the process to be completed in an orderly and complete way. The Strategic Plan sets out the Council of Ministers' vision for Jersey's future and how we believe the States should instruct us to proceed. The Bailiff has confirmed that all States Members are entitled to propose amendments to the Plan and it will be the States that set the Strategic Plan. In approving the Strategic Plan, the States will be setting a work programme for the Council of Ministers and the Executive Departments. This will set the broad framework of policies and programmes that the Council of Ministers will follow. Each year, starting this July, the Council will bring forward an annual business plan which will set out in detail the proposed use of resources and programmes for the coming year. The Strategic Plan will not be a straitjacket and if the States approves a business plan which differs from the Strategic Plan, the Council of Ministers will have to work to the business plan. If amendments to the business plan change the priorities in the Strategic Plan the Council of Ministers will identify these changes and their implications so the Assembly will be aware of the effect of their decisions, but it is the States who will decide. The Council was surprised to hear from the Scrutiny Chairman's Committee that they thought Ministers and the Council may be free to develop and agree significant new policies without reference to the States. I want to be clear that this is not the case. The report accompanying P.122/2001 - which described how the new structure of government will work and which was approved in its entirety by the States - says unequivocally that the States Assembly is the Island's seat of government and it will remain paramount. It goes on to say that the Minister will at all times be subject to the authority of the States and that the delegated authority of the Council of Ministers will be subordinate to that of the States. Any new legislation and major policy proposals will still have to be referred to the States Assembly for a decision. These are the fundamental principles under which Ministers and the Council of Ministers are working. Thus, by agreeing a Strategic Plan, the States will not be giving Ministers an open delegation to determine policy. On the contrary, the States will be instructing a Minister or the Council of Ministers to develop a policy for presentation to the States who will then decide what the policy should be. Once that policy has been decided, and only once that policy has been decided, it will be for the Minister to implement it as efficiently and effectively as possible. I hope that this explanation of the purpose and the status of the Strategic Plan will assist States Members in deciding the form and nature of any amendments they may wish to promote.

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

Thank you, Sir. Could the Minister say what explanation he has received from the Bailiff as to the change of opinion between the morning and the afternoon as to whether or not the Strategic Plan could be amended? Also, (b), if the Strategic Plan is no longer binding, can he say what purpose is served by amending it?

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

Firstly, your position. The Bailiff took the decision based on his interpretation of the States of Jersey Law, which he was perfectly entitled to do, and indeed required to do. Following consultation with myself and others and further consideration, the Bailiff agreed that an alternative

interpretation was possible and therefore agreed that he would allow amendments. It is quite straightforward. Any law is subject to interpretation; that is what courts do all the time, and we see no difference in this context, and the Bailiff was perfectly at liberty to do what he did, and I commend him for being prepared to accept that there was an alternative interpretation, or could be an alternative interpretation. So far as the worth of the Strategic Plan is concerned, I simply cannot understand where the Deputy - and I have to say, others - are coming from. If you want the Council of Ministers to work efficiently, you have to give the Council of Ministers guidelines about what areas we should be pursuing. A programme of work. That is what the Strategic Plan is all about. Now, if you do not want to do that, then the Council of Ministers will just have to take their own decisions on which policies they decide to bring forward to the States for further discussion and approval. What a terrible way to run a government. What an incorrect way to run a government. The Council of Ministers needs guidance on what the States' views are; it needs instructions from the States on what policies it should pursue for further debate in the States and what it should not.

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

What a way to run a government. Now, the Chief Minister - this is the vision, the Strategic Plan is their vision, and on the second paragraph he says: "The public consultation process has now been concluded." There has not been one public meeting, Sir, and we were accused at the Chairman's Committee meeting that this was because scrutiny did not allow the setting up of Citizen's Panel. I think this is pathetic; I think this is a 5-year plan, the first one... The question is - I am grateful to the Minister for giving 2 weeks for the Assembly to bring amendments, but when is he going to consult, hold proper public meetings with the public of Jersey that this affects for the next 5 years?

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

The Deputy is quite right when she referred to the fact that the Council of Ministers wanted to go further than ever before in Jersey in consulting with the public, and we were prevented from doing so by a decision of this House. We were prevented from setting up the Citizens' Panel, which we believed and still believe would have been a huge step forward in consulting with the public - and I will not go into the details of how it was going to be set up and so on; that was dealt with in the debate. On the back of that, we have ensured that the document has been as widely available as possible to as many members of the public as possible, and we are satisfied that that is as far as it was correct for us to go under the instructions and in accord with the wishes of the States.

#### **6.1.3 Deputy A. Breckon:**

The Chief Minister said in his statement - I would just like to quote this, Sir: "On the contrary, the States will be instructing the Council of Ministers to develop a policy for presentation to the States, who will then decide what the policy should be." Would the Chief Minister agree with me that this is the time for scrutiny in policy development, not when it has been done and presented as a *fait accompli* and become an opposition to the policy?

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

Absolutely; but my statement did not cover that point. I think I have made that point earlier. My statement covered the point that the States are masters here of the destiny, and it is only for the States to take a decision. We want to work closely with Scrutiny, and I am still completely befuddled as to why that has not been possible on the Strategic Plan. But that is an issue for Scrutiny, not for Council of Ministers.

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

In the Chief Minister's statement, he spoke of the Strategic Plan being a broad framework of policies and that Members are to be encouraged to make amendments. However, he continues to demand that Members provide the source of funding for any such amendment. Is he then making the assumption that the Strategic Plan is taken as read, and any other amendments are additional and require additional funding?

**Senator F.H. Walker:**

I did not continue to demand that a back-bencher identifies the source of funding. I said that the source of funding had to be identified. I am sure that the Senator, with his very known enthusiasm for reducing States' expenditure, would not himself be a supporter of any position where any Member can bring an amendment to the Strategic Plan, or indeed a report and proposition, any time of the year where the financial consequences are not clearly identified. I am sure he could not possibly support that position. I think in that respect we are very much in accord. But I did not say that the back-bencher or whoever bringing a proposition had personally to identify the source of funding. I said it had to be identified. That, I repeat, is only good government.

**6.1.5 Deputy R.C. Duhamel:**

The States of Jersey (Jersey) Law 2005 - this is item 18 under part 4 - requires the Council of Ministers under part (c): "... to agree and within 4 months of their appointment under Article 19/7, lodge for referral to one or more scrutiny panels established under Standing Orders and approval by the States a statement of their common strategic policy." That is it. That is the requirement under the Law. Could the Chief Minister outline to this House as succinctly as possible for the avoidance of doubt his notions of what comprises common strategic policy?

**Senator F.H. Walker:**

The common strategic policy referred to there quite clearly - I have not got the precise wording in front of me - is the common strategic policy of the Council of Ministers lodged for Scrutiny to scrutinise and for the States to consider and the States to approve or not as the case may be. I must admit I am confused; I do not pretend to understand the question.

**The Bailiff:**

Can I just remind Members that this is not another general period of questioning of the Chief Minister. It is a period where Members are allowed to question the Minister on the statement that he has just made. I hope that Members will bear that in mind.

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

The Minister told us just a few moments ago that the Council was prevented from forming a Citizens' Panel by this Assembly. Would he confirm, Sir, this is not true? In fact this Assembly is waiting for the Council to bring back the terms of reference and modus operandi so that it can be formed?

**Senator F.H. Walker:**

We were denied the opportunity of setting up the Citizens' Panel in the time scale available for this particular Strategic Plan by the proposition of the Deputy approved by the House.

**6.1.7 Deputy R.G. Le Hérisssier:**

Would the Minister confirm that he will never utter the words "you approved it in principle" as we discuss follow-up policy?

**Senator F.H. Walker:**

I understand the Deputy's deep-seated long-held view on this matter, and again it suggests a misunderstanding of the position. If the States approve the vision or approve an amended vision for the Council of Ministers to work to, then the Council of Ministers will have to bring a detailed proposition back either through the business plan or separately as the case may be. All I will do is remind the States that they asked the Council of Ministers to do that piece of work; that the States said: "This is our vision for the future; you, Ministers, go away and work it up to such a form that you can then bring it back to us for detailed consideration, debate and approval or otherwise." That is what we will do. If I remind Members that they have approved that in principle, it will be only if Members say we should not be doing this at all. If Members bring amendments to the specifics in terms of resources, in terms of detail: perfectly acceptable. If Members say, having approved it in the Strategic Plan debate: "Well, we should not be doing this at all," I would regard that as a contradiction and inconsistent.

**6.1.8 Deputy J.A. Martin:**

Is the Chief Minister aware that due to the fact and given the excuse, as I say, that they could not use a Citizens' Panel, there has been no public consultation via the Council of Ministers, that scrutiny through the Chairman's Panel has had to set up its own public meeting on Thursday of this week at Holier School so the public can have their say on the Strategic Plan?

**Senator F.H. Walker:**

I am aware that the Chairman's Committee set up their own meeting, but the public have had every opportunity to make their views known on the Strategic Plan. Anyone who is interested cannot be unaware that there is a strategic plan. Anyone who is interested cannot be unaware of the content of the Strategic Plan. Anyone who is seriously interested has had every opportunity - by phone call, letter, email or personal meeting, -to express their views.

**The Bailiff:**

That, I am afraid, completes the period of questioning allowed for a statement, and we come now to a statement of which I have notice from the Minister for Home Affairs.

**6.2 Senator W. Kinnard (The Minister for Home Affairs) regarding 'abuse of position of trust' provisions:**

Members will be aware that the Corporate Services Scrutiny Panel presented its report entitled *The Age of Consent Review* to the States on 28th March 2006. In that report the Panel recommended that the Minister for Home Affairs should present appropriate legislation to introduce abuse of position of trust provisions, and that this is debated prior to the draft Sexual Offences (Jersey) Law. Having consulted with the Council of Ministers and with the assistance of the Law Draftsman, I am aiming to lodge a new law to deal with abuse of positions of trust at next week's sitting of the States. Following the statutory consultation period, Members will have the opportunity to debate these provisions together with the proposals to reduce the homosexual age of consent contained in the draft Sexual Offences (Jersey) Law. A new report covering both pieces of legislation will also be lodged, and therefore, Sir, as of this morning, I did in fact formally withdraw P.196 of 2005.

**The Bailiff:**

Thank you.

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

Can the Minister advise whether the new projet will contain the basic elements of P.196, or will it be altered to enable alternatives to be contemplated?

**Senator W. Kinnard:**

Is the Deputy referring to the report or the actual legislation?

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

The actual legislation, Sir.

**Senator W. Kinnard:**

Legislation cannot really provide alternatives in that sense. If he wishes to provide alternatives, he should seek to amend the proposition, Sir.

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

I am delighted that the Minister has taken note of the recommendations made by the Corporate Services Panel. I would remind the Minister that on 31st January the Social Affairs Panel also made recommendations, and we said that no evidence had been found of any consultation with the public or with the Health Department. My Panel also recommended that it did produce the abuse of trust legislation, and we are pleased to see that it is on its way. However, we also did recommend that consultation took place with the Sexual Offences Law. Can I ask the Minister what consultation has taken place in particular with the Health Department, ACET and Brook Centre in respect of the health implications?

**Senator W. Kinnard:**

Consultation has taken place for a second round with those particular agencies, and all will be made clear in the report to the proposition. I think that if the Deputy would await the proposition and report, as I say, all will be revealed, then I am certain that he will be satisfied.

**The Deputy of St. Martin:**

Could I just ask, is that a yes or a no? Has consultation taken place with the Health Department, ACET and the Brook Centre?

**Senator W. Kinnard:**

I do not know how else I can say it. Yes, y-e-s, yes.

### **6.2.3 Deputy A. Breckon:**

Surely the Minister has said in her statement: "... having consulted the Council of Ministers and with the assistance of the Law Draftsman, I am aiming to lodge a new law." Can I ask, as a Member who has been frustrated by the law drafting process, where the time came from?

**Senator W. Kinnard:**

Obviously part of the law is already drafted in the Sexual Offences Law, and it is a matter of bringing on board the abuse of trust provisions. Indeed we had a little leeway in some of our law drafting time in Home Affairs that has enabled us - I think - to bring that forward. It has to be said that I am extremely grateful to the Law Draftsman for all of the effort that has been put into this, and indeed it is also in part due as well... I am very grateful for the assistance and advice that I have also received from the Law Officers on this matter.

**Deputy A. Breckon:**

Could I follow that up and request of the Minister and any of her colleagues who have any leeway in law drafting if all Members could be advised? Because as I repeat, Sir, I was frustrated by the process last year.

**The Bailiff:**

I do not think that matter really arises out of the statement, Deputy.

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

I was just looking around quickly to see if anybody else was going to ask a question. But what I would like to say is to congratulate the Social Affairs Minister. She has followed our recommendations, and I think that is excellent, and I just ask that we are all allowed to get on with it and do the job.

**Senator W. Kinnard:**

Thank you. I am grateful to the great sense that has been brought to bear on this matter by the Chairman and the Members of the Corporate Services Committee.

**DOCUMENTS PRESENTED OR LAID**

**7. The Bailiff:**

We now come to public business, but before we do that, may I advise Members that an amendment to the Strategic Plan 2006-2011 has been lodged by Senator Perchard, and I understand that copies have been or are about to be circulated to Members.

**PUBLIC BUSINESS**

**8.1 Draft Taxation (United States of America) (Jersey) Regulations 200- (P.264/2005)**

**The Bailiff:**

We come to public business, and the first item on the Order Paper is the Draft Taxation (United States of America) (Jersey) Regulations 200- in the name of the Chief Minister, and I ask the Greffier to read the long title.

**The Greffier of the States:**

Draft Taxation (United States of America) (Jersey) Regulations 200-. The States, recognising their autonomy in domestic matters including tax, and noting that by a Tax Information Exchange Agreement signed in Washington on 4th November 2002 for and on behalf of the Government of the States of Jersey and the United States of America, Jersey has incurred obligations towards the United States for Jersey's performance alone; having pursuant to Article 2 of the Taxation and Implementation (Jersey) Law 2004 and following the decision of the States on 22nd October 2002 to adopt paragraph (a) of project 172 of 2002, made the following Regulations.

**8.1.1 Senator F.H. Walker:**

The States unanimously approved, on 22nd October 2002, an agreement for the exchange of information between the governments of the U.S.A. and Jersey. The agreement was formally signed by the then President of the Policy and Resources Committee, the then Senator Pierre Horsfall, in Washington on 4th November 2002. The agreement provides for the exchange of information on criminal tax matters upon the entry into force of the agreement, and on civil tax matters, on 1st January of this year, 2006. However, as information on criminal tax matters was

already covered under existing legislation such as the Investigation of Fraud Law, there was no need to proceed with the Regulations until we were ready to do so on the exchange of information on civil matters. There has been a slight delay because we were awaiting assurances from the U.S.A. about their view of the standing of Jersey in their eyes, and those assurances have now been received. Therefore, the States are being asked today to approve the Regulations to bring the agreement into force. We have said that there will be no tax information exchange agreements unless there are perceived economic benefits - direct economic benefits - to the Island, of doing so. However, the agreement with the U.S.A. was signed prior to that position being taken, and in any case we are firmly of the view that to have the U.S.A. on-side for Jersey, as it were, as a result of signing this agreement, it is an extremely big bonus for the Island in terms of our international standing and international relationships, and therefore our economy. The finance industry is supportive of the agreement; the Isle of Man and Guernsey have already implemented their agreements, which are to all intents and purposes identical or very similar. Sir, I propose the preamble.

**The Bailiff:**

The principles have been proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on the principles of the Regulations?

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

I am becoming slightly concerned about this policy that we have to work with America, Sir. A lot has happened over the last couple of years. We have seen a certain amount of potential dishonesty over Iraq; we have seen in the U.S.A. a worrying monitoring of its own citizens, Sir, and I am concerned as to whether we are entering on to a level playing field here. A country which can allegedly abuse European hospitality is one that I would have concern about entering into such a deal with.

**Senator F.H. Walker:**

I do not think the concerns expressed by the Deputy are strictly relevant to this proposition. All of us have our views on the overall performance of the U.S.A. in relation to Iraq and other things in recent times, but it does not take away in any respect the fact that the U.S.A. is a major economic - the major economic - force in the world, and that for Jersey to have an agreement with the U.S.A. tax authorities, which means that they are far more supportive of Jersey's position internationally than would otherwise have been the case, remains very important to the Island. I maintain the preamble.

**The Bailiff:**

I put the principles. Those Members in favour of adopting them, kindly show. Against? The principles are adopted. Standing Order 72 requires the draft Regulation to be referred to the relevant Scrutiny Panel, unless the Chairman informs the States that he does not wish to have the draft referred to it.

**Deputy P.J.D. Ryan, Chairman of the Corporate Services Scrutiny Panel:**

Thank you, Sir. No, we have looked, and we are quite happy with it as it stands, thank you.

**The Bailiff:**

Very well. The States may therefore now proceed to debate the Articles of the Regulations. I invite the Chief Minister to propose them.

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

I think they are clear, entirely consistent with the earlier States decision, and merely give force to that decision, and therefore with your consent and that of the House, I would propose to propose the Articles en bloc.

#### **The Bailiff:**

Very well. They are proposed, and seconded. **[Seconded]** Any Member wish to speak on any of the Articles of the Regulations? Then I put the Articles. Those Members in favour of adopting them, kindly show. Those against? The Articles are adopted. You move the Regulations in Third Reading, Chief Minister?

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

Yes, please, Sir.

#### **The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the Regulations in Third Reading? Then I put the Regulations. Those Members in favour of adopting them, kindly show. Against? The Regulations are adopted in Third Reading.

### **8.2 Draft Employment Relations (Amendment) (Jersey) Law 200- (P.5/2006)**

#### **The Bailiff:**

We come now to the draft Employment Relations (Amendment) (Jersey) Law 200-, in the name of Deputy Southern, and I invite the Greffier to read out the citation of the draft.

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

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

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

Members will be relieved to hear that they will not be subjected to 2 speeches from me today. Indeed, I am relieved not to have to deliver 2 long speeches. Members will be extremely pleased to hear that on the first of the 2 issues I am bringing before you today, that of trade union recognition, the Minister of Social Security and I have finally agreed a compromise, and as a result I will shortly seek the Assembly's permission to withdraw my amendment P.5/2006 to the Employment Relations (Jersey) Law in favour of the Minister's own amendment, which has been circulated to Members. It is P.57/2006. Before I do so, though, I just want to speak briefly and ask first of all a question of the Minister and point out some links between this issue - the right of recognition - and the subsequent issue that we will debate shortly - the right to representation. The 2 are linked. The question is, what has happened to the Employment Relations (Jersey) Law 200-? Precisely that it is still blank. It is now over 12 months since it was debated and sent to the Privy Council. Are the questions and concerns raised by me and others about it conforming to I.L.O. (International Labour Organisation) standards still in question? Has it indeed been referred back for further consideration? Twelve months is a long time for the Privy Council to be considering the Employment Relations Bill. My amendment, P.5, sought to end the absurd position that a trade union could conduct a properly organised ballot and have every single employee in a Jersey company vote to be represented by a union, and the employer could simply say: "I do not care what

you want. I will not recognise you as a negotiating body.” The Minister’s amendment in effect ensures recognition for employers’ wishes in companies employing over 20 staff, and I am prepared to accept his amendment, not on the grounds that it is any less absurd, because it is not. If 12 out of 12 workers in a small firm cannot achieve recognition, whereas 12 out of 21 workers in a firm down the road can, that remains absurd. But that argument can wait for another day. I am prepared to accept the Minister’s amendment, because I am informed by the Statistics Department that some 62 per cent of private sector workers are employed in firms of over 20 employees. Thus the right to be represented by a trade union, individually or collectively, set out in *Fair Play in the Workplace* back in 2001, will in due course, I hope, be extended to around 30,000 workers in Jersey. Well, only half of this is right, because this bit is collective recognition and representation; the second half, individual representation, follows shortly. On that point, Sir, without further delay, I wish to ask permission of the Assembly to withdraw my amendment in favour of the Minister’s, which will be brought for debate, I hope, without undue delay; but ask the Minister that he should clarify, if he can, what has happened to the Employment Relations Law.

**The Bailiff:**

I am just checking, Deputy, on Standing Orders, that if I open the debate, I am just wondering whether it can be closed off in the way in which you seek it to be closed off.

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

Would it be helpful if somebody proposed we move on to the next item, Sir?

**The Bailiff:**

No, I do not think so, Deputy. [Laughter] Minister, do you wish to respond?

**8.2.2 Senator P.F. Routier (The Minister for Social Security):**

Just briefly, Sir, I could, and then perhaps the Deputy could then withdraw his amendment.

**The Bailiff:**

He can ask the States, certainly, yes.

**Senator P.F. Routier:**

Yes. I am obviously very grateful to the Deputy for withdrawing his amendment, because in our view it was too widely drawn and it was not going to achieve what the report was suggesting it was going to achieve. My replacement amendment, which has been lodged now... it is on the Order Paper for 4th July, so I hope that will be able to go ahead then, because what we are putting forward does follow the spirit of the U.K. law on recognition while still emphasising the importance of seeking voluntary recognition agreements through the Code of Practice. The Deputy asked about where we were with the Privy Council. My understanding is that it will be on the agenda for the June meeting, and so it will hopefully be... well, perhaps when we get to debate this new amendment in July the Privy Council will have acknowledged and accepted our law.

**The Bailiff:**

Well now, Deputy Southern has sought the leave of the Assembly to withdraw the amendment. Do the States agree that the amendment may be withdrawn? Very well; the amendment is withdrawn.

**8.3 Draft Employment (Amendment No. 2) (Jersey) Law 200- (P.270/2005)**

**The Bailiff:**

We come to Projet 270, draft Employment (Amendment No. 2) (Jersey) Law 200-, in the name of Deputy Southern, and I ask the Greffier to read out the citation of the draft.

**The Greffier of the States:**

Draft Employment (Amendment No. 2) (Jersey) Law 200-, a law to further amend the Employment (Jersey) Law 2003. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

**8.3.1 Deputy G.P. Southern:**

Speaking at a little more length this time. Following that outbreak of almost camaraderie between the Minister and me, I believe this debate is back to normal relations between the Minister of Social Security and me. I propose a progressive move; he opposes. The fact is, however, that the Minister and I are probably in almost complete agreement over what we wish to achieve. We differ only on how we can achieve our shared aim. That shared aim, as I mentioned, derives from the 2001 document *Fair Play in the Workplace*, where it talks of a charter of basic rights - basic trade union rights - in Jersey, issued in July 2001 by the then Employment and Social Security Committee, and presumably still supported by the current Minister. It says, and it is a very clear statement: "Every worker should have the right to be represented by a trade union individually or collectively on any work issue." Now, the collective bit we will deal with. This is about individual representation and the choice that an employee makes as to who - when he is in trouble in a disciplinary or grievance procedure - he wishes to have accompany him and to represent him. We differ in that the Minister says such a right can be delivered by a code of practice. The evidence that I intend to bring to you today shows that despite his assertions to the contrary, the Code is not delivering this basic protection for workers. When we turn to the Code of Practice, *Disciplinary Grievance Procedures - Practice and Procedures in Employment*, the Code is absolutely stuffed full of references to the right to be accompanied, and talks initially about, again, shared aims. If I turn to paragraph 10, for example, it says: "The disciplinary procedures should not be viewed primarily as a means of imposing sanctions. They should be designed to emphasise and encourage improvements in individuals' conduct. In this way, the reasonable and persistent use of disciplinary rules and procedures will benefit employers in promoting good employee relations and in reducing the number of issues that arise for consideration." I can support that wholeheartedly. Any responsible trade unionist would support it too. Reducing the numbers of issues that arise, both in the workplace and eventually arriving at an employment tribunal. Improving employee relations: that is what modern trade unionism is all about. It is not about confrontation. It is about good communication between management and workers. It is about working together and the right to proper representation by somebody who knows what they are doing is part of that process. So to turn to a page in the Code; here we go. Under 11: "Disciplinary procedures should give an individual the right to be accompanied by a fellow employee of his or her choice or, where a union is recognised, by a trade union representative." Later on in 12: "The employee should be advised of their rights under the procedure including the right to be accompanied." Further on in the document, paragraph 28 - and here we are getting into some further advice: "It is good practice for individuals to be permitted to be accompanied at grievance hearings, usually by a fellow employee of his or her choice or, where a union is recognised, by a trade union representative." It is about that choice. It is about choice as to who is going to accompany you in a serious matter. Again, there is obviously no argument here. It is self-evidently good practice, and where the union is recognised, it should be a union rep. But here I start to part company with the Minister. Whether or not my employer recognises my union, if I am a member of the union, it is my union representative that I want to be present to support me. I know we have made some progress today, or will do in the near future, on recognition. But what of the still large numbers of small employers who may choose not to recognise a trade union? Perhaps one such as I referred to previously in withdrawing P.5, where 12 out of 12 workers could join the union but still not be recognised, and

may not be able to secure that representation from a union rep. But there is more; and now we get into the detail. In paragraph 38 - and please listen carefully: "The right to be accompanied is important to ensure a fair process." This is about equity; it is about fairness. Most disciplinary and grievance procedures allow an employee to be accompanied by a work colleague, but some procedures may extend the right to be accompanied by a friend, who may or may not be an employee of the same organisation. Finally, we move on to paragraph 41 and 40: "The chosen companion, if such is permitted, should be permitted to address the hearing, but should not answer questions on the employee's behalf. Companions have an important role to play in supporting an employee, and to this end should be allowed to ask questions and should, with the agreement of the employer, be allowed also to be permitted reasonable time to confer privately with the employee, either in the hearing room or outside." Going back to 40, again emphasising the importance of this accompanying representative: "The employee should think carefully about what is to be said at the hearing, and if permitted to be accompanied, should discuss with their chosen companion their respective roles at the meeting. Before the hearing, the employee should inform the employer of the identity of the chosen companion." Now, these last 2 quotes are particularly revealing. Please note the reservations. "If permitted to be accompanied." It clearly states that serious disciplinary and grievance proceedings can take place unaccompanied. That is clearly acceptable and depends only on the wishes of the employer. Where does this place the Minister's assertion, made in point 3 of his comments: "Therefore, these codes have teeth in law and the Employment Tribunal would take into consideration the matter of unfair process if representation was denied." How can it? The Code itself says "if permitted to be accompanied", accepting that an employer can say: "It is totally reasonable in my company that I do not allow employees to be accompanied." So there is no sanction there. There is no force; there are no teeth. As we go on: "The chosen companion should be permitted to address the hearing, should be able to ask questions and should be allowed to participate as fully as possible. He should also be permitted reasonable time to confer privately with the employee." Members must ask themselves, who is this aimed at? The answer, I suggest: it is clearly talking about a trade union representative. That is who might most usefully participate, ask questions, address a hearing and confer in private. I ask Members to put themselves in position of an employee, say facing the sack, for whatever reasons, because that is the level of seriousness we are talking about here. Who are you going to ask to accompany, or better still to represent you at that meeting? A fellow employee? Someone who works for the same boss and probably wants to stay employed next week after you may have gone. Will he stick his neck out and really argue your case against his own boss? Can you rely on it? Perhaps not. Who might you take in there? You might take your mother in there. "Don't you pick on my Timmy, you're always picking on him, you big bad bully of a boss! Pick on someone your own size." It might have worked at primary school when you were getting picked on, but it is not likely to work with your boss. No, you want someone there who is on your side, who is not afraid of your employer, who can put your case in a reasonable and calm way, because if you are about to be sacked, you might get quite excited. Who knows about the Employment Law and who has been trained to negotiate and mediate; to find mutually acceptable solutions wherever possible? That person is a union rep. The Minister in his comments states that the Code which he supports "is sufficient and is reported to work well in practice". Let us take a look at the real cases; examine what the real practice is in Jersey; and name names where possible. Let us start with Jackson's Garage. A reasonably-sized employer, reasonably-sized workforce, with several union members on its workforce. Within the last 3 weeks, one employee was facing dismissal over a health and safety issue and requested to be accompanied by his union rep.

**The Bailiff:**

Deputy, I am not sure that it is absolutely necessary to your argument to name the employer concerned, is it?

**Deputy G.P. Southern:**

In the next example, then, I will not name the company, Sir, if you believe that is correct.

**The Bailiff:**

I prefer that you do not.

**Deputy G.P. Southern:**

When the rep phoned up to request attendance at the hearing, he was told that he would be refused entry to the premises if he turned up. That is perfectly acceptable under the Code; that is the employer's rules. Let us take a well-known, long established supermarket. In many ways a model employer, with a long-standing recognition agreement and good working relations between the union and management. What of their disciplinary procedures? It is a good employer. In their case, the rep may accompany but may not represent. The rep is supposed to stand there like soft Nick and say nothing. Even some good employers such as this one fall below the level of good practice described in the Code. The point is there is no mechanism to improve things. The fact is... and I could go on and talk establishments where there has not been a recognition agreement since 1995, over 10 years. No rights of representation in there; no rights of accompaniment, no basic agreements at all. The fact is that this right to representation is not being delivered, and it cannot be delivered by this Code. It can be delivered, I believe, by the law as I have amended it. I urge Members to think carefully about this proposition and support it. Thank you.

**The Bailiff:**

Is the proposition seconded? [**Seconded**] Seconded by Deputy Pitman.

**8.3.2 Senator P.F. Routier:**

I have obviously considered this amendment very carefully, as I have done with the other one, and taken a lot of advice from a lot of people - employment practitioners, including JACS (Jersey Advisory and Conciliation Service) as well, who are obviously working on a day-to-day basis with employment issues. I have to say in my view that this amendment, though well intentioned - and the Deputy is saying that we probably both want to achieve the same thing - it is to my mind absolutely not necessary. It just puts one aspect of disciplinary and grievance procedure into the law without the whole of the process, which is already covered in the Code of Practice, being considered. It is working well, despite what the Deputy is asserting. He has given some examples where he feels that the Code has not been sufficient; what he fails to go on to say is that if an employer does refuse the attendance of a union representative to join a person within a negotiation with their employer, the Tribunal will take note of that. The Tribunal will feel that that employer is being unreasonable and will make a judgment on that. That is how the Code works. The Code is there as a guideline to employers and employees to ensure that they behave in a proper and reasonable manner. If something progresses to the Tribunal and it is considered that the employer has been unreasonable in not allowing the employee to be accompanied by a trade union representative, well, the Tribunal will certainly note that and will feel that the employer has been unreasonable. In the report accompanying the proposition, it is claimed that this amendment will address the failure of our employment laws to provide individuals with the right to representation in a grievance or disciplinary matter. The Deputy is obviously very aware of what is in the codes, because he has quoted extensively from them. I would perhaps - if Members would bear with me - ask them to look at the codes again themselves, just to be 100 per cent sure of what the codes are doing. It is attached in my comments on page 4. Sir, remember this Code is backed by law, and the Tribunal will be taking note of this to see if an employer has behaved reasonably. Sir, on page 4, Essential Features of Disciplinary Procedures, and it goes on to 11, "Disciplinary procedures should" and under (i): "Give an individual the right to be accompanied by a fellow employee of his or her choice; where a union is recognised, by a trade union representative." It then goes on in the procedure in operation under 12 in the second paragraph: "The employee should be advised of their

rights under the procedure, including the right to be accompanied.” Then further on - it is the similar articles which the Deputy did highlight when he was talking about it. On page 9, paragraph 28: “It is good practice for individuals to be permitted to be accompanied at grievance hearings, usually by a fellow employee of his or her choice; where a union is recognised, by a trade union representative.” It goes on elsewhere to explain how that all happens. As I say this Code of Practice has the backing of the law, and the Tribunal will take note of it. That Code is based on equivalent codes which are in other jurisdictions. They operate under the processes of having codes. The Code itself is based on the U.K.’s equivalent code of September 2000, and it also reflects the Isle of Man’s very simple code, which they assure us has been working for them since 1991. More importantly, it reflects good practice in Jersey. Jersey has a lot of good employers who do follow the procedure of allowing employees to be accompanied. It is also worth recalling that we did have a lot of public consultation when we were developing these laws and codes, and this is the outcome; the public consultation did point us in the direction of having these codes. The Code has been working and has been available to the members of the public since June of last year. The JACS law, under which the Code already exists, has been appreciated by employees; it has been appreciated by employers to ensure that they are acting in a reasonable manner. I can honestly see no justification for taking this a step further and putting it into hard law. It is a duplication of what is already in the codes; the amendment takes the matter also of representation of workers a stage further; this amendment takes it even further than the other similar legislation that is around other jurisdictions. It is even further than our existing well used and well proven mechanism. It also goes on even a stage further, if you look at the amendments themselves. It sets a very high penalty if somebody has breached for not allowing an employee to be represented of 13 weeks’ pay compensation. In the U.K., the equivalent is 2 weeks that can be awarded. So I believe if this amendment was successful, it would have serious effects and implications on small businesses, and I hope Members will recognise that and not support it. It is not clear why such a more extensive legislation might be required for Jersey, and as I say - as we have discussed - we already have a very good working Code which does have the backing of the law. The Code requires people to act reasonably, and the onus is on the employer to make employees aware of their rights to representation. I think I could have been more supportive of what the Deputy was saying if there was absolutely nothing in our laws and codes to say that the employees did not have the right to representation. That is obviously not the case. The Deputy started off with his comments about fair play in the workplace and quoted from that that every worker should have a right to be represented. That is exactly what we have. It is there. It happens. It is literally happening now. This amendment, unfortunately, would force the procedures into the employment law itself by focusing just on one aspect alone, and there is more to laws than that. It is not just a single matter of representation. So it would not have a very balanced effect on our current laws. The Deputy in his report claims that the amendment is best practice and best practice is better in law. Well, I am afraid that is not the case. Best practice is better in codes and in guidance. That is what happens in most jurisdictions, as I mentioned, the U.K. and the Isle of Man, which is somewhere where we have collected a lot of our information. That is where they would have them. They do not put it into primary legislation. The Code already takes account of, as I say, local best practice and incorporates everything that we have seen as best practice around the globe. So I have to disagree with the Deputy because the amendment as drafted does not reflect best practice and so really should be rejected. The Code is intended to assist employees and employers in ensuring that they know what a fair procedure is and to guide the Tribunal in considering the procedural aspects of an unfair dismissal. As I said earlier, if an employer denies an employee representation at a hearing or has not followed best practice as set out in the Code, the Tribunal can and does take that into consideration when making their decision about whether the issue they are being asked to address has been fair. Best practice could include providing and following specific procedures on disciplinary and grievance matters; advising employees that they have the right to be accompanied at a hearing by a fellow employee, a friend, a trade unionist; and also permitting them to do that. In making such a decision about fairness of process, the Tribunal will take into account the size of and

the administration resources of the employer. But this amendment, I am afraid, takes that away completely from the Tribunal, so they would not have any discretion at all. The existing Code is therefore intended to be suitable to provide information and guidance to all employers, large or small, and to all employees. In conclusion, Members will recall that it has always been the intention to avoid a legalistic system as far as possible and to create a simple framework of primary legislation which encourages good practice and provides a discrete resolution process. Where the Tribunal establishes that a dismissal has taken place, it is for the employer to show that it was for one of the fair reasons provided for in the Employment Law and that they have, as a minimum, followed all the procedures - and all the procedures about right to representation - set out in the Code, not just the one aspect. The Tribunal must then decide whether in the circumstances the employer has acted reasonably, and reasonably in dealing with hearing people, reasonable in dealing with the way they have gone about hearing the sides to a point with regard to a dismissal; to ensure that everything has been done fairly. That is what the codes are all about. That is what it is there for, to ensure that that happens. I urge Members to reject this amendment to the Employment Law, as this legislation is unnecessary, because the existing codes that we have already provide best practice for employers and employees, and especially their appropriate protection for employees. They were working now, and they will continue to work as they are. I believe if we went along the road of legislation it could even cause more difficulties.

### **8.3.3 Senator L. Norman:**

The Minister tells us that this amendment is unnecessary, and I am sure that he is absolutely right. But I cannot help wondering, as I have got a feeling of *déjà vu*, that this is a debate where it is half a dozen on one side and 6 on the other. Is there really any difference in impact or in effect between what we have now and what Deputy Southern proposes? I really do not see very much, and I have not heard that there is going to be a lot of difference from what the Minister has had to say. The only thing that the Minister said which made me raise my eyebrows was the level of compensation that Deputy Southern is proposing in one of the Articles if the reasonable steps are not taken. But I suspect, and I am sure Deputy Southern will confirm, that this is meant to be a deterrent - 13 weeks instead of 2 weeks in the U.K.. That really would make people think. Sir, if the very reasonable procedures laid down both in the Code and in the amendment to the law are followed, compensation simply will not be activated. It is there, I suggest - I suspect, I have not heard him say it - to ensure that employers act reasonably. Should it be in law rather than a Code? Does it really make a lot of difference? Well, one difference I think it might make is it tells employers that this is important. It tells employees that this is important. Unless someone can convince me that there is a real significant important difference between what we have now and what Deputy Southern proposes, I think I would be tempted to support Deputy Southern's amendment.

### **8.3.4 Deputy R.G. Le Hérisssier:**

Senator Norman has expressed some of what I was going to say. I must admit I could not quite work out what side Senator Routier was on. He was going on and on about the benefits of representation, but yet he would not take, as Senator Norman has said... he appeared reluctant to take that final step. I think we ought to look at an analogy from manufacturing, when you are always told "build-in the quality during the process", do not do the inspection at the end. It strikes me this in a sense is what Senator Routier is suggesting. We have got all these things at the end of the process that will ensure that the right thing could have happened, but yet we do not want to build it in into the process, and it is now an absolute corollary to any system like this that there is proper representative built-in, and in a sense, Sir, he gave himself away when he said: "We are worried about small businesses." Is he suggesting the employees of small businesses should receive second-class treatment in this regard; simply, is he suggesting that an employer in a small business, or an owner as is often the case, will not have the ability to answer to a trade union

representative, for example, and that therefore a trade union representative should not appear as it would make the playing field uneven? That is a very odd criterion by which to operate, and I am sure a person owning such a business would feel that they had sort of achieved their objective by the wrong methods. So, it then brings us to the perfectly logical conclusion that everybody, in my view, should be entitled to representation. As I said, Senator Routier made a wonderful speech in support of that, and the question is, as Senator Norman said: “Well, why fuss about with this? Why not just put it into the law?” A couple of questions, Sir, for Deputy Southern. When he says: “A trade union representative”, is he suggesting a person who is not necessarily representing the employee at that place of work can come along? Or would it be in that case a person who represents them in that place of work, which I think would make more sense? Unlike Senator Norman, Sir, I think the 13 weeks is too much, even though I take his argument that it is a deterrent effect. I think it is too much and I will have difficulty with that particular Article. But as far as I am concerned, Sir, we are looking at best practice, we are looking at what is now seen as an absolute *sine qua non*, in other words an absolute integral feature of these kind of systems, and Senator Routier has made a perfectly good argument for that, and I am sure as such it falls perfectly into the law. Thank you, Sir.

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

Their advice during the appeals was extremely valuable to the people who were probably feeling quite intimidated, and it gave these employees greater confidence. So, I would share the view of 13 weeks, perhaps, with pay being excessive, but I do believe, perhaps as a result of having chaired this meeting, that a person should be entitled to union representation during a disciplinary grievance. I have got a problem over the amount, as I say, of pay that could be awarded. I think that needs to be further discussed and clarified by Deputy Southern, but I do support that representation. Thank you.

#### **8.3.6 The Deputy of St. Peter:**

I will just be looking for a point of clarification from Deputy Southern. I believe that in cases of compensation that the actual figure is up to 13 months: 13 weeks - 13 months will be lovely - up to 13 weeks, which is at the behest of the tribunal, so it is not a fixed sum; it is up to 13 weeks.

#### **8.3.7 Deputy A. Breckon:**

I should declare an interest, I have a background and understanding of some of these matters at the shop end, and they can be difficult periods for people and that is why I hope to expand on that a little bit. Deputy Southern has mentioned in his report on page 3: “The right of an individual to be represented in a disciplinary or grievance procedure is widely recognised and accepted as best practice by many employers”, and I think that is true. Again, we are not talking about all employers; we are talking about some employers. Again, this is where the margin of error - let us call it - occurs. The Minister for Employment and Social Security, I think, has taken a leap from that and said that an employment tribunal would take notice of what had happened, but I think you have probably gone too far then. We are talking about somebody being represented at a hearing, and then you are talking about a tribunal. Probably they are looking at dismissal, and there is a great chasm in between that has been leapt over, I think, and I would like to come back to something in the middle of that. The Minister did repeat on a number of occasions something that the tribunal would be aware of, but my experience of tribunals is, in general terms, if you can keep away from them and get remedy to your own dispute. When I looked at what Deputy Southern was presenting, and you look at it in reality, what you have got is you have got experience for people that perhaps they have not have before. It can be a very traumatic experience, sometimes characters are involved, individuals are involved, and they are inflammatory situations; and they are

personal circumstances, somebody is talking about you, and it can be very emotive. Not everybody has the ability to express themselves and to perhaps get arm's length from what was said, when, to whom, and what the circumstances were. To unwind that sometimes you need somebody with an ability, and we are not talking necessarily about a full-time paid union official, it could be somebody who has a workplace experience of that. If you had an example say of a shoe shop where 3 people work there, then it could well need to be somebody from outside because it is too close, everybody has an opinion, so you need somebody to get involved, I would contend, who does not have that view and perhaps can take a more rounded view of it. But then if you need to be represented, Deputy Southern made an example of somebody's mother going out and wagging their finger and doing whatever. That is probably not the best example and the best practice. But having said that it needs to be somebody who is not just roped-in because they are handy or they are a mate of Mabel's or Mary's or Martin's, whoever. It is somebody who can assist with the situation and a trade union representative would, I contend, be an ideal person to do that because they do take pragmatic views of something, and sometimes what their members tell them - I can say this from experience - is not always the full and accurate truth or account of what happened, so there assessments have to be made. But they do have a knowledge and experience, which can bring things to the table, which can help. So therefore you do not go to a tribunal, you get away from that process, and I do not particularly think the tribunal would want to have things where perhaps adequate representation was made. It is interesting in there, it says that the tribunal can do all sorts of things including somewhere about virtually telling people that they have to be re-employed again. I forget the exact term for it, but in practice that does not happen because bridges have been burnt and things have been said and that is not always possible, especially in a small company, and again I do not think the Minister has made the case of why this should not happen. I do not think what Deputy Southern is proposing is unreasonable in the circumstances. I think in the last 2 or 3 years employment law and relations have made a leap from where they were, there is still a lot more to be done and I hope we do not get bogged-down in the detail of this, and I hope Members will accept this amendment in the spirit it has been presented.

### **8.3.8 Deputy P. N. Troy of St. Brelade:**

I think I will start by addressing this secondary issue that has been raised. We at Social Security are opposed to Deputy Southern's compensation clause for non-representation, which could be particularly onerous on small businesses. This idea of a penalty of up to 13 weeks pay, as described in 78(c) on page 8, is punitive and it does far exceed the 2 week's maximum in the U.K..

#### **The Bailiff:**

Deputy, do not go into that in any detail, please, because we will come to that in due course when the Articles are debated if the principle is accepted.

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

Well, yes, Sir, but there are many Members suggesting that this should be supported, and I think that I do need to demonstrate the difference at this point because Members...

#### **The Bailiff:**

Well, the Assembly is debating at the moment the principle of the amendment, and the principle really is the right to representation. Now, the details come if the Assembly accepts the principle of the right to representation.

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

Right, Sir, well, I will cover this separately afterwards then in 78(c). I would hope that Members...

**Senator P. F. Routier:**

Sir, may I just comment because...

**The Bailiff:**

Well, they are putting the right to representation in the law, I should have added.

**Senator P. F. Routier:**

Yes, and extending it quite considerably.

**The Bailiff:**

I do not want to join in the debate. All I am reminding the Deputy is that we are debating the principles of the draft at the moment and I do not think we need to descend too deeply into particulars.

**Deputy P. N. Troy:**

I think, Sir, there is a danger that many Members may end up supporting at the beginning and then realising at the end that it is the wrong course of action because in the U.K., Sir, a person may reasonably request representation - and it is on page 2, item 4, I would ask Members to read that - but in the U.K. it provides that a person may reasonably request representation in specified types of disciplinary or grievance hearings. Deputy Southern's amendment would provide an absolute right, not by request, to be represented in any unspecified disciplinary or grievance matter. Then also regarding the second bullet point there in item 4, one can see that the remedy also introduces the right to reinstatement following unfair dismissal, a provision that is not available for breach of any other part of the Employment Law. Now, this is a new item that Deputy Southern is introducing into this Law, Sir; that there is a right of reinstatement. We do feel that the existing codes of practice are adequate and that there should not be a right of reinstatement, and I think Members need to recognise that. We did agree with the fact that Deputy Southern is introducing new points into the Law, which are not already covered in the Employment Law, and I will now leave that and come back to it later, but we have advice that in other jurisdictions the right of reinstatement is avoided as an issue in bringing it into the law. It is a very difficult area as Deputy Breckon alluded to because you can have conflicts and the right of reinstatement is not necessarily the best option at any one point. So, I would hope that Members take that into account. Members should reject the amendment because as the Minister has already explained the JACS (Jersey Advisory and Conciliation Service) has given its opinion that it is already implementing the codes of practice and that the current system is working well. To input into the law detailed rights of representation is unnecessary, and our preferred procedure is via the codes of practice, and any breach of the codes can be taken into account by the tribunals or by any court of law should it proceed to a court of law. I would hope that Members recognise that the employment tribunals have a very important part to play in the whole process of dispute resolution. The tribunals are composed of individuals with experience in employment matters and are headed by individuals with legal expertise. Employees participating in a dispute receive advice from JACS and from the chairman of the tribunal regarding the procedures, and as has already been stated and is detailed on page 5 of the comments under (i): "Each individual has the right to be accompanied by a fellow employee of his or her choice, or, where a union is recognised, by a trade union representative." We are firmly of the opinion that the current system, using codes of practice attached to the law, is a much preferable situation than Deputy Southern's proposal to enshrine amendments within the law. Deputy Southern particularly

mentioned points 40 and 41 and had complaints that the companion did not have rights to speak. Now, if he feels that the process is not operating in the correct way at the moment, I would suggest that we could certainly put to JACS, to the employment forum, and to the Chairman of Tribunals a question as to the way the process is operating, and ask them whether they feel that the procedure needs to be changed. That could ultimately then end in a change to the code of practice. Now, that would be a very valid solution. We do not agree that this should be enshrined in law. It is easy to change the codes of practice as the system evolves and changes and I would hope that Members recognise that to put this into the law is not the right place for it at the present time. So, Sir, I would just merely conclude by asking Members to recognise there are big issues here, the system is working well at the present time, and I feel that Members should reject this amendment.

**The Bailiff:**

It is now 12.45 p.m. An adjournment is proposed, and may I remind Members that Standing Orders provide in default of a contrary decision that we return at 2.15 p.m.

**LUNCHTIME ADJOURNMENT**

**The Greffier of the States (in the Chair):**

Very well, the debate resumes on the principles of the legislation proposed by Deputy Southern. Does any other Member wish to speak?

**8.3.9 Deputy S.C. Ferguson of St. Brelade:**

I am just a little confused. Perhaps Deputy Southern would clarify this for me: if there is no employee who could accompany the person with a grievance, and he or she is not a member of a union, what is his sort of suggested alternative? I am reluctant to let it drift on to a tribunal because by the time the tribunal takes place, it is my experience that attitudes have hardened and reinstatement would be an almost impossible option. I would appreciate these points being clarified for me.

**8.3.10 Senator M. E. Vibert:**

I wonder if Deputy Southern in summing up will clarify something for me. One is that, as I understand it, we are looking at the preamble here, but if anybody does not support any of the amendments is there any point in approving the preamble, or is there any advantage to be gained? Perhaps the Deputy can address that, because looking at what is proposed, which I presume we are not meant to talk about in detail, what is there is... I do not support them as drafted, so unless he can convince me otherwise I do not see any point in approving the first part.

**8.3.11 Deputy D.W. Mezbourian:**

The Minister spoke at length about the rights of employees which are protected, he told us, under the code of practice. He told us too that the code of practice is delivery. What he did not tell us is that apart from recourse to a tribunal, what employees may do when the code of practice does not deliver. I question why he considers it better for employees to resort to the intervention of an employment tribunal to resolve an issue that could be enshrined within the law. We are a legislature, yet the Minister, and the Assistant Minister too, insists that we should not enshrine people's rights within the law. I question their reasons for this and will therefore be supporting the proposition this afternoon.

### **The Greffier of the States (in the Chair):**

I now call on Deputy Southern to reply.

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

I will try and be brief, but it is probably worthwhile commenting on some of the points that have been made, and I am glad to see such a positive spirit entering into the first debate for me of any substance this year. I first need to point out that this is not some weird and wonderful process; this is not something abnormal. This normal right to representation; right to be accompanied is carried out day in and well, I hope not day in and day out, but on a regular basis by hundreds of employers and employees throughout the Island, throughout the country, throughout Europe. It is normal practice that this takes place. What is abnormal is that in Jersey there is no statutory right that this should happen, and that, in the words of the code: "The chosen companion, if such is permitted", permits employers not to follow this process. The important thing about the amendment that I have brought forward today is that, as Senator Norman said, it does put in a sanction. There is a motivation for an employer to change their ways. If their practice is not to allow people to be accompanied then there is a motivation, a sanction to try and get them to move from what has been their traditional practice. As several Members said, this is not about the end of the process, it is not strictly only about arriving with a pretty catastrophic situation at a tribunal and trying to sort it out at the end. This is about getting reasonable people together in a disciplinary process, or any grievance process, before it all goes to the end. It is part of the process, as Deputy Le Hérisssier says, and that is what it is doing. It is intended to be helpful to both sides; to the employee and the employer to help them resolve their difficulties over an employment issue. As Senator Norman has correctly pointed out - and it is not very often I am in total agreement with the Senator - but that high sanction is there as a deterrent to make the employer sit up and take notice, and say: "We take this seriously. You should too." Deputy Le Hérisssier said: "What about those in small businesses who are not represented, are they going to receive second-class treatment?" I think this question is that there is that possibility, and I hope he comes back for the vote. Deputy Scott Warren very usefully pointed out that she had been involved in a number of these issues; work issues, employment issues and that union reps proved themselves time and time again to be very valuable and useful in helping the process through. Deputy Breckon quite rightly reminded us that if you are in trouble at work it is a highly emotive issue and it is likely that many people, brave as they are, are not going to be able to stay coherent and rational and unemotional when facing a serious sanction from work, and that somebody else who knows what they are doing, who can be helpful, is present and speaking on their behalf. The Deputy of St. Peter quite correctly pointed out that "up to 13 weeks remuneration" is simply that; "up to" and not automatically 13 weeks, it would depend... there is a whole scale of things. Deputy Troy and Senator Routier, the Minister and the Assistant Minister, kept coming back to this process of saying: "We have already got a code of practice. It works. It is proven. It has teeth." Yet, to my mind, they failed to demonstrate that. What we have got is a code of practice which allows people not be accompanied, not to be represented, and that is accepted as a norm. Even if there is a failure to observe the provision of the code, listen to item 2 in the introduction: "The provisions of this Code are admissible in evidence and may be taken into account in determining any question arising in proceedings before the employment tribunal or a court." Carefully: "Failure to observe any provision of the code does not of itself render a person liable to any proceedings." "Does not render a person liable to proceedings." That is saying there is no automatic right. There is no sanction built into this code. What I am doing is building a sanction into the Law and I think it is perfectly correct to do so. Deputy Ferguson asked what would happen to an employee who was not a member of a union and could not find anybody to support him or her. Then they would have to face it on their own unless they were to get a friend in from outside the company; that is perfectly possible. But nonetheless it should be acceptable to call in a union member, and if they are not a member of a union I would say: "Well, shame on them." I

thank Deputy Mezbourian for her comments, and to Senator Vibert I say: “Well, I think the issue is clear, if you do not like what is proposed vote against the motion”, but I maintain the preamble.

**The Greffier of the States (in the Chair):**

The principles are proposed, the appel has been called for, the vote is therefore for or against the principles to the draft law as proposed by Deputy Southern, and all Members are in their designated seats, the Greffier will open the voting.

<b>POUR: 23</b>	<b>CONTRE: 24</b>	<b>ABSTAIN: 0</b>
Senator S. Syvret	Senator F.H. Walker	
Senator L. Norman	Senator T.A. Le Sueur	
Senator W. Kinnard	Senator P.F. Routier	
Senator B.E. Shenton	Senator M.E. Vibert	
Connétable of St. Helier	Senator P.F.C. Ozouf	
Deputy A. Breckon (S)	Senator T.J. Le Main	
Deputy of St. Martin	Senator F.E. Cohen	
Deputy G.C.L. Baudains (C)	Senator J.L. Perchard	
Deputy C.J. Scott Warren (S)	Connétable of St. Ouen	
Deputy J.B. Fox (H)	Connétable of St. Mary	
Deputy J.A. Martin (H)	Connétable of St. Peter	
Deputy G.P. Southern (H)	Connétable of Trinity	
Deputy S.C. Ferguson (B)	Connétable of St. Lawrence	
Deputy of Grouville	Connétable of St. John	
Deputy of St. Peter	Connétable of St. Brelade	
Deputy J.A. Hilton (H)	Deputy R.C. Duhamel (S)	
Deputy G.W.J. de Faye (H)	Deputy J.J. Huet (H)	
Deputy P.V.F. Le Claire (H)	Deputy P.N. Troy (B)	
Deputy D.W. Mezbourian (L)	Deputy of St. Ouen	
Deputy of Trinity	Deputy J.A.N. Le Fondré (L)	
Deputy S.S.P.A. Power (B)	Deputy A.J.H. Maclean (H)	
Deputy S. Pitman (H)	Deputy K.C. Lewis (S)	
Deputy of St. Mary	Deputy of St. John	
	Deputy I.J. Gorst (C)	

**The Greffier of the States (in the Chair):**

Now, Standing Order 71(6) provides that if the States do not agree the principles of the draft, the draft is taken to have been withdrawn, and accordingly this concludes the debate on this item.

**8.4 Bailiff’s Consultative Panel (P20/2006)**

**The Greffier of the States (in the Chair):**

The Assembly now moves to the next item of business, which is the Bailiff’s Consultative Panel, P.20, in the name of the Privileges and Procedures Committee, and I will ask the Greffier to read the proposition.

**Deputy Greffier of the States:**

The States are asked to decide whether they are of the opinion to refer to their Act dated 7th July 1992 in which they agreed to establish a consultative panel of elected Members of the States with whom the Bailiff would be able to meet in order to consult on a confidential basis in appropriate cases, and to their Act dated 4th February 2003 in which they agreed to revise the composition of the panel, and to agree that the composition of the panel should be further revised, and henceforth be comprised as follows: the Senior Senator, the Chairman of the Comité des Connétables, the Senior Deputy, the Chief Minister, the Chairman of the Privileges and Procedures Committee, the Minister for Treasury and Resources, and 3 other Members elected by ballot by the States for a period of 3 years, except that if either the Senior Senator or Deputy are already members of the panel by virtue of holding another office, their place on the panel shall be filled by the next most senior Senator or Deputy in the role of elected members who is not already a member of the panel.

#### **8.4.1 The Deputy of St. Peter:**

In the absence of my Chair, I bring this proposition to the Assembly on behalf of the Privileges and Procedures Committee, in order to agree the composition of the Bailiff's Consultation Panel, now updated to take into account our new Ministerial government. The accompanying report, I believe, is self-explanatory and I wish to emphasize that this Panel has no constitutional function and has no power in government; however it does allow the Bailiff to discuss such issues as the programming of events associated with this Assembly, for example, the recent arrangements for the departure of His Excellency Lieutenant Governor. The Panel meets in an informal confidential... and as a constructive forum. Again, for the avoidance of doubt, it is intended that the Panel shall comprise of the Senior Senator, the Chairman of the Comité des Connétables, the Senior Deputy, the Chief Minister, the Chairman of the Privileges and Procedures Committee, the Minister of the Treasury and Resources, and 3 other members elected by ballot by the States for 3 years. Obviously, Sir, there are no manpower or financial implications, and so I make the proposition.

#### **The Greffier of the States (in the Chair):**

Is the proposition seconded? [**Seconded**] Now, there is an amendment to the proposition in the name of the Connétable of St. Helier, and I will ask the Greffier to read the amendment.

#### **Deputy Greffier of the States:**

In the list setting out the proposed composition of the panel, one, delete the words "the Senior Senator and the Senior Deputy". Two, for the words "3 other members elected by ballot" substitute the words "5 other members elected by ballot". Three, delete the words: "except that if either the Senior Senator or Deputy are already members of the panel by virtue of holding another office their place on the panel shall be filled by the next most senior Senator or Deputy in the role of elected members who is not already a member of the panel."

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

Sir, perhaps before the debate proceeds I declare an interest and leave. I mean I know it is not a pecuniary interest, but it does affect my position and I do not think it is a particularly edifying debate in any event so far. Now, if you will excuse me I will...

#### **The Greffier of the States (in the Chair):**

We have not got there yet, Senator, but your position is noted and I am calling the Connétable to make the proposed amendment.

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

I am going to be equally brief as the rapporteur for the main proposition. As I explain in my report I personally do not feel there is any place for time-served appointments in a modern government. Members may remember that I successfully challenged the concept that the Chef de Police of Parishes should be appointed on that basis, and the court upheld my view in the case of that appointment; seniority should have nothing to do with it. All appointments should be made on merit. I do concede in my report that possibly the Christmas messages in the Assembly should continue to be delivered in terms of the longest serving Members. There is something, I think, quaint about that and traditional, but when it comes to giving the Bailiff advice about upcoming events it does seem to me that it does not necessarily hold that the person who has been in the House the longest will be the best equipped to provide good advice, and therefore I propose that all of the 5 States Members should be elected by ballot from those wishing to undertake the task. I make the amendment.

**The Greffier of the States (in the Chair):**

Is the amendment seconded? [**Seconded**] Are you seconding the amendment, Senator?

**8.4.3 Senator M.E. Vibert:**

I am. Despite being a Member of PPC I am seconding the amendment because I do not agree with P.P.C. (Privileges and Procedures Committee) on this matter. I do not believe in the divine right of kings, and I do not believe in the divine right of States Members to be a position on the basis on longevity in the Assembly. To keep it very short, I believe States Members would demonstrate commonsense in selecting those Members they believe most suitable to be on the Bailiff's Panel taking into account their length of service and other attributes, and I think it would be a further problem if it went through as originally proposed unamended. You could have the situation where you would have some senior Members who did not want to serve on the panel and would be forced to do so. I see no reason for this at all. I think the States can be trusted to elect the best people for the job.

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

Yes, I would just like to point out an inaccuracy of the proposer and the seconder that in fact the most senior Member is not necessarily the longest serving Member by any stretch of the imagination. I can, for example, give the fact that Senator Syvret may be the Senior Senator, but he is by no means the longest serving Member.

**8.4.5 The Deputy of St. Peter:**

As I said in my opening gambit, this particular panel is not a panel that offers any direct constitutional involvement or rule-making within the States, it is a panel that has served us well historically, it is a panel that, I believe, the Bailiff is happy with. I have heard no dissent, including from one of our members of the Committee, with regard to the constitution of the panel, and I am surprised at his speech. The Senior Deputy and the Senior Senator by nature of their position have had enormous experience within the Chamber, and it is that experience that I believe the Bailiff is wishing to tap. I am sure that the Privileges and Procedures Committee have not been made aware of any of the senior members who have sat on that panel as being unhappy with the situation, and as a committee we oppose the amendment, Sir.

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

I am going to support the amendment. I also think that the Privileges and Procedures Committee should consider whether or not when making addresses to dignitaries that that address in the future

should not be made by a senior member but by the most senior elected Member, which is the Chief Minister. I believe we need to look at these things in far more detail.

#### **8.4.7 Senator P. Ozouf:**

I am not going to support this amendment. The Senior Senator is something which is in other places referred, and in other matters referred to as the Father of the House. The Father of a House - the Father of an Assembly - is something which is well known and well documented in parliamentary procedures in other places and I remember looking - I have not brought the printouts out, but I remember that in the Westminster model the concept of a Father of a House is recorded and it recognises uninterrupted long service, and I think that it would be a shame for us to defrock the position of Father of the House in a minority situation such as this. We are talking about 2 members of this panel. Are we really saying that 2 individuals; the Father of the House, the longest serving uninterrupted Senator, is not somebody that can be used and is useful for insight and wisdom in respect of different matters that the Bailiff's Panel is looking for? Are we simply going to throw away the conventions of a title which has been, and a position which has been the symbol of respect and wisdom over a period of time? I think it is a shame. I think Members who are identifying this are effectively over-cooking the concept that they put forward in the Assembly, and I think that as far as the Father of the House is concerned he should be, or she should be, an ex officio Member of something such as the Bailiff's Panel. Similarly, if we are treating the senior uninterrupted Senator in the same way, I see no reason why the same convention should not apply for the longest serving uninterrupted Deputy. I think it is a shame that we are doing away with such longstanding conventions, and I would hope that another Member of Privileges and Procedures would stand up and defend concepts which are widely understood and widely noted in other assemblies. As for the Constables, they have decided that for the first time - or at least for the first time, I think - that they will elect their Chairman from among their ranks. That is a matter for them. The equivalent position would perhaps be that the Deputies elect a Chairman among their own members, but that should be a matter for Deputies. I think that this is correctness gone crazy and I will not be supporting the amendment. We are dealing with 2 positions on a panel here; 2 positions, both of which in the cases of long-serving uninterrupted service I think they should be appointed ex officio.

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

Well, I will be supporting this amendment. It seems to me that if the Senior Senator and the Senior Deputy wish to remain in that position as members of the Bailiff's Panel they can put their names forward, and if they are considered - as may well be the case - the right people to continue in those positions they will get elected by this Assembly. So I do not see what there is to fear by electing the people of this panel. Thank you.

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

I do have an interest because I am one of those Members, but it is not a pecuniary interest, and I have never taken a Bailiff's shilling if indeed there is such a sum. That said, Sir, either way if the House dose decide to go with the amendment I would question whether or not the right approach is being taken. For some reason we are suggesting that there be 5 appointed members, or elected members of this House, while on the other side we do have titled positions, and it strikes me, Sir, with another hat on, and some Members might expect me to say this, but I would ask that appellants be struck and indeed if we are having a representative of the Connétables, representatives of the Council of Ministers, the Chairman of the Privileges and Procedures Committee, indeed we should be thinking in similar terms for the Chair of the Scrutiny Panels. Thank you, Sir.

#### 8.4.10 The Connétable of St. Mary:

Not too sitting far away from me I have been informed, we have the longest serving uninterrupted serving member, he is now the Senator, but why should that not person be elected on the committee because he has been there far longer than nearly everybody else put together, Sir? **[Aside]**

#### 8.4.11 Senator J.L. Perchard:

Just a little contribution to this debate, Sir, the amendment does allow us of course the opportunity to invoke some sexual equality into the Bailiff's Consultative Panel. It is quite often the case that it would be an all male panel, and because the House would have the opportunity of electing some of the fairer sex to advise you, Sir.

#### The Bailiff:

I call upon the Connétable to reply.

#### 8.4.12 The Connétable of St. Helier:

Just when the last speaker was doing so well on political correctness, he went and put his foot in it. I want to thank Senator Syvret for seconding the amendment. As he pointed out senior members may not wish to fulfil this role, albeit not an onerous one. The rapporteur said that there is no constitutional function here so did it matter? I believe it does matter. I think there is an important point of principle here. The Deputy of St. Peter... sorry, as the rapporteur, I was pleased that he did reveal his reasons as the report presented by the Committee left me pretty stumped as to where they were coming from in opposing it. Senator Ozouf in the longest speech of the debate accused me of over-cooking and said I was trying to defrock Senator Syvret, and I can assure him that is not my intention. I believe that if Senator Syvret were to put his name forward as one of the 5 elected members then he would be highly likely to be returned by this House as one of the members of it, and indeed because he is the Father of the House. The Father of the House, of course, if this amendment is accepted, will continue to have an important traditional role in the Assembly, not least in requesting the adjournment so we can go to lunch. Deputy Duhamel asked: "Why not include Scrutiny as well?" Well, he could have brought an amendment to it. I am grateful to the Connétable of St. Mary, Deputy Scott Warren and Deputy Le Claire for, I think, supporting me. I was not entirely sure they all were, and as I say I think Senator Perchard concluded the debate with an important point that an open vote for 5 members on the panel will allow us to select a membership that we believe is fairly representative of various things, including gender. I maintain the amendment.

#### The Bailiff:

Well, I invite any Member who is outside the chamber who wishes to vote to return to his or her seat, and the vote is for or against the amendment of the Constable of St. Helier. I ask the Greffier to open the voting.

<b>POUR: 27</b>		<b>CONTRE: 19</b>		<b>ABSTAIN: 0</b>
Senator W. Kinnard		Senator L. Norman		
Senator T.A. Le Sueur		Senator F.H. Walker		
Senator P.F. Routier		Senator P.F.C. Ozouf		
Senator M.E. Vibert		Senator B.E. Shenton		

Senator T.J. Le Main		Connétable of St. Peter		
Senator F.E. Cohen		Connétable of Trinity		
Senator J.L. Perchard		Connétable of Grouville		
Connétable of St. Ouen		Deputy R.C. Duhamel (S)		
Connétable of St. Mary		Deputy A. Breckon (S)		
Connétable of St. Helier		Deputy G.C.L. Baudains (C)		
Connétable of St. Lawrence		Deputy P.N. Troy (B)		
Connétable of St. John		Deputy of Grouville		
Connétable of St. Brelade		Deputy of St. Peter		
Deputy J.J. Huet (H)		Deputy G.W.J. de Faye (H)		
Deputy of St. Martin		Deputy J.A.N. Le Fondré (L)		
Deputy C.J. Scott Warren (S)		Deputy of Trinity		
Deputy J.B. Fox (H)		Deputy A.J.H. Maclean (H)		
Deputy J.A. Martin (H)		Deputy I.J. Gorst (C)		
Deputy S.C. Ferguson (B)		Deputy of St. Mary		
Deputy of St. Ouen				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				

**The Bailiff:**

Thank you. Well, the debate now returns to the proposition of the Privileges and Procedures Committee as amended. Does any Member wish to speak on that proposition?

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

Well, only to say, Sir, that I believe that there is an important role for the Members in advising the Bailiff on matters affecting the Island. There are a number of important events, such as the recent liberation commemoration, which as was rightly said by yourself, Sir, should continue to be marked by the Island, and those kind of events are ones, I think, which will benefit from an ongoing input by elected members and how they are constructed and how they are evaluated after they take place. So, I do believe that it is an important role and I hope Members will attempt to achieve a good balance of membership upon the panel.

**The Bailiff:**

I call upon the rapporteur to reply.

**The Deputy of St. Peter:**

Sir, no, we move forward now to a ballot for 5 as amended, Sir.

**The Bailiff:**

Very well. Well, I put the proposition first of all. Those Members in favour of adopting it kindly show. Those against? The proposition is adopted, and as the rapporteur says we now proceed to a ballot for 5 members to be elected for a period of 3 years and invite nominations.

**8.4.14 Senator M.E. Vibert:**

Could I propose Deputy Labey, Sir, to serve on this as she has got responsibility for culture, I thought it would help you out, Sir.

**The Bailiff:**

Do you mean the Deputy of Grouville?

**Senator M.E. Vibert:**

Deputy of Grouville I mean, of course. [Aside]

**8.4.15 Deputy S. C. Ferguson:**

Can I propose Deputy Huet, Sir?

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

I was just going to second the Deputy of Grouville, and also Deputy Huet.

**The Bailiff:**

Thank you very much.

**8.4.17 Senator F.H. Walker:**

Can I propose Senator Syvret? [Seconded]

**8.4.18 Connétable K.A. Le Brun of St. Mary:**

May I propose Senator Le Main, Sir, please? [Seconded]

**8.4.19 Connétable G.W. Fisher of St. Lawrence:**

Could I propose the Constable of St. Helier? [Seconded]

**8.4.20 Deputy Lewis**

I would like to propose Deputy Duhamel. [Seconded]

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

Deputy Baudains, please. [Seconded]

**8.4.22 Deputy J.J. Huet:**

Could I propose Deputy Ferguson? [Seconded]

**8.4.23 Deputy J.B. Fox:**

Yes. Can I propose Deputy Judy Martin? **[Seconded]**

**8.4.24 Deputy S. Power:**

I would like to propose Deputy Troy. **[Seconded]**

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

I would like to propose Deputy Mezbourian, Sir. **[Seconded]**

**8.4.26 Senator P. Ozouf:**

May I propose the very wise Deputy of Trinity? **[Seconded]**

**8.4.27 Senator M. E. Vibert:**

Sir, sorry, I hate to say this, but I would like to propose one more because we had a balance before and I think it is getting slightly unbalanced between the estates and I would like to propose Senator Routier, please. **[Seconded]**

**8.4.28 Senator W. Kinnard**

Sir, I have got one more. Could I propose Senator Michael Vibert? **[Seconded]**

**[Laughter]**

**The Deputy of St. Peter:**

I believe, Sir, we have reached 14.

**The Bailiff:**

Very well. Well, given that there are so many Members fighting to serve upon the Bailiff's Consultative Panel, I wonder whether Members might agree that the Greffier can draw up a ballot paper, which can then make the life of the counters easier. I will ask the usher to circulate the ballot papers.

**Senator M.E. Vibert:**

Sir, could you just explain the voting methodology?

**The Bailiff:**

Yes. There are a number of names down on the ballot paper and as the ballot paper states, Members may vote for up to 5 Members. Not more.

**Senator M.E. Vibert:**

Sir, could I clarify? On the Panel already, will it be 2 Senators and 2 Constables if my reading of the *ex officio* Members are correct? The Chief Minister, the Treasury Minister, the Chairman of the PPC (Privileges and Procedures Committee) and the Chairman of the Comité des Connétables.

**The Bailiff:**

That is right. Yes, the Chairman of the Comité des Connétables, the Chief Minister, the Chairman of the PPC, the Minister for Treasury and Resources are the *ex officio* Members. Members are now called upon to elect 5 others. If all Members who wish to vote have put their ballot papers in one or

other of the urns, I will now ask the Deputy Viscount and perhaps the Attorney General if they would mind acting as scrutineers.

**The Bailiff:**

I can now announce the result of the ballot for membership of the Bailiff's Consultative Panel. The following Members have been elected: Senator Syvret with 24 votes, the Deputy of Trinity with 23 votes, Deputy Mezbourian with 22 votes, Senator Le Main with 21 votes and the Deputy of Grouville with 19 votes. I hope I am not imposing on Members of the Consultative Panel, however I whether I might ask if they might be prepared to have their first meeting tomorrow morning at 8.45 a.m. in the Bailiff's Chambers.

[Laughter]

**Senator S. Syvret:**

Sir, my apologies in advance, I will not be able to make that time.

**The Bailiff:**

Very well.

**8.5 Bellozanne Waste Treatment Works: petition (P.34/2006)**

**The Bailiff:**

We now come to Bellozanne Waste Treatment Works: petition (Projet 34) in the name of Deputy Fox and I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of opinion to request the Minister for Transport and Technical Services (a) to undertake an assessment of the Bellozanne Sewage Treatment Works by the end of 2006, to identify the sources of the unpleasant smells that are causing a nuisance to those living and working in the vicinity of the works, and (b) to prepare a full engineering appraisal following the assessment showing how the smells could be minimised and setting out the total capital cost of the required buildings, enclosures, odour control equipment and all associated engineering works, and to request the Minister to then make the necessary submission based on the appraisal as part of the capital prioritisation process, so that funds can be sought to enable the remedial work to be undertaken.

**8.5.1 Deputy J.B. Fox:**

It gives me great pleasure today to present this proposition on behalf of the residents of Bellozanne and the First Tower area, which I am delighted has received in principle support from the Minister for Transport and Technical Services and the Council of Ministers, and indeed for the department for all the work, as with other departments, in enabling this to be put forward. It is also my intention to give a short overview of this proposition at this opening address. I will deal with any questions, obviously, that arise as a result of it. Historically, Bellozanne Treatment Works was constructed in the mid-50s for the Island's treatment of sewage and waste water. The sewerage network has been extended to a point where approximately 87 per cent of the Island is serviced by the foul drainage system, except for a small package treatment plant at Bonne Nuit. The sewage

works had very little modernisation until the 1980s, when there was a programme of refurbishment, replacement and upgrading. Odours resulting from the biological treatment process have been a problem for many years and have been the subject of regular complaints from the nearby residents. Odours occur as a result of a biological degrading of the sewage emanating from the surface of the large open tanks and channels. On Thursday, 16th March 2006, I was delighted to receive a petition of some 434 names, from Mrs. Judy Beaumont of Pomme d'Or Flats, West Hill, St. Helier, together with a Mrs. Julie O'Shea from Clos St. Andre in St. Helier. They collected all the signatures. On your desks, in fact - I understand they were posted prior to today - you will have received 2 independently recorded diaries from these 2 ladies on the smells emanating from the waste water works and how it affected their families. I thought it might be useful for you to have that diary record. In essence, the petitioners asked the Committee to make funds available to resolve the problem and minimise the foul, unpleasant smells which cause considerable nuisance in the daily lives of the petitioners, their families and other workers. To achieve this, the Minister for Transport and Technical Services has agreed that his department will conduct a preliminary assessment during 2006 and submit a capital request for inclusion in the 2012 capital programme. The Council of Ministers, in early 2007, has agreed to consider the items to be included in the draft capital programme. The draft capital programme will then be submitted to the States in the summer of 2007, as part of the annual business plan. Financial and manpower implications: the Minister has agreed to fund the initial odour survey and scoping works from the department's budget. The cost of the feasibility study and the technical appraisal, I am advised, may be up to £100,000. The costs at this time of the actual remedial works are not known, but are considered to be significant and certainly several millions of pounds. Manpower implication of implementing the remedial works cannot be determined until the feasibility study has been undertaken. I propose this proposition. Thank you, Sir.

**The Bailiff:**

[Seconded] Does any Member wish to speak on the proposition? Senator Ozouf?

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

I think Deputy Fox is to be congratulated for bringing this item to the Assembly's attention, and also the Transport and Technical Services Ministry and Assistant Minister, who of course do represent this area, to agree to bring forward a proposal or to understand what the issues can be for corrective action for this. I support that as a previous Deputy of St. Helier, as many of us in this Assembly are. We know of the difficulties that residents around Bellozanne have with the placement of the sewerage works. There is a problem, but I would also wish to say that I do not think that we should be raising people's expectations that there is a magic wand, that we can deal with this problem overnight. There is not capital funding available within the short period of years, i.e. for the next 2 to 3 years, at the very least, for any remedial action, and certainly, unlike the installation that Senator Vibert and I saw last week in the Isle of Man, where we saw the Isle of Man's sewerage works... Of course, they have a sewerage works, unlike some other places not too far away from here. Their sewerage works is on the top of a cliff, well away from population and any smells that may emanate from their sewerage works are basically taken off into the wind or outside of a population density. There is a very different situation in Bellozanne and that is, I suspect, the problem. There could be issues put in place but they may well be expensive and they may not be a complete solution, but of course it has to be right that the matter is investigated, that the matter is costed and that the matter is brought forward for consideration by the Council of Ministers, and ultimately the Assembly, to come to a conclusion. But I would just urge Deputy Fox and others to ensure that expectations are not raised; that we just simply will not be able to deliver in the early course. I agree that there is a problem and I would want to do something about it, but I am afraid it is not going to be overnight.

### **8.5.3 Deputy J.J. Huet:**

I have just listened to what Senator Ozouf said and, yes, it sounds great, but the people there have been putting up with this for a long, long time. Both Senator Ozouf and Senator Walker have been Deputies in that district and it was there when they were there. I think 2012 is too long. I have been in the district for 30 years and it has been there. You are now saying: "Do not raise your hopes." Well, I think it is about time some hopes were raised. Those people have put up with it for years and years, and I think we should be ashamed of ourselves if we cannot bring it forward from 2012, and I am asking the Chief Minister, he is a clever person and I am sure he can wangle something somewhere. **[Laughter]** I notice that he does not live there. Neither does Senator Ozouf live there. I do not think there are many who do live in that from this Chamber. The ones who do live in it know what it is like. As I say, none of you would buy a house there, I can assure you. So, I think 2012 is much too long and I think you should put your thinking caps on and try and make life a bit more pleasant. It is not just people, it is children as well. It is everybody in that district. Thank you Sir.

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

I could not agree more with the last speaker. She is absolutely right. To talk of 6 or 7 years of continued problems down at Bellozanne is really unacceptable. I think, Sir, that the Transport and Technical Services Minister has perhaps got his priorities wrong here. He is looking to build a large cover to eliminate the smells at a composting site, which has been made of his own accord at La Collette, that is going to be at a level of some £4 million worth of capital costs, to try and alleviate the smells emanating from La Collette. La Collette is a problem made by him, his own department, and it is a smell emanating from La Collette that needs not to happen. So, the States have agreed, I understand, or are about to agree to cover a man-made problem at La Collette with a £4 million building, while ignoring the problem at Bellozanne. I suggest the Minister for Transport and Technical Services seeks advice again from his Council of Ministers as to which of these 2 smells should be prioritised with regards to his department dealing with them. Can I offer him some help by suggesting that the smell emanating from La Collette could stop tomorrow if he chose to stop receiving waste there and look at some sensible alternatives which are available to him immediately and that would alleviate the problem, not only in the short-term but in the long-term?

### **8.5.5 Senator Vibert:**

While supporting and agreeing that we should not build up hopes of a complete solution, if it turns out to be a very expensive engineering solution, we will not be able to afford it very quickly, I think it is important to do what we can as soon as we can to alleviate the problem in the area. I am wholeheartedly behind making a proper assessment of it, and as Senator Ozouf said, we visited such a site in the Isle of Man. I stood right on top of the inlet, with the sewage coming in. Unfortunately for some of you, I did not fall in but came out smelling of roses. But there was no smell. Right near the settlement tanks. There was no smell. It did not seem to be rocket science that was eliminating a lot of the smell. Maybe it will be that to totally eliminate the smell it will require expensive engineering works, but I think it is important, and I made this comment in the discussion of the Council of Ministers, if the assessment shows that something can be done to alleviate part of the smell or most of the smell in a reasonable way, at a reasonable cost, we should move that up our priorities and do it, so as to make the lives of the people in Bellozanne, who have had to put up with this unpleasantness for far too long, easier. So, we must not build up hopes, but we must do what we can and as quick as we can. It is not acceptable for those people to have to continually bear that smell, if we can do something to alleviate it.

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

I also congratulate Deputy Fox and I agree with the previous speakers, who have stated that 2012 is far too long. I feel that we must do something to remedy this unpleasant environment as quickly as possible, and make some way of finding and allocating the resources that are needed. It must be a top priority. Yesterday, there was also a terrible smell emanating around the South Hill offices and area. **[Laughter]** That is no inference on the department. **[Laughter]** I had friends over last weekend from England and they were not aware of the political discussions going on in the Island at the moment, and they remarked to me about the smell at Havre des Pas. I think it is a top priority for us to make this a smell-free Island. The residents of Bellozanne area and anyone, to be honest, facing obnoxious smells in the Island have my full support. Thank you.

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

I too am fully supportive of the people in the Bellozanne area being relieved of this obnoxious smell. Also, I applaud Deputy Fox for bringing a proposition to the Assembly that is so well-drafted and so well thought through. I tend to scratch my head now, though, because I am wondering when and how it will get sorted if at all, because I have been in the Assembly now for, I think, 7 and a half years, and when I first came to the Assembly, I worked on the Public Services Committee with Constable Simon Crowcroft of St. Helier, and we identified a number of issues in respect of what was needed then and they are still in train now. Some of the issues in relation to the sewage treatment works were whether or not they should be covered, whether or not the ongoing fiasco at the time of the cavern was ever going to be sorted out, and also whether we would be able to get rid of the people we had to retain to solve the issue. Also whether or not we would ever extend the outfall on the beach at First Tower to a satisfactory distance to enable the children that play there in the summer not to be in the vicinity of where the sewage enters the ocean. Now, it might be something that is very well treated and it might be something that has people from all over the world coming to marvel at its ultraviolet qualities. But, nevertheless, it is still sewage. It is treated and, in some instances, the fish are having a heck of a time there, so I do not know how well it is treated, but certainly something is still there. The whole issue about what we have done with our sewage and the cavern and the whole issue about money seems to go on and on and on. It must have been a phenomenal amount of money that has been spent, by the States of Jersey, in the last 20 or 30 years or so trying to address the sewerage problems of St. Helier alone. There are a lot of issues outside of St. Helier in relation to people that have not got connections to the mains and there are issues about sewerage tactics in the future. But what I would like to say, apart from what is obvious - where is this all going to - is: where is this all going to? **[Laughter]** Because I do not know when I am going to be able to give my vote in support of doing something about it. Could you possibly, through the Chair, Deputy Fox, explain to me when I will be presented with an option to vote pour or contre on the money that will solve the issue once and for all.

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

I clearly get the mood of the House and I can assure the House that the issue will be discussed as a priority by the Council of Ministers in the shortest possible time scale. However, I do echo the words of Senator Ozouf when I say that we will not necessarily be able to find an immediate solution. I do hear very clearly the words of those who say that 2012 perhaps is too far away, but I equally believe that those Members are now jumping on the Deputy Fox bandwagon. They could have brought a proposition of their own or made those comments many years previously, but have not done so. I warmly congratulate Deputy Fox for bringing this to the floor of the House. It is not before time, in many respects, and I accept that, and the Council of Ministers will give it the most serious consideration and report back to the States at the earliest possible opportunity with all the implications, financial and/or otherwise, with a view hopefully to addressing this issue in the shortest possible time.

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

I wonder if I could add another slight dimension to this debate. Upon travelling into St. Helier early morning, on a warm midsummer's morning, with people having just been collected from the airport from other parts of the world, sitting in the traffic jam, listening while they are smelling what we are talking about emanating from Bellozanne, the windows go up and the air conditioning goes on and it still comes into the car and those people are a bit surprised that we have such a sophisticated economy here, yet we are sitting on this waterfront smelling our sewerage plant. We then get to West Park and the tide is out and we can then smell the seaweed, and they can still say: "Well, are we a modern, progressive economy?" It does concern me that we still have these smells emanating from those 2 areas, particularly when I am bringing people in from the airport from other places. Another minor thing: in deference of my predecessor, drains connected further in the future to that plant, of course, will emanate in more of the same being treated at that works. I do wonder if, during the study that Deputy Fox is suggesting, that that is taken into account. I do hope that, eventually, capital is found to connect the majority of users of our network to the main sewage system. I hope that you can include that, Deputy Fox, in your research. Thank you, Sir.

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

I would like to ask a few questions. Clearly I support this, as I think most Members will do, but I think there are a few questions that need to be asked about how we got here. I am imagining that when the sewerage plant was commissioned in the valley that the States of the day must have taken a decision about not building residential accommodation too close to it. I know that for a while, certainly since I have been in the States, there has been a bad neighbour policy and the States have bought-up properties affected by the waste treatment works. Perhaps not so much the sewerage works as the incinerator and the sorting of the refuse. But clearly there has been a policy for some years about bad neighbours. What has changed? Has the nature of the sewage changed? Is the smell worse than it used to be when they first decided to build houses in the valley? The Deputy may not be able to answer that question, but I think it is a question that somebody should be looking into, because it does seem to me that before the Island commits itself to a permanent waste facility, and Members will know what I am alluding to, they should really do their homework and make sure they are not putting something in a situation which, years down the line, is going to leave another States scratching its heads and thinking: how can we throw money at this problem and prevent it from being a nuisance? There are not just issues with smell, of course, in Bellozanne Valley. One of the at least as frequent complaints I have heard from residents there is traffic levels and traffic fumes. That is not something that putting a shed over the sewage works is going to change, but clearly if the refuse operation moves from Bellozanne Valley, then traffic levels will diminish. The other, more fundamental question I want to ask is whether the Island was right when it decided, many years ago, that every ounce of liquid waste should be piped to St. Helier for treatment. It does seem to me to be a policy that was always bound to lead us where we are this afternoon, wondering how we can take remedial action to sort out the impact of that. I remember when the Minister of Drains was always jumping to his feet in budget debates and saying he wanted more and more of the Island connected up. I did occasionally try to reason with him and say: "Well, why not look at satellite sewerage facilities? Are they not cheaper? Are they not properly sealed?" Indeed it was something of a landmark when the development in Bonne Nuit did achieve exactly that, and we now have a satellite station at Bonne Nuit which deals with the sewage up there and does not pipe it expensively down to St. Helier. So I think these more strategic questions, more structural questions, do need to be asked when the Council of Ministers is examining what to do about this situation, because there are parallels with the problems at La Collette and the States needs to learn from its mistakes in the past. It needs to understand that, if it made mistakes back in the 1950s, then we are not going to make the same mistakes in the current century.

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

I am very pleased that Deputy Fox has brought this petition, because this is an issue that he has been campaigning on for many years now, as have the other St. Helier No 3 and 4 representatives, of whom I am one of the newest. I can assure Deputy Fox that his request will receive my full support and indeed I would have been working on this myself anyway had the Deputy not brought it forward. But it is appropriate that, if I can put it this way, he should take the glory because he has been working on this issue for such a very long time. I would like to address a few of the interesting bogeymen that have been hauled out of the cupboard during the course of this debate. It is always very amusing to listen to the Constable of St. Helier talking about how we should learn from our mistakes and certainly he has made plenty that I think we have all very much enjoyed learning from over the years. Why does the sewage go to St. Helier? Well, the fundamental answer to that question is because it is downhill most of the way. That causes enormous savings in our gravity-fed drainage systems that then have to rely on a reasonably low level of pumping. The Constable is quite right. We are now looking at satellite facilities because simply the fact is that we have got 87 per cent of the Island on the mains drainage system and all the remainder, the remaining 13 per cent, is the most difficult parts of the Island to connect up and the most expensive, incidentally. We are going to have to look at innovative ways to deal with the remainder to get people on to mains drains. I am very pleased to hear that Senator Perchard has got an idea that will allow me to stop composting tomorrow and please do contact my department and tell me what it is.

**[Laughter]** Do not keep these things to yourself - if I may say through the Chair - Senator. Please run them past my offices and we will see how helpful they are. I was frankly astonished to hear Deputy Le Claire announce that the fish are having a hell of a time in the bay out at First Tower. I do not quite know how he knows that, but I would like to give an assurance to anyone who may be concerned that the water coming out of the outlet at First Tower is perfectly safe. There is no danger. Do not worry about your children playing. Do not encourage them to drink 1,000 gallons of it, but the odd slurp is not going to make any difference. But the fact is it does have to be recognised that it is not exactly the same as the water that comes out of your mains tap. That is because it is sewage effluent water and there are some things that the sewage process simply cannot take out of water, such as medications and perhaps primarily female contraceptives. So, you do not want to take your water bottle down there every day and fill it up and perhaps serve it under pressure to guests at your cocktail parties with a whiskey and ice, but you will not come to any harm if you jump about in it. But obviously I cannot speak for the information I am sure I will get from Deputy Le Claire about the fish. Now, it is a scandal that the situation at Bellozanne has been allowed to go on for as long as it has. I find it extraordinary that there are seasoned Members of this House, who have been here a lot longer than I have, who have done absolutely nothing about it. The smell that issues from Bellozanne is far worse than anything that the residents of Havre des Pas have to put up with. I know there is an odour problem down there as well and it is one that I have made clear that we are setting out to address. Senator Ozouf made some very clear promises to the residents last year and I regret that we have not been able to get on with things as fast as we would have liked, but there have been distractions on the way. That is not to say that a solution will not be found. There is a solution. But I think it was for those Members who have read in particular the diary of Mrs. Julie O'Shea, who I pay tribute to - her and her other lady friend in Bellozanne who went out and organised this petition. That is a very moving diary to read and I wonder whether Members can imagine what it is like to go to the trouble of setting up a dinner party in the evening, to invite your guests round, and because of weather conditions on the day, your guests arrive to be greeted not only by you but a disgusting, noxious sewer-like smell through which you would be obliged to sit and try and gaily eat your evening meal. Frankly, it is the smell of an open sewer. Effectively, that is what it is. It has been no fun at all for decades at Bellozanne Valley. Here we all are, we have got terribly highly charged because there has been a bit of excitement about the composting down at Havre des Pas, but it has been much worse in Bellozanne for much longer, and I am delighted that finally we are taking steps to do something about it. Already, officers from the Transport and Technical Services Department are setting about making an odour assessment to determine precisely where the smells are coming from. We will then move to a feasibility study

and the funds are there, there is a pot of funding for feasibility studies, and we will look at what we can do to fix it. But it is not going to be easy and it is not going to be cheap, because one of the differences in, for example, the operation of the composting plant to sewerage works is that the process of anaerobic decomposition of sewage produces methane gas, which is explosive. So, it is not simply a matter of sticking a tent over the whole lot, because we have a lot of electrical equipment involved in the pumps and as we enclose, so we trap methane gas, potentially highly explosive and one spark from an electrical pump could set the whole thing off. So, it is a hazardous potential that we are going to have to investigate in great detail to find the appropriate solutions. So, solutions are available, but I say again, it is going to be expensive. I am afraid it is not just good enough for Members just to get up and congratulate Deputy Fox and perhaps encourage me to get on with things. We are going to have to find the money and that means that Members are going to have to look at our priorities. Now, I cannot remember who it was, but someone said: "Where are we going to find the money?" Well, we get to approve the business plan in due course. That is where Deputy Fox and I and other people who have spoken in favour of sorting this problem out will find out very abruptly just how many other Members are interested in getting this problem sorted out because it will be there in the budget or it will not be. This will mean that other areas are going to have to consider their priorities, because I am afraid at the moment the money simply is not there in the capital programme until 2010, 2012. So, on behalf of my department and Deputy Fox, I issue an early appeal to Members and say if you do genuinely want to sort the problem out for residents of Bellozanne Valley, please offer assistance when it comes to the business programme, because that is the only way that we will have the money to get it fixed. But I conclude there because I am afraid that is the raw facts of the matter. A solution is available but it is down to Members to provide the funding to get it sorted out. Meanwhile, I once again congratulate Deputy Fox and give him my assurances that I will give him every support in this matter that I can.

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

I will be very brief because I think most of the House is in favour of this proposition. Just a couple of points. Firstly, I do not think Senator Ozouf needs to worry about the public having high expectations. Secondly, I would suggest to Deputy Fox that he brings an amendment to the Strategic Plan with a firm date by which it has to be sorted out. If it is not sorted out by that date, he calls for the resignation of the Minister.

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

Yes, I would like to be a little more helpful, Sir. My first thought was that the Constable of St. Helier could give up the covenant and pay for his rubbish to be dumped, but I do not know that that would go down very well. It occurs to me that the methane could be used to generate more electricity. But back to the point: the Members will have looked at the strategic report and if you look at the Treasury and Resources section, you will have noted that various pockets of capital have been found. We note that £20 million worth of efficiency savings have already been earmarked for education and health. Well, hang on a minute. This is a health context - the health of the people living down Bellozanne Valley. So, perhaps it is not beyond the wit of our Council of Ministers to reallocate some of these pockets of capital that appear to have been found that were not there in the original fiscal strategy. I ask them urgently, and particularly education and health, to look at their priorities and see whether they cannot move things down the list.

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

Yes, just a few words. I also will be supporting Deputy Fox. Following on from what the Transport and Technical Services Minister said, it is a shame that there is very little mention in the Strategic Plan about the liquid waste at Bellozanne, because I feel that it should have been his job

to raise this. I know he is a newer Member, but he is the Deputy of the district and then he happened to be also elected as Minister for Transport and Technical Services. We have heard a lot today about the money and not having very high expectations. I think a lot of things have been pre-empted. We have put aside x amount of millions for what we now have a Scrutiny Panel looking at. Do we really need this massive, expensive energy from waste plant? The expert has just spoken through you, Sir. Senator Ozouf says we do. But I would rather wait until the experts on the Scrutiny Panel have, as you say, brought their report. We are putting millions, there have been millions quickly found through a so-called solution at La Collette. It is all very well that the Minister for Transport and Technical Services tries to belittle helpful suggestions by another Minister who has said to us, Sir, that he has tried repeatedly to speak to the Minister and his department with serious alternative solutions. As I say, we all like a joke, but I am getting even more worried now, being Deputy for St. Helier No 1, and we have already got supposedly the energy from waste plant and the composting plant and I am told we have Bellozanne because sewage runs better downhill, I am wondering how far lower down La Collette is than Bellozanne. I am really getting worried that all the smells are coming in our direction, but as I say - as a St. Helier Deputy, I think, I have said this this morning through you, Sir, to our Constable - as the States we should be working to find the best solution. There is a lot of money in this Strategic Plan and capital projects for the whole area of waste. We need to step back a few months, and we need to know that they are being spent correctly and as I said before, some of these Ministers need to be big enough to say that they may have made the wrong decision for the good of the public. Thank you, Sir.

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

Yes, Sir, just briefly, I have heard from Senator that we have not got the capital, but it is not really about having the capital. It is about having the priorities. I believe I was there witnessing a capital expenditure budgeting process sometime last year when this very issue of liquid waste and the facilities got parked years later, in 2011, 2012, because it did not come to the top of the list of the then-President's priorities. It is simply a question of prioritising and the new Minister of Transport and Technical Services has to prioritise this issue and I speak personally as I live in Bellozanne Road. While I do not represent the Members there, I can attest quite fully to the fact that the smell is obnoxious.

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

To have a large valley with a large sewerage plant in it that vents into a residential area is very bad planning indeed. But this was not so much planned as it evolved, and as has been said in this House many times, we are where we are. It is time we did the right thing by the residents of Bellozanne and the longer we leave it, the more expensive it will become. So I will be supporting the proposition, Sir.

#### **8.5.17 Deputy J. Gallichan of St. Mary:**

I certainly do not believe in speaking just to repeat what others have said before, but I do endorse what Deputy Fox has managed to achieve so far. Obviously, ultimately, it all comes down to the allocation of resources. I believe it is time to have a 'joined-up' look at this matter. 'Joined-up' was the phrase that was in common parlance a couple of years ago and seems to have stopped recently, but we need to look both at the existing sewerage network and its possible future extension once and for all as part of a capital reprioritisation process. The residents of Bellozanne have a really pressing need. They have been patient really for quite long enough and that is beyond question. Their concerns should now be addressed, as soon as possible, I believe, but only as the initial phase of a reassessment of the waste disposal policy as a whole and not as just an isolated case. Thank you, Sir.

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

I certainly will be supporting this proposition. I do, however, think that Members need to be realistic about the wish lists that we sometimes come up with. A number of Members have said that this could be prioritised. Well, maybe it could, but there are consequences that will flow from that and Members have to be realistic about what those consequences might be. It was pointed out by a speaker earlier that there were some extra monies found in the system for services such as education and health. Yes, that is true. But the demand upon the health budget is such that, frankly, if you gave the department another £20 million, it could spend it all quite easily. We are wrestling at the moment with the extent and degree of cardiology services we provide on the Island. We are trying desperately to develop professional fostering services. I am being pressured by Members about respite care - various aspects of it. I am being told that the derelict parts of Overdale should be rebuilt as a matter of great urgency and priority. Now, where is all the money going to come from for that? I am seriously looking at the moment at people in the Island who suffer from chronic illnesses, such as diabetes, for example, and considering whether they should be given all of the equipment and consumables they need, free of charge, rather than having to pay for it. Is it fair and right that somebody suffering from a chronic illness should have to have a great cost burden put on to them as well, in addition to that? All of these are great objectives, but we have to be realistic about where the money is going to come from. In terms of health and social services, I can certainly say that the capital programme of the department is somewhat reduced immediately and for the foreseeable future. Why? It is because the previous Health and Social Services Committee gave up a significant portion of its capital bids, so that that money could go towards the replacement of the Bellozanne incinerator. I have to say, and of course another speaker did mention it: Deputy Martin spoke of the possibility of the energy from the waste plant going to La Collette. Again, with the siting of these kinds of industrial operations, it is much the same as it is with the money. While it is easy to want to say: "Oh well, it should not be near anyone and it should look pretty and it should not smell and all of these things", the reality is - and it is our responsibility ultimately - it has to go somewhere. Now, I am afraid that the incinerator at Bellozanne has to be replaced. The incinerator is producing toxic fumes, waste, carcinogenic effluent on a routine basis. Anywhere else in Europe, that plant would have been shut down a decade ago. If you are really concerned about environmental health considerations, frankly, composting is as nothing compared to the public health considerations of the Bellozanne incinerator. So, it has got to be replaced and we have got to get on and make a decision about it, and I hope we are going to do that very, very soon. Frankly, we have had some years of prevarication about this, with all kinds of other ideas and alternative plans being floated, none of which have ever been demonstrated to be workable, practicable and reliable for the Island. I am no fan of incineration, but I am afraid nobody has been able to show me a viable alternative. We have got to get on with this and we have got to do it. Probably La Collette is the right location for it, because, from a health protection point of view, Bellozanne is now a residential area. There are loads of new housing estates around there, in the valley, around the valley. There are 3 schools in the vicinity. It simply is no longer acceptable to have industrial operations taking place in the heart of the residential and educational area that we have created. The only appropriate place, therefore, for these major industrial operations to go is down at La Collette, because it is not near people's houses. Now, some people do not like the aesthetics of the incinerator. They said: "Oh well, it is not going to look pretty down there." Well, frankly, on the one hand, if you have got a hard choice between the aesthetics of it and, on the other hand, stopping hundreds and hundreds of heavy goods vehicle fumes and emissions and journeys per week going through the heart of a residential area right next to schools, I know which one I am going to come down on. So, I just think Members ought to be aware that all of these decisions we have to make have rarely got an entirely satisfactory answer that is going to address everyone's concerns and keep everyone happy. There are hard choices to be made, and ultimately we have got to make those and not shy away from

them, and I know that some of us represent individual districts, but we do, I think, also have to bear in mind the overall consideration, the overall well being of the community as a whole.

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

Thank you to the 18 people - States Members - that have broadly supported this proposition. It is not my proposition. It is a proposition from the 434 residents of Bellozanne and the people that work down there. I say thank you on their behalf, because we have to start somewhere, and, yes, there has been a lot said today but I hope you will forgive me if I do not run through what everybody has said, because a lot of it has been already said. But I would like to just say that the principle is that a lot of people have spent a lot of time making the effort to bring this to our attention in the House today. They have been very successful in the way they do it. They have not been shouting from the top of the trees or anything else like that. They have been doing it through a proper and correct process, and they have been asking questions and, indeed, they were going around seeking the support and the views of the residents long before I knew about them. In fact, they saw Deputy Southern first and he said: "Oh, you are using the wrong information, the wrong form" and he took the trouble to go and get the information and put them back on the right track. I only knew about it when nearly 400 signatures had already been obtained, but in the process the information that came out clearly showed that there has been a lot of discussion over the years. Yes, it had ended up on the back-boiler, but this is the time with everything - with our new ministerial system, with the change of the energy resources - to look at it. Now, I am not going to go into discussing the merits or otherwise of different plants that are required and where they are going to be put. The one thing that is obvious, especially to the residents of Bellozanne, is that the sewerage plant cannot be moved. It is an integral part of the Island's infrastructure in bringing all the sewage and foul water into one area, except for that small bit at Bonne Nuit. It would be far too costly to even contemplate moving it somewhere else. But what we can do is start the process to make life more bearable for a lot of people, and you will have seen, by the survey that has been put out, and by some of the answers that are in the report of my proposition, what the residents have said to the people that were collecting it. Let us go forward. Let us put a line under the past and say: "The past is the past, we cannot do anything about it. But what we can do is something for the future." I am very grateful to the Minister and his department, and indeed the Treasury and the Treasury Minister, for doing a lot of background support and work in trying to put this proposition forward when you have not got any money that is allocated until at least 2010. Because that is what the situation is at the moment. But to overcome that, a lot of work was done. You do not believe the amount of emails that were flying around on Saturday and Sunday. I was quite amazed how many of our officers deal with their emails and find answers, and by Monday morning there were answers that were able to put this proposition forward. I thank them and I thank everybody for that, because it is very important. It is now, rightly, up to the Minister of the Transport and Technical Services Department and his officers to find a suitable way forward. At the moment, it looks complicated and expensive. But I am aware that the recent trip to the Isle of Man, and it could work out to be the most economic trip in the Island for visiting away, is that in fact there is a box on top of an inlet pipe that cured a lot of the smells. Now, it might work very well in the Isle of Man. It might not work in Jersey. But if we are able to put a box on top of an inlet pipe and it takes away a lot of the smells, even as a temporary measure, the residents of the Isle of Man would be very pleased. **[Laughter]** Bellozanne, sorry. I am not suggesting that that would provide a complete solution, but let us open the box and see if there are... **[Interruption]** Open the box and find imaginative ways of finding a solution without it taking years and costing a lot of money. That has been agreed to. Thank you, Minister. The next stage is obviously to work out how much it is going to cost to go to find a solution to the current problems. Then I shall be hoping to thank the Council of Ministers and after that process, to thank you as States Members on behalf of the residents of Bellozanne, in this case, to be able to bring forward a solution and I hope it will be a long way before 2012, but if it takes until 2012, it is a lot better than having an open end with no

solution at the end of it. With regard to all the other places like Havre des Pas, I will quite happily say to you that that also needs a solution, but it needs to be done constructively, and it needs to have proper support and guidance. I will be quite honest with you, it can be achieved just as much as here, so I thank everybody for the support that they have indicated and I look forward to a positive vote on this proposition. Thank you, Sir.

**The Bailiff:**

I will ask any Member in the precinct who wishes to vote to return to his or her seat and I now ask the Greffier to open the voting, which is for or against the proposition of Deputy Fox.

<b>POUR: 50</b>	<b>CONTRE: 1</b>	<b>ABSTAIN: 0</b>
Senator S. Syvret	Deputy R.C. Duhamel (S)	
Senator L. Norman		
Senator F.H. Walker		
Senator W. Kinnard		
Senator T.A. Le Sueur		
Senator P.F. Routier		
Senator M.E. Vibert		
Senator P.F.C. Ozouf		
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator F.E. Cohen		
Senator J.L. Perchard		
Connétable of St. Ouen		
Connétable of St. Saviour		
Connétable of St. Mary		
Connétable of St. Peter		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of Grouville		
Connétable of St. John		
Connétable of St. Brelade		
Deputy A. Breckon (S)		
Deputy J.J. Huet (H)		
Deputy of St. Martin		
Deputy G.C.L. Baudains (C)		
Deputy P.N. Troy (B)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérisssier (S)		
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 P.J.D. Ryan (H)		
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 D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

## 8.6 Draft Social Security (Television Licence Benefit) (Jersey) Regulations 200- (P.37/2006)

### The Bailiff:

We now come to Projet 37, Draft Social Security (Television Licence Benefit) (Jersey) Regulations 200-, and I ask the Greffier to read the main title.

### The Greffier of the States:

Draft Social Security (Television Licence Benefit) (Jersey) Regulations 200-. The States, in pursuance of the Order in Council dated 28th March 1771, have made the following Regulations.

#### 8.6.1 Senator P.F. Routier:

These Regulations will provide the framework for the introduction of the long-awaited T.V. Licence Rebate Scheme for residents of Jersey over 75 years of age who do have a comparatively low income. That is in line with Senator Vibert's budget amendment, which was approved during the last budget debate. On the advice of the Law Draftsman, we have taken, would you believe, the quicker route of triennial regulations. Members will see that the Regulations reflect the previous States decision: the main criteria for the award of the T.V. Licence Rebate being that a person must be aged 75 or over, reside in a domestic household, be ordinarily resident in Jersey, have an annual income of less than, for a single person, £12,770, and for a couple, £20,720. There are some other conditions that apply. For instance, the payment will be made to the principal resident of a household if a qualifying person lives within that domestic unit. Another one is that the benefit is not capable of being passed to a person at a different address if more than one qualifying person resides within a domestic unit. Another, a couple should mean a married or a cohabiting couple. Those criteria will enable a single person or couple in the target age group to obtain a licence if they live in their own property, but would also provide the concession to people who reside within another domestic unit, but are not the principal resident. This reflects the U.K. position. Unlike the U.K. system, the Jersey T.V. licence scheme incorporates an income bar and it will therefore be necessary for my department to assess entitlement prior to payment. However, every effort has been made to keep the system as simple as possible. I am pleased to say that, as of last week, we have concluded discussions with the B.B.C. on the administrative and accounting systems. People will be able to receive their licence through the department, liaising directly with the B.B.C. on their behalf, so the department will be liaising with the B.B.C. Or, if the customer already has a bank account and is making their payments by transfer, we will just take over that mechanism for paying from the person's bank account. So, I am very grateful to the B.B.C. for helping us to find a way to streamline the actual purchase of the licence. This year Members will recall that the

funding of this new benefit required additional taxes to be raised, and that was achieved by the increase of the duty on beer. Following discussions with the Treasury and Resources Minister, approval has been given that the budget of £300,000 will be available from the beginning of this year. This has enabled provision to be incorporated into the Regulations which will effectively mean that qualifying persons will be entitled to a rebate for the value of their television licence fee as if the scheme had been in force from 1st January. It is not possible to give a final figure of the costs but from available data it would seem that between 2,000 and 2,300 households in the Island may be able to benefit from this scheme, giving a potential cost of £290,000 in 2006. In addition, initial set-up costs have been incurred to provide the necessary administration and accounting systems. These are likely to be minimal initially. A separate data base is being established until the main computer software can be amended. As Members will have seen in the report, a part-time temporary post will be required to set up the administration of the scheme for the first year. After that, processing can be absorbed into the current operational functions and resources. So, I propose the preamble.

**The Bailiff:**

The citation of the principles of the draft have now been proposed. Are they seconded? **[Seconded]** Does any Member wish to speak on the principles of the Regulations? Senator Vibert?

**8.6.2 Senator M.E.Vibert:**

I am very pleased the amendment I brought to the budget that was supported by the House has finally come to fruition in this way. I am particularly pleased it has been back-dated to the beginning of the year so that over-75s who qualify will be able to benefit from it from the beginning of this year. I am looking forward to the Social Security Department publicising the scheme fully which will mean I will not have to deal with all the calls on television licences in future and turn them on. I still regret that not all over-75s will be benefited because I still hear from people over-75 who will not benefit and their perception is that they are losing out. I do not think it does us any credit at all but I accepted that half a loaf is better than no bread and some 2,000 over-75s getting free television licences because they are on low incomes is better than no over-75 getting a free television licence at all. I believe Social Security have come up with an excellent system for administration which seems eminently sensible and I look forward to a large number of over-75s having a free television licence and feel that their contribution to the Island is being recognised in this way and they get some comfort from this measure. Thank you, Sir.

**8.6.3 Deputy R.C. Duhamel:**

Earlier in the year, towards the end of January, the U.K. Chancellor instructed the National Statistics Office to reclassify the Television Receiving Licences as being a fee for a service charged to a tax. The point I raise, Sir, and I think I might require legal advice from the Crown Officers, is in doing so, can the U.K. demand the Island's residents pay a U.K. tax without any Constitutional issues being raised?

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

I am very pleased that following many separate unsuccessful propositions, the original one brought by the former Senator Corrie Stein and discussions which were unsuccessful, the latest discussion - I believe last year - has enabled this important social provision for many senior citizens, although I also regret that it is being means tested for over-75s, so not all of them will benefit from this because it is, after all, a very important social provision for those people, particularly those senior citizens who are housebound. So, I welcome this and will be supporting it. Thank you.

**The Bailiff:**

I call upon the Minister to reply.

**8.6.5 Senator P.F. Routier (Minister for Social Security):**

With regard to publicity, we certainly will be publicising it in an appropriate way. We already have over 1,000 people who are registered and have already shown an interest who feel that they will be able to qualify for this benefit. So, we already have them on a database and I am sure once we have publicised it there will obviously be more people knowing they can claim it and they will be getting the benefits soon after they have claimed. With regard to Deputy Duhamel's query with regard to the U.K. tax advice, I am afraid that is beyond my knowledge and I am not able to advise on that but the current system is that B.B.C. T.V. licences are due to be paid by Jersey residents and that is what we are working on. Until we are advised any differently I believe we should just progress with this. With regards to both Senator Vibert and Deputy Scott Warren with their regrets about the need for means testing, that is what the States as a whole have instructed me to do and I am afraid that is what I have to do and that is what these Regulations do carry out. I maintain the proposition, Sir.

**Deputy R.C. Duhamel:**

Could I have the benefit of the legal advice please, before we go to a vote?

**The Bailiff:**

That is a matter for the Assembly. The Attorney General is not here, as you can see, Deputy.

**Deputy R.C. Duhamel:**

As I indicated, I did not speak at any great length about it, but the actual fundamental principle by which the service charges have been accounted for within the U.K. accounts has changed and it is now a tax. As you know, Sir, the U.K. are not entitled to interfere in our own domestic tax provisions.

**The Bailiff:**

It is a matter for the Assembly. You can defer taking a decision until the Attorney General returns.

**Senator M.E. Vibert:**

Can I say it is an interesting point that the Deputy raises but it is a point that affects television licences as a whole, not just television licences as concerns over-75s. For the benefit of over-75s, I would urge Members to proceed and not delay any longer. They have waited long enough and I think it would be right that we approve this measure which has already been approved by the States. If Deputy Duhamel's point needs to be raised and addressed, it can be addressed as regards television licences as a whole.

**The Bailiff:**

Deputy, the point raised by Senator Vibert is, of course correct, I think. The point that you raise has wider significance than merely the position of over-75s. I wonder whether an alternative way of dealing with it, and perhaps in fact a better way of dealing with it - because it may be an important point - is for you to put a question expressly to the Attorney General which he can have time to consider properly and to give a written answer to you.

**Senator R.C. Duhamel:**

In that case I will do that, Sir.

**The Bailiff:**

Thank you very much. May we now then proceed to a vote on the proposition? The Appel? I ask all Members who wish to vote on this proposition to return to their seats and I ask the Greffier to open the voting.

<b>POUR: 46</b>		<b>CONTRE: 0</b>		<b>ABSTAIN: 2</b>
Senator L. Norman				Connétable of St. Saviour
Senator F.H. Walker				Deputy G.C.L. Baudains (C)
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Brelade				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
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 D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy S. Power (B)			
Deputy S. Pitman (H)			
Deputy A.J.H. Maclean (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

**The Bailiff:**

[Aside] I invite the Minister to propose the Articles of the Regulations.

**Senator P.F. Routier:**

As you were wanting to be very brief, Sir, I will propose the Regulations and be prepared to answer any questions.

**The Bailiff:**

Is the proposition seconded? **[Seconded]** Does any Member wish to speak? I beg your pardon, I am making double errors this afternoon. I am afraid that I should have asked the Chairman of the Scrutiny Panel whether he wished to have the proposition referred for scrutiny.

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

We do not.

**The Bailiff:**

Thank you very much. Yes, Connétable of St. Peter?

**8.6.6 Connétable T.J. du Feu of St. Peter:**

I was extremely pleased to hear the Minister state that they had taken the simplistic route in what ought to have been, in my opinion, a relatively minor issue. But when I count that it has taken 9 pages of Regulation to bring this, I am horrified at the time and the expense that it must have gone to bring this before the House and it would be very interesting to know how much time and how much it has cost to bring this to the House because I am quite appalled that it has taken that amount of Regulation for such a simple task as the Minister stated in his opening remarks, Sir.

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

If it would be helpful to Deputy Duhamel in relation to interpretation and otherwise he might want to know that television licences are not a tax. They have been determined as a tax for the purposes of U.K. national statistics for the compilation of U.K. statistics. They are not a tax and any suggestions in the media that they fall within the taxation legislation interpretation of U.K. law would be incorrect.

**The Bailiff:**

I call upon the Minister to respond.

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

With regard to the over-cumbersome Regulations that the Connétable of St. Peter feels that these are, when one is administering a benefit you do need to have rules and regulations so that they are administered properly. It is not a benefit which can be done as a concession or in a very simplistic way, unfortunately. These are triennial Regulations which the Law Officers are recommending to us as the best way to administer the benefits and I think it is right and proper that we should have these Regulations. In saying that, I would really want to thank the Law Draftsmen for their excellent work in bringing these Regulations together. I know there has been some criticism for the length of time that it has taken place, but it is not down to the Law Draftsmen who have been efficient and very diligent in the way they have brought forward these Regulations. It had to be done this way. It could have been done with the Law which would have taken even longer and we would have had to go to Privy Council and the beneficiaries would have had to wait even longer which we were not prepared to allow. I thank Senator Ozouf for his explanation of the tax matters and I maintain the Regulations, Sir.

#### **The Bailiff:**

I put the Articles, the Regulations, in second reading. Would those Members in favour of adopting the Articles kindly show. Those against? The Articles are adopted. Do you move the Regulations in Third Reading?

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

Yes, Sir.

#### **The Bailiff:**

Does any Member wish to speak on the Regulations in the Third Reading?

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

I missed catching your eye just before the last vote was taken. I just wanted to ask - maybe it does say in here and I forgot, what the cost of the... am I allowed to ask with the Regulations what the cost has been to put all this in? What it will be to administer this as a means-tested provision rather than if it had been given across the comparisons?

#### **The Bailiff:**

Technically, no, but I will allow you to ask the question. [Laughter]

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

I think both methods would have required the employment of a part-time member of staff, so I do not believe there is any great difference in the way that it would have, regardless, because people would have to have registered anyhow. There may have been a slight saving, but I do not think it is a major difference.

#### **The Bailiff:**

I put the Regulations in Third Reading. Would those Members in favour of adopting them kindly show. Those against? The Regulations are adopted in the Third Reading.

## **8.7 Draft Social Security (Television Licence Benefit) (Jersey) Law 200- (P.36/2006)**

### **The Bailiff:**

We come now to Projet 36: Draft Social Security (Television Licence Benefit) (Jersey) Law 200- in the name of the Minister for Social Security and I ask the Greffier to read out the citation of the Draft.

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

Draft Social Security (Television Licence Benefit) (Jersey) Law 200-. A law to permit the making of Regulations providing for certain persons to be entitled to be paid, or have paid on their behalf, the amount of the fee for issue of a licence in relation to television and for related matters. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

Very briefly, Sir, this Law enables Regulations to be made and when the Regulations fall away after 3 years - these are triennial Regulations - this law will enable the triennial Regulations to be renewed. I propose the Law, Sir.

### **The Bailiff:**

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

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

Very briefly, Sir, it is just to thank Social Security for finding a way through these triennial Regulations and the Regulations of bringing this benefit in as soon as possible and I commend them for doing that.

### **The Bailiff:**

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

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

I thank Senator Vibert for his response and I maintain the Law.

### **The Bailiff:**

Very well. I put the principles of the Bill. Would those Members in favour of adopting them kindly show. Those against? The principles are approved. Chairman of the Scrutiny Panel, do you wish to have this referred for scrutiny? Minister, do you wish to propose the Articles *en bloc*?

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

Yes, Sir. I propose them *en bloc*.

### **The Bailiff:**

They are seconded? **[Seconded]** Does any Member wish to speak on any of the Articles of the Bill? I put the Articles. Would those Members in favour of adopting them kindly show. Those against? The Articles are adopted. Do you move the Bill in the Third Reading?

**Senator P.F. Routier:**

Yes, Sir.

**The Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on the Bill in the third reading? I put the Bill. Would those Members in favour of adopting it kindly show. Those against? The Bill is adopted in the third reading.

### **8.8 Charing Cross: vacant site - petition (P.38/2006)**

**The Bailiff:**

Now, to Projet 38: Charing Cross: vacant site - petition in the name of the Connétable of St. Helier. I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of the opinion to request the Minister for Planning and Environment to designate as area of important open space the greater part of the vacant site situated at the intersection of York Street and Dumaresq Street.

**Senator F.E. Cohen:**

I would like to declare that I own property in the immediate area and I propose to withdraw for the duration of the debate.

**The Bailiff:**

Thank you very much, Senator. Your interest will be noted.

**Senator B.E. Shenton:**

I would like to also withdraw from the debate as a Director of the Channel Islands Co-operative Society.

**The Bailiff:**

Very well, Senator. Thank you very much. That interest will be noted.

**Senator S. Syvret :**

I have a share account in the Co-operative. **[Laughter]** People laugh, but this is a pecuniary interest in the affairs of the Co-operative, and if the site were, for example, to be not kept as open space and sold to the Co-operative, that would be a commercial advantage to the Co-operative.

**[Aside]**

**The Bailiff:**

Senator, the Standing Order, as you know, was changed at the end of last year and Standing Order 106 now says that a Member of the States who has an interest in the subject matter of a proposition must: “(a) if it is a direct financial interest, declare the interest and withdraw. If it is not a direct financial interest but a financial interest which is general, indirect or shared with a large class of persons, declare the interest. If it is an interest which is not financial, declare the interest.” Sub-paragraph 4 says: “A financial interest in any subject matter is direct if it is immediate or personal to the person concerned.” That seems clear to me that your interest is not immediate and personal to you. It is one that is shared with a large class of persons. Having declared that interest it is open to you to stay if you wish to do so.

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

It is appropriate then that we all declare that we are shareholders.

**The Bailiff:**

Any Member who is a shareholder in the Co-operative may wish to...

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

Could I propose, as last time, Sir, that we stand and the Greffier takes our names while we do so? **[Laughter]** Or perhaps those that are not? **[Laughter]**

**The Bailiff:**

I think it would be easier for the Greffier if those Members who are not shareholders in the Co-operative... **[Laughter]**

**Aside]**

**The Bailiff:**

Is there any Member who does not wish to declare an interest as a shareholder in the Co-operative? **[Laughter]**

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

**[Aside] [Laughter]** Members will have read the report accompanying the petition. Twenty-four names on a petition is not a large number but I just advise Members that these were the premises surrounding the area and, in fact, I think it is quite a high number. It indicates that there has been, as far as I am aware, unanimous support from the traders of the area that this informal park be maintained and improved. I am not going to repeat the arguments in the report. I just want to draw out a couple of points. It is, I think, a moot point whether the organisation we have all just been talking about is going to automatically acquire the site in any case. It is not my understanding that the States have expressed a view about to whom this site should be sold for building if this petition is rejected by the States. I hope that Members will find it a balanced report. I know that not all of my political work is so described by some Members, but I believe in this case I have genuinely tried to balance the planning and environment concerns. I was on the Committee for 6½ years and I know the arguments well that suggest this site should be built on. But certainly since becoming Connétable of St. Helier I have become intimately aware - because my office overlooks the square - of the enormous and varied use that this square is being put by users of St. Helier. It is for that reason, and I had a difficult meeting with a person who runs the company we have been talking

about, and I said to him it was a difficult decision because for many years I had assumed that this site would be built on but now I have seen how that open space is important for the life of this part of St. Helier I can no longer support the building on that site. Indeed, that is why I accepted the petition from the traders which I have to thank Deputy Fox for doing some of the foot-slogging involved in collecting the petition. As I say, I can see the other side of the argument but for me the balance of the argument is swaying me towards keeping the site open. I just want to deal with a couple of objections that may be raised. It is certainly not true to say that the important relics, vestiges of that historic area of St. Helier - that is to say, the Foot buildings - will not be maintained and refurbished unless this piece of land is released for development. Those buildings must be put back to rights and it must be done quickly before they suffer any further degradation. I hope the Planning and Environment Department will make sure that happens regardless of the outcome of today's debate. The second point I want to address is the involvement of the Parish Roads Committee in this. This is not a whim dreamed-up by traders or dreamed-up by myself. The Parish Roads Committee has been very much involved in this debate over the future of this site. The matter has been discussed on several occasions and has been to the Parish meeting as well last summer when very clear support was given for the Roads Committee and myself to proceed with trying to retain the site. One States Member, a senior States Member, who perhaps should have known better, asked me at a recent meeting: "Who is this Roads Committee anyway?", as if to say: "Well, who are these people that are telling the States what to do in St. Helier?" I am sure I will not need to remind most Members that the Roads Committees in all Parishes are elected. They are sworn in at the Royal Court, not a few yards from where we are sitting or standing. They are given those posts by the parishioners because they appreciate the needs of their Parish. They understand their Parish needs. Certainly the Parish of St. Helier... I do not know if it is a typical Roads Committee, but it is not composed of people who are anti-this or anti-that. It is very balanced: a broad church. We have intense arguments sometimes about what views we should have about the future of St. Helier and the Roads Committee, I have to say, on this issue is very supportive of the need to maintain the area as open space. Some parishioners might say to me: "Well, think of the rates." In fact, a Member said to me in the coffee room: "You would get a lot of rates if this site is part of the marriage value of the whole Charing Cross site there. Think of the rates that the Parish will get." Other people may say: "Think of the aesthetic considerations." I accept the site at the moment is not very attractive and I have put a photograph up on the board. Members will see - that was not a staged photograph - we have done a few staged ones in the past, but this one is not. It just happens to show a number of people using the site in question, I think a couple of days ago, to relax on their way up and down York Street. It does show that aesthetic improvements are needed if this site is not to be built upon. We have got to make good the gable ends of the surrounding walls. Murals have been suggested and, indeed, I would like to see, as I mention in the report, a proper interpretation effort made to explain to people - and it is not a particularly inspiring story - how a previous administration in Jersey saw the wonderful old quarter of St. Helier behind this knocked down to make way for the Hue Court flats. I think interpretation of this site would help people understand that the Foot buildings just around the corner are the relics of a once fine part of St. Helier and I think it would be a very useful addition to the site. Planning makes some very interesting comments, and I commend Planning on their report. It is, I think, almost as full as mine. I just want to tackle a couple of their comments. They refer to the other areas of open space in the area. I must say I find the comparison between this site and the Crapaud area in front of the travel shop there as somewhat spurious. Equally, the comparison between this and the area immediately opposite the Town Hall. This small square - and I hope it will not always be called Hectors, if it is preserved. I hope it might be called something a little bit more redolent of the history, perhaps Foot Square or Hue Square, or Dumaresq Square. **[Interjection]** Well, it is up to the Roads Committee. **[Laughter]** At the end of the day, it would be up to the Roads Committee as to what it is called. I would hope that this square would have trees. It has got one tree which gets a little bigger every year, and probably a little harder to remove. I hope it will have other trees the way that French squares do. I would hope that it would have some murals and some interpretation. It has been

suggested that a large chess board such as you see in some European cities would be rather fun and people could play chess their during the summer months. But believe me, if the States do support this petition of local traders today, that little piece of land will be even better used than it is at present and you will see it thronged with people. So, I do not accept the planning argument that there are other places that supply the need for open space. If that were the case, then the site would be sitting there empty and I have not seen it empty for many, many weeks. Certainly not since it has been improved, for which I have to thank the Transport and Technical Services Department for doing that. Finally, I think the main balance that Members have to take today is either to see the advantages that will come from a major retail outlet on this site and there is no doubt that not only will we get rates from that but it will draw customers into the area. There is no doubt a big store there will have a purpose. It will increase footfall set against the competing claims for the area of open space. I suppose really it is up to Members to decide. I believe that the retail need in this part of St. Helier is being comfortably met. There are still some vacant properties around and I know that with the redevelopment of the triangle of land behind the Town Hall there will be more retail opportunities there in what is sometimes called the Parade Triangle. So, I do not think that not to build on this site will deprive this part of St. Helier with important retail opportunities. Those opportunities will be found elsewhere. If it is built on, I believe it will deprive this part of St. Helier of an area of important open space and so I would ask Members to support this petition. Thank you, Sir.

**The Bailiff:**

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

**8.8.2 Connétable R.E.N. Dupré of St. John:**

The key question this House has to consider is what is the best use of this land? This should be considered from a number of different perspectives. Firstly, what is the best use of this land for the life and health of the town? Open space is undoubtedly important for the life and health of the town, but this particular space will always be a secondary bit of space. There are other areas of open space of high quality where people can meet, rest and relax in proximity to the site. At Charing Cross, outside the new Thomas Cook Building by the Crapaud, at the Cenotaph, at Parade Gardens, and in Sand Street. Now that the taxi rank has been moved from Broad Street, a real quality area has been provided in this place for pedestrians and shoppers to sit and rest. It is important to provide open space but of the right quality and in the right place. The Connétable talks about the site providing a useful resting place. New benches and bins and lighting have been provided throughout the area recently as part of the St. Helier *Street Life* programme, at Charing Cross and in York Street. There is potential to provide even more seating. For example, there is now a large space where the pavement has been widened outside the Town Hall. What is fundamentally important for the life and health of the town centre is shopping. The key role of the town is as a place for shopping and to do business. We should be supporting this role. Providing open space in this locality will not do this. Providing a building on the site with retail use on the ground floor will. This will attract people to the area and as a result it will contribute to the life and activity on the street. Now, what is the best use of this land for the appearance and character of the town? It is an important part of the town as it contains perhaps the best surviving examples of the early mid-18th century townscape of St. Helier, that is Dumaresq Street, Pitt Street and Hue Street. I can assure the Connétable that the Planning Committee has every intention of doing its best to retain these properties that need restoration. Do we want to repair the site and the character of this part of town? It is quite clear that the site has been developed for over 200 years and we want to restore the character of this part of the town and in order to restore the character in this part of town it should be built on. If the Island had not purchased it for a previously proposed road-widening plan for Dumaresq Street, the site would have a building on it now. Or do we want to leave it like a

gaping hole in a row of teeth which, according to the recently published assessment of the character of the town - that is the St. Helier Urban Character Appraisal, 2005 - it causes so much damage to the character and appearance of the townscape in this area. Any amount of tarting-up of this site will not disguise the fact that it represents a hole in the street frontage enclosed by huge gables which are out of character with the area. Any building on only part of the site is unlikely to be successful at hiding the fact that this is a gap site and in any case, the site is so small only its complete redevelopment is considered to be viable. While it is important to provide recycling and waste disposal, is this prominent corner site the best place for it in this part of the town? What does it add to the character and the appearance of the area? Rather than obscure view of Dumaresq Street, developing this site with buildings will contribute to the restoration of the area's character and recreate the street pattern that had previously existed. I urge members to reject this proposition.

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

They are very wise words from the Connétable of St. John and I must say they do appeal on the grounds of a shopping perspective and from a commercial perspective, but I would just like to put a spin on this from a personal experience I had recently over Christmas. I have had it once before. From time to time I experience severe pain in my back due to a previous injury and I am incapable of walking very far at all, sometimes as little as 50 to 100 yards without having to sit down. I sometimes disguise that when I am shopping when there is no place to sit by kneeling on the floor and pretending I am looking at stuff on the bottom shelf. I have found myself in this position sitting in the chairs, getting the rest I required in just short stints to get through town. I could have gone to the pub next door, as Senator Le Main says, but no, that is not what I am on about. A quiet area, shaded, with seating, that enabled me to progress through the town in short spurts. Now, I have regained my mobility - or, I am regaining it - but there are people within our community that do find it difficult to walk and I feel that these little areas offer a brief respite to those individuals. The tree provides shading and a cooling element and I have seen people there waiting for transport. They have found that area to wait really beneficial as well. So, obviously, other Members will contribute to the debate but I think that is an issue perhaps we might want to think about as well. Obviously, there is the commercial aspect but it is giving some benefit at the moment and I wonder whether or not we should weight that into our considerations this afternoon.

### **8.8.4 The Connétable of Grouville:**

Could I ask through the Chair, Sir, what the total cost will be to the ratepayers of St. Helier if this site is not developed? I include a potential development profit in that.

[Aside]

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

I have been in this Assembly for nearly 30 years and for most of those years that site has been an absolute eyesore, no question about it. There was a perfectly beautiful property there before which needed quite a bit of work on but there was a restaurant, I remember and some of you may remember the restaurant that was there. I am totally supportive of the rapporteur in this case, the Assistant Minister. Quite honestly, we have now got an opportunity... I have been on the Planning Committee a couple of times for a number of years and there were discussions about replacing it, discussions about the Foot properties, who was going to do it. The Co-operative came to the Planning Committee with plans. I believe now, Sir, we have a real opportunity with a new Planning Minister who has a real feel for the townscape and for the issues regarding St. Helier and our heritage. Although I am very sympathetic to what the Connétable is trying to achieve, and I think with all the flak he received on Broad Street, I think we have now got a wonderful, wonderful

facility there which is a huge credit to the Island. I would like the Connétable to reconsider his view on this subject because, quite honestly, Sir, the only way we are going to return these wonderful properties - the Foot properties and all those in that corner, Pitt Street and that - is by replacing the property on this corner of the site. I would urge Members, in the interest of trying to bring back some of the old style and the old issues of St. Helier, to build upon this site, as to leave it as it is, it will just be an eyesore. An opportunity arises now to have firm commitment from this Assembly to put forward a good property, some nice plans that will meet the needs once and for all. I urge the Assistant Minister of Planning with the Planning Minister to really make an effort now to tidy up this area. Make an effort to bring back those back streets and those properties back into good commercial use and retain the character that we hold so dearly on this Island. I hear it all the time about the amount of these wonderful properties that are being lost in this Island in St. Helier. I can single out the 2 shops that the developer is trying to get rid of in French Lane and all those sorts of things. We have got to fight tooth and nail if we want to protect some of the heritage that we have still got left and I urge Members that the far better interest in this case is to allow the Planning Minister and his department to go away today and to make some firm commitments to regenerate by replacing this and doing some kind of agreement with whoever it is going to be, to regenerate the area. I urge Members not to support the Connétable's proposition.

#### **8.8.6 Deputy J.J. Huet:**

How far back shall we go? I am really pleased that you like the mural down on this site because I remember doing that mural with the kiddies from Les Chênes in the mid-1990s. I remember when they were doing it, I said to them: "Now, don't get carried away, children. It is not going to be here for long. It is very pretty and you have done a very good job" and they put their names down the side, and I said: "I hope it will not get vandalised". They said to me: "Do not worry, Missus. It will not be". I thought: "Right. Okay". It never has been. It has now got ivy growing up that part so that was one word I did not get right, was it not, because I thought it would be gone and done in a few years. I looked up a few papers I have - maybe it is a funny way but I believe if you tell somebody something, if you promise them something, I believe you should carry it out. I do not think you should keep chopping and changing. This does not give us a good name. I dug some papers out... by the way, this has been going on, just to recap, since 1995. We are now up to the 11th year. I believe the Co-operative have put into planning at different times 16 sets of plans. I am surprised they have still got this, not patience, but the strength to keep going. I found some papers from 2004 and I am not going to go into them in a great way but I am just going to read the first paragraph of one of them, if you do not mind, Sir? It was a confirmation after a meeting and it says: "Following our meeting on 29th July 2004, we confirm that you will confirm in writing the Committee's decision to sell the corner site to the Society at market price for a scheme to be agreed between Planning and the Society" - being the Co-operative Society. Now, to me that is in black and white. I do not see how we can now say: "Oh, we have changed our minds once again and we now think we want some nice benches there and we are going to make it look really pretty." Sometime or another, folks, we have to make a decision. This has been going since 1995. We have promised these people an agreement. I mean, how high can they go for an agreement except to the Committee as it was at the time. I believe we should honour our agreement. It does not do us any good to chicken-out on them and I think we should take the bull by the horns - I think I have got that right - and honour this agreement and go ahead and get it finished and done with and then we will have no more problems. It will be gone. My mural will be gone, but it will be finished with. Thank you, Sir.

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

I wonder if Members are familiar with the site. I hope most are, but how familiar with the architecture? What we have before us is, in fact, on the Charing Cross side, still remaining

essentially art deco façade. I am sure anyone who has seen what happened to the development at West Park Pavilion that it is possible to recreate in quite a dramatic and exciting way art deco style buildings. On the other side we have very much the Georgian-Victoriana of the old 18th century historical, original townhouses in Dumaresq Street. I think as the Connétable of St. John so aptly put it, you have this effect of the gaping hole in the teeth in the end. The site, at the end - although it has been jollied-up in one way or another over the years - basically looks as though a bomb has hit it and completely blown the ends off exposing the gable ends. We can see from the photograph the sorts of attempts that have been carried out to try and make that site look a little more pleasant but there is, clearly, a limit. I am sorry to say but I do not see this as a green lung populated as it is with large Euro bins and usually the various detritus of people who have taken advantage of the benches but failed to take advantage of any rubbish disposal facilities. It is not a green lung. I will understand why some local retailers may see some benefit in it, but I am afraid that is not really the key issue. The key issue, and I refer back to the 2 styles of the street, is the enormous amount of work that has been put in over the years with very specific, very exacting historical studies of the individual buildings and numerous plans and projects brought forward as to how the site may be restored not least of which, in consideration, is that of course the value of the site is enormously enhanced by having a building put upon it. So, that would be good news for States revenues. What one would hope to achieve is a retail centre in a sensible place in town, not far away from a commuter multi-storey car park in Sand Street, an enhanced value of the property and a design that neatly marries the art deco southern façade with the buildings at the rear and that is not at all beyond the wit of architects. I go back to one remark: "The place looks as though a bomb has hit it, blown the buildings down just leaving these 2 exposed gable ends and some rather awkward angles on the inside." Quite frankly, I say to Members simply this. There is only one possible reason that you would want to leave that site as it is and that would be if that was the only place in St. Helier that the Germans had bombed during the war, in which case you just might want to preserve it as a war memorial. I suggest to Members under all other circumstances the clear logic of the aesthetic appeal, the enhanced value, the marrying of the 2 facades, says that this area has to be built on. I would urge Members to reject this proposition for maintaining the area as it is. Finally, I would just ask the Connétable of St. Helier if, during his summing-up - because I believe it would be of use to Members - to underline that there are no fanatics or extreme people on the St. Helier Roads Committee, if he would be kind enough to inform us who the members of his Roads Committee are. I am sure they are all very worthy people and I would be grateful if the Connétable would give us an indication of the membership of his Committee. Thank you, Sir.

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

I think that the restoration of the Dumaresq Street properties is paramount as there is a shameful lack of Le Vieux Quartier of St. Helier left. The Connétable has mentioned the possibility of a chess board there and I wanted to know, when he sums up, what other ideas he has for use there. Has he got some possibly provisional idea of an alfresco eating area there? The other thing I wanted to ask, through the Chair, is if this proposition were to be successful, would it be binding on the Minister of Planning or could the decision be ignored by the Planning Minister? How much weight does our decision today have? Also, when I was a member of the Public Services Committee I do remember discussions about this site and I think then, as Deputy, Connétable Crowcroft would have been at the same meetings, and I want to clarify as well from the Minister of Planning what commitment, if any, has already been given? What assurance to the Co-operative Society? Thank you.

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

I walked out of this Assembly at lunchtime and walked down Royal Court Road - I think it is called Royal Court Road - and I shut my eyes and I imagined a world in which there were States'

Members cars parked on it. I walked across the square past the very well-functioning taxi rank outside the well-known estate agency. I walked down the lovely pavements on to the fantastic Broad Street Square. People sitting on the fountains eating their sandwiches, listening to the gentle gushing of the fountains. People sitting at tables in the sunshine, enjoying their sandwiches. I carried on my very pleasant meander down the bottom part of King Street and came to the wonderfully restored, wide pavements outside the Co-operative, the new urban space outside the Thomas Cook Building, the lovely, fantastic pavements all the way down Charing Cross. Is it not marvellous? We have done great things, I thought to myself. **[Laughter]** **[Aside]** Well, it was the former Environment and Public Services Committee **[Laughter]** who weathered the storm of the Broad Street fiasco. It was then, of course, said that it was a fiasco. It has turned out very well, of course. It is unthinkable that we go back to the days of 2-way cars outside Charing Cross and the rest of it. Of course, my walk continued, and as Deputy de Faye quite rightly said, I came to a bomb site, because that is exactly what this square... I mean, it is stretching the English language vocabulary to call this a square. It really is. **[Laughter]** Of course this is the kind of good stuff that one uses in this Assembly in order to get points across. When you walk past the bomb site, around the corner, you see a sad, dilapidated group of buildings desperately needing restoration and a bit of tender loving care. In fact, the whole of that corner needs restoration and improvement. The Co-operative building itself is no great Jersey icon. I doubt it meets the Assistant Minister's standards in terms of designation. This area requires restoration and improvement and this site here represents the catalyst to make that happen and there is a trade-off here. Designate this as urban space, or as important open space, and you do away with the opportunity. You do away with the catalyst to make something happen for these buildings around there. That is really what this debate is about. Send a message to the Planning Minister - to the Assistant Planning Minister - and say: "Designate this as important open space" and we have no cards in our hands to ensure that there is a sympathetic, respectful restoration of the small shops at the back of the Foot building and all around there, and an improvement in the rest of the property. The alternative is to say: "Designate it as open space and allow the current situation to continue." No catalyst for change. Continuation of what we have. That is the choice that Members have. I say to Members that you need courage. You need steely resolve. I remember, and I respect the fact that the Connétable is listening to the traders of the area, but I remember, and perhaps a number of my former Members of my Committee will remember, the public meeting that we went to at the Town Hall when the traders of Charing Cross were confronted with the proposal to widen their pavements and do away with the 2-way. They were incandescent with rage. I do not think I have ever been more insulted by some of the individuals in the area at that meeting. We were ripping the heart out of their businesses. There was doom, destruction and it was the end of the world of Charing Cross. Well, look at it today. Look at it today, and look at the improvement we have seen. I want to see an improvement not only on the other side of the road, but I want to see an improvement in the back of the Foot buildings, the Co-operative buildings, and all the rest of it. This is the proposition that we have an opportunity to send a clear message to Planning that we want change in that area. We want the area to be refurbished and we want new buildings where appropriate. The Connétable is a clever man and he is no doubt going to say: "All right. I am not saying all of that site over there is important open space. Just the greater part." That, perhaps, is where the compromise is because I would say, as a previous Member of the Committee, I would not give planning consent for building on the whole of it. I would certainly allow any new buildings to be set back and considerably on the area but it would be the greater part that would be built on and the smaller part which would remain as open space with wide pavements et cetera. That is the compromise. That is the actual compromise. Not to build on the whole of it, but to build on the greater part and to allow wider pavements and some continuation of the open space and wide pavements and that is the choice that Members have. I urge Members to send a clear message to the Planning Minister, to the Assistant Planning Minister and to the Treasury and Resources Department who have to bring forward the proposition to sell this, and it may be the Co-operative or it may not be. There needs to be 2 decisions made. A

planning brief to restore the properties, perhaps replace the properties around the Co-operative, and then sell it. That needs courage, and we need courage to vote against this proposition today.

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

It is a very interesting debate, so far. It is not the only debate. There is a balance and the balance is the important part. It has been said that this has been going on for 10 years. We have just had a previous one where things have been going on for 50 years. We need to make decisions but we need to make the right decisions. We need to make balanced decisions. One of the things I have been attempting to do, with others, for the last 5 years is to make and recognise that St. Helier especially - as the capital town - is made up of vibrant little villages and we have been working to make improvements and we have still got a long way to go. I am not going to go into a lot of history, but if you look at Town Mills, if you look at Colomberie, you look at even places like Broad Street in the middle, they are almost like little villages. They are a collection of places where you can stop, you can rest, you can do business. It is a nice little area that is attractive to locals as well as tourists. So, it is very important and if you think of London, if you think of Paris, if you think of Dublin, they all have little villages and that is something, for some reason, that we do not pick up here and that is why places like First Tower or places like Cheapside et cetera, et cetera, need our help and they need our support. There are lots of other places as well. This little corner of St. Helier is a little gem. It is a little historic gem. If you look at the improvements that have happened in the Charing Cross area, they are good improvements. They are very interesting, not only to the tourists, but to the locals alike. On the other side of the coin, why do planners spend a lot of their time looking at site lines, looking at important open spaces, looking to the characteristics of the area? It is because they want to have a planning improvement for the benefit of the residents, the traders, the town et cetera, et cetera. I spent 3 years on Planning and I will be quite honest with you, I was particularly keen to see this important little area enhanced. They were already finishing off the Hue Court ruins as they were into beautiful accommodation and they have restored them, with a few shops, et cetera. The Foot buildings were purchased for future restoration and, of course, the Co-operative Society rightly, as a commercial point of view, saw that there was good space within this collection of buildings in that little island, if you like, that could be very useful for commercial use but, at the same time, the Co-operative is always an organisation that thinks of the community and to restore buildings like this is very important. Now, I am not going to go through the long history but, at that time, through the previous Constable, there had been disagreements and arguments over the access for deliveries, et cetera, et cetera. They wanted to put great big holes in the character of some of the Foot buildings in order to achieve this, but one of the things that did come out is that the present general manager of the Co-op was keen to acquire the edge of this building. He was prepared to pay for the commercial thing, providing that he had reassurance of being able to buy this corner of the building and, commercially, you can see the argument on that. At that time plans were drawn up, in consultation with the historic building side, and I went to see the general manager of the Co-op and he listened to my point of view. He did not agree with them but, in fact, having an open entranceway to this little historic area provides an enhancing and, yes, Senator Ozouf - although he is not in the Chamber at the moment - is right. You do not have to have every ounce of space if you are looking to have a commercial investment in this area but you can enhance it also for the community and, at that time, there were plans drawn which would incorporate the restoration of the old, as we know it, Foot premises and also of the façade going all the way around. Since that time the commercial climate has changed. There are several Committees which have come and gone and we are now 10 years down the line. As Deputy Huet reminded us, her mural is still there and is being grown on. But I would like you to look at page 5 of the Assistant Minister's report, if you would please, because there is an important little bit here. If you go down to the third paragraph: "The Assistant Minister does not believe that an assumption that building on the site is pre-requisite to the restoration of the building proof", and the words, in fact, which are very important, are: "He does not believe that it is pre-requisite." So, the

suggestion is, in this, that this is purely a planning issue for the vacant site. There is not a suggestion in here that we should turn down this proposition by the Connétable of St. Helier on having an improvement and a restoration of the foot buildings and improving the façade, the importance streetscape of this area to encourage the classic, the historic, look. Now, plans have been brought together by the Co-operative Society, indeed I was sent a copy for information on 7th April 2006. The letter was addressed to the Constable of St. Helier and it was sent for my information. The only thing I do not know is that if the proposals that were considered, I assume at the meeting with the Connétable of St. Helier by the Co-operative Society, were just something that could happen or whether it was planned to happen and that the proposals were fully costed and there was a time scale for implementation of the proposals. If somebody knows the answer to that, I think that it is an important question that needs to be answered because, if we are talking about just putting any old building on there, then I would suggest to you, Sir, that the alternative of an important open space is something that we should seriously consider as proposed. Then, if we look at the comments from the Treasury Minister, in the comments of P.38 - Comments 2 - it is, quite rightly, the responsibility of the Treasury Minister and the Treasury Resources Department to maximise the value of the piece of land for the benefit of the Island but I would suggest to you that, if you look at any propositions that are brought here, we, as responsible representatives, have to look at the balance. Now, there has been a lot been said that it looks like a bombed-out building site, war zone or whatever. In my previous life, I have seen some very good examples, in the U.K. and Europe, where end corners like this have been very skilfully and very professionally done to enhance an area and to ensure that it has this attractive and important open space that provides a valuable respite resource area for the public, whether they be local public or the traders, for the people that are living over the shops or visitors, children, et cetera. Now, no, you will not have seen that done because there is this uncertainty as to the site and the countless Committees that have been discussing it and have not achieved it but I would suggest to you that if it is a question of money, why do we not consider that, if we have to sell it, put it on the open market, but allow the Constable of St. Helier time to consult with his parishioners, he has already had a proposition though, Sir, to see if the Parish would be willing, and through the Parish Assembly, the rates assembly is on 12th July, to buy this site. I would suggest to you that one of the planning conditions should be, if you have an open tender and the Parish agrees, that a planning game would be agreed where the site would have to be restored so that we should be proud of it. Now, I would suggest to you that the Parish of St. Helier would not take on such a commitment if they were not going to do this but, on the other hand, it also might encourage - if anybody else is interested in it - that as part of any larger development consideration that still might be on the cards, depending on which way this proposition goes, it might also be considered that you do not need the whole corner as, rightly, has already been said to provide a business acumen for the remainder of the site. But it would still allow an open space which, in effect, funnels-in the historic interest of people that are passing by to go and look further into the historic area around Hue Street and Dumaresq Street. I support this proposition, Sir.

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

For many years I have been wandering along Dumaresq Street and looking up at these wonderful old buildings with the huge, His Master's Voice, mural on the wall, big horn and Nipper the dog, and as I look along I think it is shameful that these beautiful, old buildings have been allowed to deteriorate. With regard to the vacant site, unfortunately that is just what it is, a vacant site. When the prison van used to use it for parking, it did have a purpose but now that has all been relocated, that is no longer the case. I would support this proposition. I think if we just put tables and chairs in this whole area it will become an outdoor eating area for the chip shop, so I am in favour of redevelopment of the area, but I would urge the Minister for Planning and Environment to not only make sure that any building there is in keeping with surrounding buildings but that it is set well back off the road.

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

Very briefly, Sir, I was interested, we had the debate at the beginning of this proposition, about whether there is a conflict of interest because we might have a share in the Co-op or not. This petition has been signed by 24 people, including traders. I wonder, applying the same rules, how many of those who signed the petition might have a conflict of interest - a direct financial conflict of interest - because they regard it as good for their business to keep an open space opposite there for their business. Not for the good of St. Helier, not for the good of the town as a whole, but for their own business. I do not think we should be taken in by looking at just a small area when we should be looking at the redevelopment of the whole area. There could be a very sensitive redevelopment there which would be of benefit to the whole town and the townscape and I think we need to take into account that the traders in the area may be thinking more of themselves rather than the benefit of the area as a whole. If they are not, I do them a disservice and I apologise but I cannot see - even with the prison van removed - that is a particular attractive area. There are parade gardens just up the road which is a very attractive area. I think this site would benefit from a sensitive development and not just be a little square full of chip papers as it is now.

### **The Bailiff:**

I call upon the Connétable to reply.

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

It is, as I said at the beginning, a finely balanced argument and I am grateful to everyone who has spoken. I think people have pointed out that they are somewhat torn between their impression of the site as it is at the moment and the potential for replacing the building. I think one thing Members need to be aware of, and it is very clear from the map on page 8 of my proposition, that the site that the Co-op, as it has been referred to now could develop, is extremely constrained by the need to preserve the buildings at the top of the irregular-shaped piece of land. I am not sure what geometric shape that is. It is sort of a pentagon really but if Members look at it, the sites marked A and B refer to the sites of the petition. The other properties to the right are the list of buildings which have to be redeveloped. The main part of the site, and the reason of course why the Co-operative are most interested in the site, is below those listed buildings and the Co-operative have to develop a site within those constraints. So, to say, as some members have done, that the provision of site A and/or site B are essential to the redevelopment of the whole site, I think, is questionable because, clearly, the Co-operative want to redevelop their building and if they get A and B as well, well they get extra land, of course they do, but if they did not have A or B or if they had just B and not A, which is the corner piece, then I would submit that they would still want to redevelop their property in due course. I would thank Members who supported me, they are somewhat thin on the ground but Senator Le Claire and Deputy Fox in particular. The Assistant Minister of Planning, I thought, set out very well the arguments his department has. A key role of the town, he says, is shopping and business. I thought, perhaps, he should have mentioned residents at that point, that an awful lot of people live in St. Helier and appreciate the need for this patchwork of open spaces. Senator Le Main heaped praise on me for suffering the opprobrium associated with the Broad Street development and I must share that praise with Senator Ozouf as I, of course, shared the pain at the time with him. Deputy Huet, I think, was a little offbeat in her remarks. She devoted her entire speech to the importance of not changing our minds. Well, the question I would ask is who made this deal that is being referred to? On whose authority were these agreements given to the Co-op? As far as I know, from the planning brief certainly, no agreement by the States has been given that this piece of land will be sold to a particular person. Such matters always come back to the House and I would have thought it is only at that stage one can talk about a problem of changing our minds. Deputy de Faye asked for the Members of the Roads Committee, and these are public appointments and they are sworn in the Royal Court. I am

sure that you will give me leave, Sir, to answer his question. The members are John Wilding, Nigel Blake, Ian McFirth, Peter Pearce and the 2 Procurers du Bien Publique and myself. Deputy Scott Warren asked about commitments for the Co-op. I think I have already explained that, that as far as I am aware no commitments can have been made without coming to the States. Senator Ozouf spoke very engagingly and we enjoyed accompanying him down through the town this afternoon. I disagree with him. I think the site we are talking about is pretty rectangular. He said it was not a square and could not be defined as one. I think it probably can. What I was very grateful to the Senator for was his message, which I have certainly written down verbatim, that if this petition is lost then 2 messages must be sent out: (1) that the regeneration of this area must proceed quickly; and (2) - and I think of particular comfort to the petitioners - that there must be considerable set back when this corner site is developed. I say considerable setback, Senator, and that certainly is not the impression given by the planning brief and, if one reads the planning brief which is attached to my report, one will see that it talks about restoring the street line and the street frontage. If that is the case then the tree will go and the new building will be right up to the front of the pavement. So, I am very grateful to him and I think to Deputy Lewis who talked about the need for a set-back of any new building. Deputy Fox asked about the timetable for implementation of any new building and, as far as I am aware, there are no firm plans, nothing at least that is costed or approved by the Planning Minister. Again, I think, if the petition does fall, then we must be looking for that timetable. We must see this regeneration go ahead. Finally, Senator Vibert, I think, perhaps rather unfairly and perhaps he should have spoken to the traders first, suggested that local businesses who signed the petition were driven by personal interest. He went on to apologise if he was wrong and I would suggest he is wrong about that and I am glad he apologised because the traders that I have spoken to have the overall interests of the district very much in the uppermost of their minds and they see, as I do on a daily basis, this site providing relief and relaxation to people who go past. I would just conclude with a telephone call I took the other evening - or at least my wife took and she thought it was a friend of mine doing his traditional Jerseyman impression - and it was a traditional Jerseyman, I was pleased that she was not rude to him, who rang up to say how valuable he finds this site as a person who is disabled when he is walking between the bottom of Broad Street and Parade Gardens. It is a valuable resting place. So, I think I have referred to everyone who spoke. I am grateful to Members for taking an interest and I would ask them to support the proposition.

#### **The Bailiff:**

I would ask any Member who is in the Precinct who wishes to vote to return to his or her seat and I would ask the Greffier to open the voting.

<b>POUR: 11</b>	<b>CONTRE: 33</b>	<b>ABSTAIN: 0</b>
Senator L. Norman	Senator F.H. Walker	
Connétable of St. Helier	Senator T.A. Le Sueur	
Deputy of St. Martin	Senator P.F. Routier	
Deputy G.C.L. Baudains (C)	Senator M.E. Vibert	
Deputy C.J. Scott Warren (S)	Senator P.F.C. Ozouf	
Deputy J.B. Fox (H)	Senator T.J. Le Main	
Deputy J.A. Martin (H)	Senator J.L. Perchard	
Deputy G.P. Southern (H)	Connétable of St. Ouen	
Deputy P.V.F. Le Claire (H)	Connétable of St. Saviour	
Deputy D.W. Mezbourian (L)	Connétable of St. Mary	
Deputy S. Pitman (H)	Connétable of St. Peter	

		Connétable of Trinity	
		Connétable of St. Lawrence	
		Connétable of Grouville	
		Connétable of St. John	
		Connétable of St. Brelade	
		Deputy R.C. Duhamel (S)	
		Deputy A. Breckon (S)	
		Deputy J.J. Huet (H)	
		Deputy R.G. Le Hérissier (S)	
		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 J.A. Le Fondré (L)	
		Deputy of Trinity	
		Deputy S. Power (B)	
		Deputy A.J.H. Maclean (H)	
		Deputy K.C. Lewis (S)	
		Deputy I.J. Gorst (C)	
		Deputy of St. Mary	

## NOTIFICATION OF LODGED PROPOSITIONS

### 9. The Bailiff:

Before we move on, can I inform Members that the Connétable of St. Ouen has lodged an amendment to the proposition on membership of the Assemblée Parlementaire de la Francophonie, Executive Committee and that will be circulated to Members in due course, if it has not been circulated already.

## PUBLIC BUSINESS (continued...)

### Senator S. Syvret:

Sir, before we proceed to the next item, could I say, just for the sake of business, that I have some informal soundings with a few other Members and I think the view is that we should carry on and finish the business on the Order Paper this evening, rather than adjourn and reconvene tomorrow morning.

### 10. Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law 200- (P.39/2006)

#### The Bailiff:

Very well. I hope Members will excuse me if I leave the chair at a later stage to the Greffier. I have another commitment very shortly. We come now to Projet 39, Draft Restriction on Smoking

(Amendment No. 2) (Jersey) Law 200- in the name of the Minister for Health and Social Services and I ask the Greffier to read the principles.

**The Greffier of the States:**

Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law 200-; a law to further amend the Restriction on Smoking (Jersey) Law 1973. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

**10.1 Senator S. Syvret:**

I do not propose to speak for a long time on this piece of enabling legislation because the States have had a very lengthy and detailed in-principle debate on this subject last year. The Law that Members have before them today is an amendment to the parent legislation which will give a power to the States to make Regulations to bring into effect the ban on smoking in enclosed workplaces. The actual Regulations themselves - the detail of them, if this law is approved, Sir - will come back to the Assembly for approval some time in the autumn, perhaps October or something of that time. So, the amending Law that Members have before them today is simply the enabling piece of legislation. If this is approved, we will draft the Regulations and they will come back to the States for approval. This is, as I said, simply giving effect to an extant States decision. The States, by a very, very large margin, voted in favour of the ban on smoking in enclosed workplaces and, in doing so, we are at the vanguard of a worldwide trend, at least in the western world, in terms of recognising the tremendous health disbenefits associated with smoking and doing what we can to address the problem. Some people speak of the need to protect the rights of smokers. I think what we have to bear in mind is that, actually, the vast majority of people who smoke want to give up. Most people who smoke really wished that they did not and they want to quit and they find it difficult to quit. As part of the consultation exercise, we carried out some discussions for example with people seeking the help and assistance at the Smoking Cessation Service to give up smoking and, of the 67 people we questioned, all of them, 100 per cent, said they supported this ban coming into effect. One of the reasons for that is because it is in the social environment, in pubs, bars, clubs and so on, where you have a drink in your hand, you are relaxing and other people around you are smoking, it is then when most of their attempts to give up smoking fell by the wayside, I am afraid. So, people who want to give up smoking, who are most smokers, support this ban and want it to come in to effect. We have to just refresh our memory, I think, as to why it is necessary to combat the effects of smoking in society. Members, of course, will be very familiar with the association between smoking and lung cancer but perhaps what is not so widely known is the variety of other serious illnesses and general detriments to health that can occur. For example, in addition to well-documented lung cancer, smoking is also associated with cervical cancer, cancer of the pancreas, cancer of the kidney, liver cancer, cancers of the mouth, lips and throat, bladder cancer, stomach cancer and leukaemia. Among the non-lethal effects of smoking are spontaneous abortions, bleeding during pregnancy, premature birth, low-weight babies at birth and sudden infant death syndrome. So, make no mistake, smoking is public enemy number one and certainly that is the view of the Medical Officer of Health who has a nationally recognised degree of expertise in this particular field. If there was one thing that the States of Jersey can do to improve the health of Islanders, it is do all we can to discourage smoking. I would make the preamble to the Law and I will attempt to answer any questions that Members have and we will hopefully discuss the Articles in due course.

**The Greffier of the States (in the Chair):**

The principles are proposed and seconded? **[Seconded]** Does any Member wish to speak on the principles?

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

This is not a debate about the evils of smoking. I think that problems associated with smoking are well known and well understood. This debate is more about where should smoking take place or should it not and, so, it is about location and he is quite right in the generality that smoking should be banned in workplaces. It is an unpleasant habit and people who do not smoke are offended by cigarette smoke. I do not think that is a problem but there is, ultimately, I think, a responsibility to try and find a level of balance and, while I do not wholeheartedly agree with Senator Syvret's assertions about just how many smokers want to give up or not, the fact of the matter is that, statistically speaking, about one in 5 people in the adult population are smokers. Some of them are smokers, I assume, because they want to be and some are smokers because they are addicted to nicotine and would like to give up. Again, I am not disputing the general facts but what I am indicating is that there is a portion of our population who are smokers as opposed to non-smokers and they are a minority group. Therefore, I think we have to be careful of just to assess how far we take the role of government into people's daily lives. I am happy to confess that I am an occasional smoker myself. As it happens, I never smoke at home. I, very occasionally, smoke in what might be described as the workplace, but certainly not in an office, but where I do tend to have a cigarette is in the pub and I do not regard that as particularly exceptional, bizarre or strangely addictive behaviour, although possibly Dr. Geller may advise me otherwise. It is, in fact, a fairly normal practice for many local people, particularly some of our retired, elderly, male population, to spend a bit of time down at the pub with their friends having a pint, reading a book or the local newspaper, and enjoying a cigarette and that is really what pubs, in many respects, have been all about for many years, probably 400 to 500. I am concerned, while I have always agreed that there should be some level of restriction, that we may be taking a step too far and that is that, culturally, the Island was in fact adapting to a non-smoking culture before this legislation was introduced. We were seeing the emergence of restaurants, for example, that had declared themselves to be non-smoking restaurants and I think that was a perfectly valid approach and I think it would be fair to say that there probably are, in the Island, some pubs that would prefer to stay as smoking pubs, as opposed to non-smoking. Now, I agree entirely that there are difficulties with people who are in the workplace here and that is a problem that may be insurmountable. But my concern, and while I am on my feet now, is that when we bring in legislation there are sometimes unintended consequences. I have been very disappointed that at no time in this entire debate has there been an economic impact study because I am quite convinced that some local establishments will simply go to the wall as a result of the imposition of a blanket smoking ban. Now, that is not to say that those who favour legislation should be deterred because a couple of people may go bankrupt but I think it is an example of, possibly, an unintended consequence. Now, what have we been witnessing as members of the hospitality industry see this legislation looming over the horizon and try and adjust to it? First of all, they ask for a definitive date whereby they would know for sure what the situation was and there was a level of concern, if Members will recall, that there was a potential halfway house. I am very pleased that the Senator resolved that particular problem but the other thing that has been going on is that more and more premises have been applying for alfresco. Now, that is not simply driven by the fact that a number of pubs, bars and restaurants want to serve their food outside. There is no question, in my view, that this is perceived as a potential solution to smokers who, under this law, will be prevented from smoking on the premises, to be allowed to go outside into potentially an area sheltered by an awning and smoke, effectively, without giving offence to customers within the premises and still be able to perhaps enjoy their food or have a drink at the same time. Now, I happen to think that that is a fairly reasonable approach and I can suggest to Members that, if they look at some of the premises around St. Helier, Fridays is an example; there is also a little café opposite the Town Hall, where the front façade of the buildings have been slightly set back by perhaps 5 or 10 feet and in front of where the glass windows and doors are to these premises is an area set back from the pavement that is effectively being used as a balcony. It is, as it were, an alfresco area. Now, my concern is that are these areas, alfresco areas

under awnings, areas that have been set back from the pavement, are these areas going to be caught by this Law, I think, in an unfair way. I particularly draw Members' attention to Article A1, and I believe it is (b), and it says that: "Part of the workplace definition will include a tent, a temporary structure or movable structure in which a person carries out his or her work and is required to be in for the purposes of carrying out his or her work."

**Senator M.E. Vibert:**

Sir, sorry to interrupt. A point of order, should this not be under the Articles, not under the preamble?

**The Greffier of the States (in the Chair):**

Members are allowed, under Standing Orders, to refer briefly to the Articles if they want to further their arguments on why the principle should be accepted or rejected. You are correct, the Deputy should not go too far into this matter, yes.

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

Perhaps I could deal with the detail a little later on and I thank the Senator for his interruption. As Members will see, I think, and I will go into this at the appropriate time, that Article has the potential to create unforeseen consequences in terms of how this legislation is going to be put into practice and that is where legislation ultimately counts. I am not going to carry on at length because I know that Members, in the greater majority, have very firm views on how they wish to deal with smoking but I will simply say this, in concluding, that I think we must look for balance. I think we must recognise that some people are smokers and that they are fellow members of our population and they do consider, actually, that they have rights to determine what they do with their lives as well as everybody else. I think that we have to understand that there are measures being taken to find alternative ways of accommodating people who wish to smoke while conforming with the measures that will be introduced into enclosed workplaces, which I do not think anyone would argue with. So, I wish to take up, at a later stage, the specific problems of what I call are the unintended consequences, potentially, of this legislation.

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

As Assistant Minister for Health and also as a member of the public, I wholeheartedly support the introduction of this Law. Smokers are now fully informed about the risks to their health. Those who are in the vicinity of smokers suffer not only the unpleasant atmosphere and lasting smell on their clothes, more seriously passive smokers are having their health adversely affected because, particularly while they are working or in an area of maybe just eating a meal, they must remain in an area with smokers. I was on holiday on New Year's Day 2006 to witness firsthand the introduction of Spanish smoking restrictions in hotel bars and restaurants. Immediately, it became more pleasurable to have a meal. I believe that support for the banning of smoking in the workplace will enable many more people to decide to seek help and to kick the habit. This, in turn, will lead to health improvements for all the people, potentially, in Jersey. The previous Health Committee obviously brought the initial proposition and totally supported this ban and last year the States, as we know, agreed in principle to this ban in all enclosed public workplaces. I believe that the Minister and I would be reneging on our duty to the people of Jersey if we delayed bringing this important Law for debate here today and I also firmly believe that the majority of people in Jersey support this Law and very much welcome its introduction.

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

I am delighted that this legislation has been progressed to the stage that we can now approve the enabling Law today. I do think that we do need to do one thing and I would encourage the Health Minister to be very clear about the timetable he wishes to work to. I think that we do have a realistic opportunity, subject to States' approval and subject to Privy Council approval, of bringing the actual Regulations into force so that the ban can be brought in this year and I think it is important that we do not surprise anybody by setting the objective of perhaps bringing this ban into force perhaps as early as the middle or late October of this year. Certainly people do need to be aware that that is the timetable and I would ask the Minister to perhaps set out what his timetable will be. I would also respond to Deputy de Faye when he speaks of economic consequences. The economic consequences, I believe, will be good for Jersey. I am looking forward to celebrating the fact that the Island will be smoke-free in its restaurants, in its bars, as a tourist destination, and I think that is going to be unique selling point. Like Deputy Celia Scott Warren, I, too, have carried out some market research and have been fortunate, at my own expense, to be in far enough away places as Dublin, New York and Italy over the last couple of years where I have seen the ban in place and seen bars, restaurants, cafes and public places filled with people enjoying the clean, fresh air. I like Deputy de Faye very much. I enjoy sometimes going for a refreshing drink with Deputy de Faye and I enjoy his company very much. The thing that I do not enjoy is his second-hand smoke and that, ultimately, is what this debate is about. I urge Members; we have agreed this proposition in principle previously, let us get on with it.

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

I am fully aware, as I think we all are, of the illnesses which can be caused by excessive smoking but the reason I am not going to support this is because of its opt-in format. I am seriously concerned about it because it deems a place of work as practically anywhere at all, even if it is only used occasionally as a workplace. We are told, Sir, that Article 1A(b)(5) allows certain places to be exempt by Regulations but frankly, Sir, given the present health police's love of bureaucracy and their total unpreparedness to tolerate any view that does not coincide with their own, I simply do not trust them. As this amendment stands, by virtue of the fact that I work from home and have even been known to take papers on my boat and read them there, presumably I would become a criminal if I smoked in my own home. Also, should I wish to enjoy a cigar on my boat, presumably I would have to wait until I was 12 miles off shore before I could light the thing. As it happens, I have not smoked for a number of years, Sir, but I am contemplating taking it up again because of the stress caused by Health and Social Services. **[Laughter]** Sir, if approved, this amendment will mean the self-employed cannot smoke in their own home, their car or their boat. Not only that, they will be obliged to erect a notice advising themselves of the restriction and we are told that the super-snooper, at £50,000 a year, will check up on you, although £50,000 a year is the overall cost of the checking. I believe it is a £5,000 fine if you are found guilty, Sir. Frankly, I would prefer the Minister to devote his energies to caring for the elderly instead of pursuing these fanatical agendas. Hospital management, Sir, is a shambles, Overdale is being closed down and just recently we read in the paper that a carer is no longer able to take his friend in a car. He is told to take a taxi. Sir, we urgently need a change of priorities.

#### **10.7 Senator L. Norman:**

I really was not going to speak because the decision has already been made in principle but there are one or 2 things which have been said today which I think just need a little bit of dampening down. We may be entering some great, new, smoke-free world. We may be entering Utopia that Senator Ozouf and Deputy Scott Warren imagine. Maybe we are but, if we are, there certainly is going to be a price to pay. It was, I think, Ireland who were the first to introduce such legislation and much press coverage and much comment has indicated what a great success it has been in that country but the question I have to ask is how do you measure the success. I think the success has

been measured by the lack of revolution and civil disorder which was partially expected but the reality is, of course, that it has been a success because people are law-abiding and it has not caused a lot of problems in that area. But the reality is, of course, hundreds of inns and pubs throughout Ireland have closed down, mainly in rural, unfashionable areas, decimating even further the social facilities in more deprived areas. Evidence? Yes. The evidence comes from the Centre for Economic and Business Research in that country - 7,500 people in the hospitality industry have lost their jobs as a result. The sale of tobacco products has increased throughout the country. The sale of alcohol products in pubs has reduced by something like 1.2 billion euros. The sale of alcohol products in supermarkets has increased by more than that amount, which means that people are drinking at home and drinking more in an uncontrolled environment. That is something which I would hope we would wish to avoid because alcohol is, or certainly can be, as big a danger as tobacco and that problem, people drinking more in uncontrolled conditions, is going to cause more health and social problems than this legislation will save. There are other prices to pay as well. In the county of Limerick some 67 per cent of the litter in that county is now a by-product of smoking related products. Now, that has to be cleared and paid for. Sure as a steamroller - a juggernaut - I am not going to stop it and Deputy de Faye is not going to stop it, but do not pretend that there is not a price to pay because there is.

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

Very briefly, I think it is important that we keep in the back of our minds the fact that it is, and I keep on stating this; the Island's number one killer - over 200 a year - and Senator Norman points out that people have lost their jobs because of this legislation. Well, better they lose their jobs than their life and if people are forced to work in conditions where their atmosphere is polluted by second-hand smoke and they contract these diseases, never having smoked themselves, we are negligent in our duties. The future governments of the world recognise what is going on with tobacco. The emerging economies of the world are picking up tobacco, especially in places like China, like we never even did it. It is important for us to recognise the prices to pay are far more than can be counted in jobs. They can be counted in lives if we do not do something about it and the Health Ministry and the Health Minister are absolutely right in bringing this legislation today.

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

I would just like to pick up on a couple of points: (1) obviously the States did agree to introduce a ban on smoking in enclosed public workplaces throughout the Island. The Minister himself has said this law is designed to address just that. Equally, the States approved for a consultation exercise to take place regarding such a ban. However, I rather am concerned, and I would perhaps like the Minister to explain, why, in this Law, the definition of a workplace is so wide. It includes, I would suggest, any place, whether inside or out. It speaks about open land. It speaks about a dwelling, whether it be part of a workplace or not. Perhaps he could explain what his interpretation of a dwelling is and if the suggestion, as in the report and in the comments made by the Minister, is that this is a Law that addresses the enclosed workplace then are we not in danger of introducing a Law that is coming under a different guise. This Law, as I read it and maybe I would like the Minister to explain, covers banning smoking anywhere. Perhaps I will wait for the response to determine which way I support this.

#### **The Greffier of the States (in the Chair):**

I call on the Minister to reply.

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

Just to deal briefly with that last point. This law deals with banning smoking in enclosed workplaces, not everywhere. So, let us be quite clear about that.

**The Deputy of St. Ouen:**

Sir, as a point of order then, could the Minister explain why the workplace is being defined in such a broad basis.

**Senator S. Syvret:**

Perhaps, Sir, we can address that point when we get to the Articles. Dealing with the generality of the debate and the speeches made by Members, I have to address, first of all, some of the remarks made by Deputy Baudains. He made some frankly preposterous assertions in his speech, such that elderly are being neglected, Overdale was being closed down and hospital management was a shambles. I ask Members to reflect on the standards of the Health and Social Services that the people employed in it deliver for the Island. You do not have to take my word for it. Just consider the standards of the NHS: in chaos and crisis, stumbling from one fiasco to another. By way of contrast, in Jersey, our health service delivers its service on budget. We have waiting lists for most public operation procedures now that are below 3 months and we are hitting, I think, for all of the specialities, a 3-month maximum wait for public. In dealing with the Overdale issue, as far as care of the elderly is concerned and contrary to the impression given by some Members, we carry out the wishes of most of the families and clients who we surveyed, when they say that they want things like respite care to be delivered in private room environments with *en suite* facilities. Let us just be clear about this. Jersey is fortunate in having an excellent health service and, if you do not believe me, just compare and contrast it with that which you would find in the U.K., for example. Deputy Baudains ought to be careful with his willingness to be exposed to smoke. I remember a person said to me a little while ago that smoking harmed his psychic powers and it was not any good for his water-divining skills, so perhaps the Deputy ought to avoid pubs. The fact is, Sir, that three-quarters of the public want a ban to be brought into effect. That was the finding of the recently published social survey - three-quarters of the public support this ban. The evidence on passive smoking is clear, contrary to some attempts to say that it is not. Some Members may, for example, have read a piece in *The Independent* newspaper a couple of weeks ago in which the writer put basically a pro-tobacco industry view forward and, upon looking at the many convincing assertions made in that article, were completely misleading representations of what in fact was published in the *British Medical Journal*. The evidence is plain. If you ask any respectable medical authority, they are completely satisfied that passive smoking is seriously harmful and, therefore, we have an ethical duty to proceed with this legislation because people who work need to be protected from it. You may say that people who smoke, well that is their choice, but in fact, contrary to the view expressed by some people in the earlier debate, workers do not, in many cases, have a choice as to where they work. If you are poor, if you need work, if you have to feed your family, if you have to keep a roof over your head, you will take whatever job is going. If that means working in a smoky environment where your chances of getting lung cancer or throat cancer after 10 years will be statistically greatly increased then people will do that. People will take whatever jobs they need to take. So, we have an ethical duty to protect people from this issue. Senator Norman mentioned Ireland. I would be very grateful if he would share his "evidence" with me. I think he has gone outside for a fag at the moment so he is not here but, again, I looked at some of these assertions about the effect of the smoking ban in Ireland that were being produced by right-wing think tanks and I discovered that the rate of pub and bar closures in Ireland was hardly any different to the usual rate of pub and bar closures throughout the country that happens year after year in any event. Many of the closures that the industry try to hold up as being examples of economic damage were in fact the usual cycle of one business closing down and a new business coming into those premises and taking over and, indeed, many bars, pubs and old-fashioned

drinking establishments have in fact changed from that business to a new business focussed in different ways, providing a different service for their clients, in a smoke-free environment. So, be very careful about believing those kinds of assertions. The example in the rest of the world, in places like Ireland and New York and Italy and many other places, is absolutely clear, that this is the right way to go. It has not harmed the economy of New York or Italy and places like that and if they can do it, then so can we. Senator Norman mentioned litter from people smoking outside. Well, again, the fact is the vast majority of the items of litter on the streets tend to be things like cigarette butts and match sticks and so on, now, regardless of any ban or not. So, again, I question very much the use of that particular assertion. The Deputy of St. Ouen and one or 2 other people touched upon this, and we might deal with it in more detail when we get to the Regulations, why is the definition of a workplace drawn so widely. Why, for example, does it include a tent? Well, we have taken our example from the existing working and effective legislation in other jurisdictions and the reason the definition of a workplace has to be drawn so widely is because there would be a variety of loopholes and ways of getting around the law if these kind of exemptions were allowed, if the definition was not drawn up as it has been and there is an important point about competitiveness here. Some Members have argued that you should just let some pubs be smoking and those that want to stop smoking can. Well, the difficulty with that is that all businesses will want to maximise their potential customer bases. So, if you did not introduce a compulsory ban on smoking on enclosed workplaces, 99 per cent of pubs and clubs would opt to carry on being smoking because that way they are attracting both markets, the non-smoking and the smoking market. So, it just would not work and, for reasons of competition, businesses would not want to lose a portion of their custom. That is why, to be fair, to have a level playing field in terms of competitiveness and fair play in the marketplace for hospitality industries, the ban does have to apply to everybody or it simply will not be fair and it will not enhance proper competition. It is for this reason that we have to include definitions such as tents, for example, because, if we did not and you allow smoking in, say, marquees, then all of those country pubs and institutions that happen to have a big garden or a field or something conveniently close to them would simply put up a huge marquee in their field and carry on having the usual range of smoking taking place within the marquee. Of course, that would suck custom away from those smaller pubs and clubs and restaurants that did not have the opportunity to put up a huge marquee outside their premises. So, we have to recognise that the fairness of the ban, of it being an equal playing field, is very key in terms of economic fairness and financial fairness for businesses. Sir, I think I have addressed all the points that were raised. I remind Members that three-quarters of the public want this ban to be introduced. It is proven to be effective and workable in many other jurisdictions throughout the world, and the Islands' Medical Officer of Health says that this is public enemy number one and we have to do all we can to discourage smoking. I maintain the preamble, Sir, and ask for the Appel.

**The Greffier of the States (in the Chair):**

Very well. Members are in their designated seats. The vote is for or against the principles of the Law, and the Greffier will open the voting.

<b>POUR: 45</b>	<b>CONTRE: 2</b>	<b>ABSTAIN: 0</b>
Senator S. Syvret	Deputy G.C.L. Baudains (C)	
Senator L. Norman	Deputy G.W.J. de Faye (H)	
Senator F.H. Walker		
Senator W. Kinnard		
Senator T.A. Le Sueur		
Senator P.F. Routier		

Senator M.E. Vibert				
Senator P.F.C. Ozouf				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Saviour				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of St. John				
Connétable of St. Brelade				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
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 P.V.F. Le Claire (H)				
Deputy J.A. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**The Greffier of the States (in the Chair):**

I refer to the Chairman of the Social Affairs Panel. You do not wish to scrutinise it? Minister, how do you wish to propose the Articles?

**Senator S. Syvret:**

I am looking for guidance from the Chair. I think I would be happy to propose the Articles in blocks or *en bloc* if Members wish.

**The Greffier of the States (in the Chair):**

I think they are technically quite complicated, are they not, Senator? It would probably be just as easy for you to propose them *en bloc* and just speak as you wish to individual aspects of them.

**10.11 Senator S. Syvret:**

Very well, Sir, then I propose the Articles *en bloc*. I will not speak in great detail about them at this point, but I will endeavour to answer questions that Members may have. I repeat the point I made in my opening remarks that these amendments to the main Law are an enabling Law, and the actual detail of the Regulations and precisely how the ban will work is to be brought back to the Assembly in September. So, Members will have an opportunity to scrutinise the actual Regulations in detail. But the Regulations in this particular Law are enabling legislation, so I propose the Regulations *en bloc*.

**The Greffier of the States (in the Chair):**

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

**10.12 Senator M.E. Vibert:**

Yes, Sir, and I believe it is a proper question about one of the Articles and about what they enable, and it is Article 1A(a). I understood when we had the debate about smoking and restricting smoking in workplaces, which I thoroughly and wholeheartedly support, the emphasis was on the protection of those who did not have any choice from the dangers of passive smoking which have been repeated in the debate on the preamble. Because of that, what I want to know is why in these Regulations, Regulation 1A(a), as well as allowing Regulations to limit or restrict the smoking of tobacco and other substances in the workplace, also allows the Regulations to limit or restrict the use of tobacco in a workplace. The use of tobacco is defined in the 1973 Law as sucking, sniffing or chewing tobacco, none of which are practices I am particularly keen on, but if someone is keen on them, is there any evidence that these other practices are harmful to third parties? If there is not, why are they being enabled in this Law whether they have any intention to enact them or not? I just wondered why this Regulation was being included as to not just the smoking but the use of tobacco, because it does not seem to me, on the face of it, in line with the tenure of the debate we had originally.

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

I was most interested to hear Senator Syvret describing his intention to ensure that there was fairness for business. If I had not have been sitting down, I would have had to. To hear this come from the scourge of Jersey's mercantile elite that suddenly some renaissance has occurred and that Senator Syvret is now determined to be fair to business is a revelation, I think, of a quite striking nature. I do wish to pursue my point about the unintended consequences of this legislation. Certainly, we all seem to be citing Ireland as an interesting example of where this has already been tried out. One of the things that happened was that people indeed erected marquees in the fields outside the pubs so that the smokers could go into the marquee, sheltered from the rain, and have a cigarette. Now, I have to say I do not see anything particularly unreasonable with that, but here we are and we intend to include within the workplace, and thereby where a smoking ban would exist, a tent, a temporary structure or a movable structure. Now, what effects will that legislation have? Let us look at a highly successful annual Jersey event; the beer festival. I am told by the organisers that this year, for the first time, will involve 2 enormous marquees instead of one enormous marquee. These marquees will obviously be full of beer drinkers, the sorts of people who currently tend to go to pubs and have a cigarette and read the newspaper. Now, this is their big day out or, in fact, it is 3 days in the year **[Laughter]** although, for those of you who are not aficionados, the beer usually tends to run out after 2 and a half days. We hope for better things, but then that was

said several years running. It will be really extraordinary to contemplate this type of event without an awful lot of people rolling cigarettes, smoking cigarettes, sucking on pipes, because that is the sort of thing that beer drinkers do. Those are the types of people that real ale drinkers are. They are beardy, pipe smoking sort of people. Now, what on earth is the problem with having 2 whacking great tents set up with a ceiling that is 15 to 20 feet high and allowing smoking? Now, there is another catch in these Regulations because even though everybody who works at the beer festival is a volunteer, Senator Syvret and his crafty legislators have ensured that it does not matter if you are a volunteer; you are still working. So, there is a double catch in this one. So here we have, all of a sudden, an annual treasure of an event that has had one section of its cultural stomach gutted by this legislation. It sounds to me as though it is just a step too far. What else could this affect? Marquees; now when do we use those? Private wedding parties. Now, unless you do the catering personally, you are going to get caught out by Senator Syvret's legislation again because if you hire-in the caterers, the marquee will become the workplace. Even though you have paid for it and it is in your garden and you are a big Havana cigar smoker, you will not be able to smoke one of your Havana cigars at your own daughter's wedding. **[Laughter]** Now, I cannot really believe that we intend the Law to go this far, but that will be the effect. I go back again to talking about how the pubs and bars in many places around the Island have taken either structural moves or have applied for alfresco facilities, precisely so that they know that their disappointed smokers who will no longer be able to smoke on the premises, in effect, indoors, will be ushered outside to have a cigarette. Well, no, not if it starts raining because then comes down the awning. Now, is that a tent? Perhaps not, but it is probably a temporary structure. So then, that becomes "banned workplace" under this legislation. Now, I do not believe that the health police are quite this fanatical. I cannot believe that if smokers leave a premise and are effectively standing outside under an awning that this law intends to capture those people and say: "No, you should not be smoking here." But, as I read this, this is precisely the effect that that particular Article would have. That is why I am going to ask the Senator if he would be so kind as to allow the House to vote separately and specifically on Article (b) under 3A(1). We have a series of (a), (b), (a), (b), and then the third (a), (b): "Tent, temporary structure or movable structure." I think this is fraught with unintended consequences. I am sorry, the fairness to business argument, I think, is just a straightforward whitewash to say that: "Actually, no, we do not care. We do not just want to kick smokers out of the pub so you can have all the seats in the alfresco. We want to kick you out of the alfresco as well." Now, I find it hard to believe that the intention of this Law is, in effect, to ban all smoking in public places, but it certainly appears to be the intention to ensure that if it is raining, all the smokers are going to get wet because you will not be able to go into a tent, even, presumably, if all the side walls are open. You will not be able to go under an awning. You will not be able to go under a temporary structure. I can think of dozens of temporary structures that are erected outside those pubs and bars in the shape of small roofed affairs with corrugated, see-through, transparent plastic tops; temporary structures. I seriously do not believe that it should be the intention of this Law to make those deemed to be workplaces and have smoking banned there. I just think that is a step too far. It is not a balanced approach and it is unfair to that section of the population who happen to be smokers.

#### **The Greffier of the States (in the Chair):**

If I could just say, Deputy, unfortunately, Standing Orders will not allow the Minister, even if he wanted to, to pick Articles apart for votes. Standing Orders allow Articles to be voted on separately but not parts of Articles, I am afraid.

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

I think we know where Deputy de Faye is coming from in this general debate. I do wish to say just 2 things and ask 2 questions of the Minister for Health. Could I just have his confirmation that he

will continue to engage the maritime sector? He will be aware that there has been some communication with some vessel owners in Jersey. I understand that there is an issue of parity and comparability of our arrangements in Jersey with those of neighbouring jurisdictions such as Guernsey who are also banning smoking in workplaces. Would he commit to continue to engage with them to ensure that we do not have any unintended consequences concerning issues such as cruise ships that come into Jersey waters but are under a different flag et cetera? We need to make sure the definitions are right. I have had assurances from him that there are not any issues and if there are issues that emerge, no doubt they will be able to be dealt with by the Regulations that will be coming forward. Of course, Deputy de Faye, who is a very clever man, knows that these regulations are enabling Regulations and to the large extent say that the States may make Regulations in respect of different issues. There is a further debate that we have to have on the detail at which, no doubt, he will be making representations again when we come back in September. Could I just ask in his summing-up, finally, for Senator Syvret just to confirm we are bringing into force this enabling Law at 7 days, subject to Privy Council approval if the States approve it at 7 days after Registration? Can I just press him on what his desired date for implementation would be so that there is certainty, so that we do not arrive in September with the business community, the mercantile elite, small and big, and suddenly then say that we are springing this on them? If we are going to say we are driving forward and attempting to achieve a deadline of the end of October or November, let us say so now. Just finally, Sir, the availability of that wonderful website, Google, allows one to put in place searches at the flick of a switch. If Members, when they get home this evening, go to a search engine and put “Irish economic consequences smoking ban” they will come up with articles such as “Myth: A Ban on smoking in pubs would have the same impact as similar bans in Europe. Thousands of jobs would be lost in hospitality and brewery industries.” They will find articles that say: “Fact: Scare stories about declining hospitality industry sales should be viewed in the context of the long-term trend in Irish bar sale trends.” The decline in the amount of bars shutting in Ireland after the ban was less than previously, and the same is explained in this article, in Norway and other places. I will leave it in the coffee room. Let Members look at the evidence themselves on websites rather than listening to Senator Norman.

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

Of course, there is one disadvantage that I thought Deputy de Faye might have picked up on, but he did not. That is, of course, that as one excludes people from pubs and clubs if they wish to smoke, they will be encouraged to smoke at home. Of course, at home, there may be young children who do not have the ability to get out of the way of the smoke if they do not like it. It may, in fact, be worse for their health than for adults. But what I seek from the Minister, Sir, is an assurance that when he does draw up the Regulations that he will ensure that self-employed people are not caught by this legislation. If one looks at the explanatory note on page 5, it says: “If a person carries out work in premises or place on any land, then those premises, the place or land will be treated as a workplace for the purposes of the Regulation.” It goes on to include, as Deputy de Faye has said, tents, temporary structure, vehicle, public service vehicle, ship or vessel and so on. The way I read this, Sir, is that if anybody is self-employed, then that means they are unable to smoke in their own home, on their own lawn, in their own boat or whatever. I would like assurances from the Minister that the Regulations will ensure that that sort of nonsense does not occur.

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

I would like to make 4 brief observations on Ireland, but I run the risk of being conflicted. I will risk making them anyway. It is to endorse what Senator Syvret said and Senator Ozouf said. The Irish Licensed Victuallers Association, which is also on Google, also produced a report recently which said that closures in Irish pubs are as much to do with not adapting and not selling food as

anything else. The Irish Licensed Victuallers Association also said: "It is as much to do with Irish drink driving laws nowadays as it is to do with anything else." The pubs that have invested and reinvested and reinvented themselves are now much busier and they are much more pleasant places to eat in and have a drink with your meal. Much reference was made to Limerick City or Limerick County by Senator Norman. It won the Irish Tidy Towns competition 2 years ago. So I suggest that there is merit in looking at some of these Irish websites. The final point I would like to make is that the pubs that opened tents and second-hand double-decker buses for smoking were very quickly closed-down. Thank you, Sir.

**The Deputy of St. Ouen:**

I did ask, I believe at the right time, for the Minister to comment on the definitions included in this piece of legislation and the wide range and the generality that it indeed covers. Would the Minister be prepared to confirm that this piece of legislation does not only address smoking in enclosed working places, but indeed it can address smoking in any place?

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

The Minister knows he has my wholehearted support for this piece of legislation and would also recall that when I was a member of the Health Committee, I was one of the driving forces to get this piece of legislation through. I am delighted that it has come through with such vast numbers of Members' support. Deputy de Faye mentioned about the 'health police'; I think he was a bit unfair on those smoking control officers who go out doing their job. The Minister will remember a week or so ago I did ask the question about the manpower and financial implications, whether indeed the Health Department will be employing these people. Could I get his assurances that it will not be necessary to employ a Smoking Control Officer just for this piece of legislation?

**The Greffier of the States (in the Chair):**

I call on the Minister to reply.

**10.18 Senator S. Syvret:**

I thank everyone who has spoken. I will try to be fairly brief. First of all, Senator Vibert asked why the use of tobacco substances was included in the Law. It does quite specifically have that provision in it because while the main and the principal motivation behind the laws to protect non-smokers from second-hand smoke, there is also a general health promotion element to the legislation too which does seek to encourage people to give up smoking and to minimise the rate of smoking in society. Taking into account that particular objective, simply to allow people to start using, for example, chewing tobacco in pubs, which would be marketed by the industry if they had the option, would still be very detrimental to people's health because chewing tobacco causes cancers; mouth cancers, throat cancers, stomach cancers. Also, chewing tobacco is profoundly unhealthy from a public health point of view. People who chew tobacco have to spit all the time and this, as well as being generally disgusting and unacceptable, is also a way of spreading diseases, for example tuberculosis and other communicable respiratory diseases. So, yes, there is a need to control the use of tobacco substances.

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

A point of order, Sir. I may be mistaken, but is the Senator not introducing new information? If I had known earlier he was going to bring up the subject of chewing tobacco, I would have discussed spittoons.

**Senator S. Syvret:**

I am afraid the draft amending Law before us is clear. The wording is included in it and it was indeed spotted and remarked upon by Senator Vibert. So, if Deputy de Faye has not read it in sufficient detail to spot that point, with all due respect, that is his problem. He mentioned his particular hobbyhorse of tents again, and he suggested that one sector was being gutted when he spoke of the beer festival. Well, as Deputy Power pointed out absolutely correctly, the evidence from Ireland shows that new sectors of hospitality and new sectors of commerce can grow and be developed from this kind of healthy and pleasant policy. The reason why tents and marquees have to be included is because they would still be workplaces. If you had a more or less permanent marquee outside a country pub in which people could have their drinks and carry on smoking, staff would have to be going into there to collect the glasses, empty the ash trays and all the other things that bar staff have to do. That is why tents have to be included. The Deputy said it catches people who are standing under an awning. That is not strictly true. If you are stood outside of the Lamp Lighter underneath its rolled out awning, you can smoke there outside on the pavement under the awning. The awning simply is not captured by this particular legislation. So, have no fear; you will be able to enjoy your cigarette outside. Senator Ozouf mentioned the maritime sector. My department has had representations from Huelin-Renouf and others about this point. They were claiming that there was some ambiguity in the law and that our law did not have the same effect as that in Guernsey. That is not correct. My officers have taken careful advice on this from the Law Officers' Department. Vessels are included in this legislation. If you have a workplace on a vessel within Jersey territorial waters, smoking within that vessel will not be permitted. But certainly, I am happy to agree that I will be open, of course, to consultation if the industry and others have representations to make about ships. Senator Ozouf also asked for a commitment about the timetable. I do think it has been fairly well published that the objective for getting this Law into effect will be towards the end of this year. Our aim is that it will be in place before Christmas. The industry do know this because I had communications with them and I agreed to their request not to go to the halfway house measure of banning smoking only in cafes and restaurants because of the confusion and difficulty that would have caused many of them. But I made it absolutely explicitly clear to them that the *quid pro quo* for doing that would be bringing in the complete ban somewhat faster, hopefully by the end of this year. That has been made clear, but in case anyone is still not clear about that, I am more than happy to commit to making sure that the development of the Regulations and their likely date for implementation is well and proactively publicised among the industry and indeed for the public. I am very happy to do that. Deputy Baudains mentioned self-employed. Well, this is simply an enabling Law and it says States may make Regulations to deal with self-employed premises. We do not know whether we will or not yet because we have not drafted the final Regulations. This is simply an enabling Law. Deputy Power mentioned the experience of Ireland, and it has been a tremendous success. A few years ago, people would not have believed that a ban on smoking in enclosed workplaces such as bars and clubs could ever be so successful and indeed so accepted by the population and have such good benefits, yet it worked in Ireland and it worked in New York. If places like that can go down this path, then I am absolutely certain we can. Deputy Hill mentioned the Smoking Cessation Officer. As I explained previously in answers to questions, that is simply going to be a bid that may be put forward among the rest of the Health and Social Services Committee's budget by the Health Promotion Department. If it is not of a sufficient priority compared to all of the other demands upon us, then it will not get the money. But even if it were of sufficient priority to get funding, that funding would come from within the existing resources of Health and Social Services. So, there is no question of additional funding being sought. I think, Sir, that has dealt with all of the points that were raised. I am minded to put the regulations *en bloc* as we have debated them *en bloc*. I get the sense that most Members have had a long day and would prefer to wrap this matter up.

**The Deputy of St. Ouen:**

The Minister did not answer the question I put which was would he not confirm that this Law encompasses any smoking in any place rather than just in enclosed places.

**Senator S. Syvret:**

I do not think it does. If you read that particular part of that Article in conjunction with the rest of the Law, you will see that elsewhere it deems enclosed workplaces.

**The Deputy of St. Ouen:**

Would the Minister confirm, then, why does it include Articles such as Article 1A(b)(4) which allows the Regulations to exempt a workplace that is not enclosed?

**Senator S. Syvret:**

Because there may be workplaces that, for example, may be open on 2 sides with a roof over them like timber yards and things of that nature. That is why this kind of definition is in the law.

**The Greffier of the States (in the Chair):**

Very well. The Articles are proposed. The Appel has been called for. I ask Members to return to their designated seats. The vote is for or against Articles 1 to 9 of the draft law. The Greffier will open the voting.

**POUR: 43**

**CONTRE: 3**

**ABSTAIN: 0**

Senator S. Syvret  
Senator F.H. Walker  
Senator W. Kinnard  
Senator T.A. Le Sueur  
Senator P.F. Routier  
Senator M.E. Vibert  
Senator P.F.C. Ozouf  
Senator B.E. Shenton  
Senator F.E. Cohen  
Connétable of St. Ouen  
Connétable of St. Saviour  
Connétable of St. Mary  
Connétable of St. Peter  
Connétable of St. Helier  
Connétable of Trinity  
Connétable of St. Lawrence  
Connétable of St. John  
Connétable of St. Brelade  
Deputy R.C. Duhamel (S)  
Deputy A. Breckon (S)  
Deputy J.J. Huet (H)  
Deputy of St. Martin  
Deputy P.N. Troy (B)  
Deputy C.J. Scott Warren (S)  
Deputy R.G. Le Hérissier (S)  
Deputy J.B. Fox (H)  
Deputy J.A. Martin (H)

Deputy G.C.L. Baudains (C)  
Deputy of St. Ouen  
Deputy G.W.J. de Faye (H)

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

**The Greffier of the States (in the Chair)**

Do you propose the Bill is therefore adopted in Second Reading and proposed in Third Reading, Minister?

**Senator S. Syvret:**

Yes, Sir.

**The Greffier of the States (in the Chair):**

Is that seconded? [**Seconded**] Does anyone wish to speak? I put the draft in the Third Reading. Those Members in favour of adopting it kindly show. Against? The draft law is adopted in Third Reading.

**11. Draft Planning and Building (Jersey) Law 2002 (Appointed Day Act) Act 200-(P.46/2006)**

**The Greffier of the States (in the Chair)**

Do I take it Members are content to continue with the next item? Very well. The next item is the Draft Planning and Building (Jersey) Law 2002 (Appointed Day) Act 200-. The Greffier will read the citation to the Act.

**The Deputy Greffier of the States:**

The Draft Planning and Building (Jersey) Law 2002 (Appointed Day) Act 200-. The States, in pursuance of Article 131(2) of the Planning and Building (Jersey) Law 200-, have made the following Act.

**11.1 Senator F.E. Cohen:**

It gives me great pleasure to be proposing what I hope will be the final Act before the new Planning and Building Law comes into force. It is long overdue for the reasons described in my report. The

process of reviewing the Island Planning and Building and Public Health Control of Building Laws, dated 1964 and 1956 respectively, began under the first Committee of the former Senator Nigel Qu  r  e in the late 1990s. There was extensive public consultation before the law drafting brief was finalised and the Committee finally lodged its Projet de Loi in 2001. The draft Law proposed the amalgamation of the older laws into a single piece of legislation, introduced a number of new provisions and updated and simplified others that already existed. The States debated the projet in the summer of that year, in the process adopting an amendment by Deputy Scott Warren which introduced provisions for third party appeals, and the Law was finally registered in the Royal Court in November 2002. The major new provisions of the Law are as follows: the requirement to prepare an Island plan, a requirement that representations on the draft plan are heard in public and the need to review it at least every 10 years; the need to consult appropriate bodies when producing guidelines for publication; better provisions for advertising applications, probably by site notices; provisions for public inquiries for significant developments or significant departures from the Island plan; environmental impact assessment becomes a statutory requirement for certain categories of development; the public may attend meetings of the Planning Applications Panel; planning permission may be granted in outline or detail, in the former case reserving specific matters to be subsequently approved; certification of completion of development in accordance with the planning permission; more effective enforcement procedures including stop notices and injunctions; simplified procedures for designating sites of special interest and protected trees; third party appeals. I am not recommending the introduction of certain provisions at the outset, mainly because resources are not available to operate them. The most significant delayed provisions are those relating to appeals by third parties, that is, those persons other than the applicant who made written representations on an application. These provisions will not only significantly increase the number of appeals, but will also increase the complexity of appeals because each appeal could involve more parties. The increase in the number and complexity of appeals will have significant resource implications, not only for the Planning Department, but also for the Royal Court. Although we cannot be precise about the number of appeals, these additional costs could well run into 6 figures. There is a further reason for delaying the introduction of third party appeals. New Royal Court Rules are due to be introduced shortly which provide for expedited procedures for hearing planning appeals over and above the current appeal to the inferior number of the Royal Court. These will allow appeals in simple cases to be decided on written submissions only, or the appellants can opt for a less formal hearing at which he or she can be represented by someone other than an advocate. It is considered that these new procedures should be allowed to settle down in a measured way before a totally new type of appeal is introduced. I am, however, committed to examining the feasibility of the speedy introduction of third party appeals and to work with others in this endeavour. Sir, it is my firm belief that the new Law will lead to far greater transparency in the planning process and it will introduce better and simpler procedures for all who engage with the process. I propose that the Law be brought into force on 1st of July.

**The Greffier of the States (in the Chair):**

Is the Act seconded? [**Seconded**] Does anyone wish to speak on the Act?

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

While I would normally be very pleased that we are at last debating the enactment of this Law, a Law which, there is no doubt, is a vast improvement on the 1964 law, this enactment is not for the entire Law which the States Assembly approved. I therefore cannot support it today. I am extremely sad to say that I believe it is also a shameful day for the States; shameful because provisions which 2 separate States Assemblies have endorsed are not to be included in this enactment. Members voted in support of my amendments in 2001 for a full-scale third party right of appeal. This would have been to the since-scraped Planning Appeals Commission. More

recently, another States Assembly endorsed amendments for a limited third party right of appeal only last year, in 2005. Why are these decisions so worthless as to not even have resources requested to implement them? Had the President of the last Environment and Public Services Committee requested the funds and failed, I would believe the reason for delaying the enactment of third party provision was purely one of resources. What is the purpose of the States Assembly? Is it to debate the vote for propositions just to have them ignored? How many times have States Assemblies voted for important provisions which do not materialise or taken years to implement them? This is not good government. Sometimes the reason is truly one of resources. I am sure the town park spring to everyone's mind. Even then, the delay is not acceptable for the people living nearby. Until the limited third party appeal amendments are enacted, I believe Members do not have *locus standi* for an appeal. The only route for third party appeals at present is the Administrative Review Board hearings though, while recently being tightened up regarding the procedures, the Board can still only request that a decision is considered again. It cannot impose its findings and these will still be ignored, albeit that justification will in future have to be given. It can therefore by no means be considered a satisfactory form of redress for third parties. Following my successful amendments for a full-scale third party right of appeal, I visited *An Bord Pleanála* and the Dublin Corporation in Dublin with the Director of Planning and one of his colleagues. Eire has long had this provision in its planning law. Within a short space of time after we returned, it became crystal clear to me that there would never be sufficient resources to implement a full-scale third party right of appeal in Jersey. Discussions then ensued with several interested parties including the Solicitor General and a former St. Helier Deputy who had seconded my original amendments. It was he who suggested a limited right of appeal. I held separate discussions with the Director of Planning and I believe he accepted that a limited right of appeal would be workable. The Director of Planning and the former Vice-President, who was that same St. Helier Deputy of Planning, confirmed to me that 50 metres was a reasonable distance. Therefore, a person who had written in to object prior to the decision and who had an interest in land or was resident on land, any part of that being within 50 metres of any part of the site to which the planning permission relates, should have the right of appeal from 1st July 2006. I remind you of this solitary phrase from the report you have before you in the name of the Minister of Planning, lodged only last month: "There are provisions relating to third party appeals, that is, by persons other than the applicant, and the power to remedy dangerous structures. It is intended that these provisions will be introduced as resources permit, but this is unlikely to be in the foreseeable future." Does that sound like a resource issue? Is this good enough? The simple answer is no. Yesterday, the Minister of Planning gave a very welcome assurance that he would look at the third party provision with me. He told those Members who attended the briefing yesterday prior to the debate today that he supports the introduction of a third party right of appeal. This is not in line with the comments in the report, but nonetheless I still view it as a positive step in the right direction. I welcome the much better provisions within this Law, but I wish to see the speedy enactment of the whole Law. Therefore, as I have said already, I cannot support this Law today. I would like to ask each Member to think of only one planning application - although I am sure you could think of more - either presently being decided or during the past few years, where neighbours would have been greatly relieved to know that a third party right of appeal was available to them. I leave you with this thought. Firstly, if all the improvements within this Law and all future decisions are sound and reasonable, the number of neighbours' third parties wishing to appeal will be relatively low. Any frivolous, vexatious appeals would be thrown out. However, if, despite the new provisions within the Law, there remain genuinely aggrieved third parties who wish to appeal but despite 2 votes taken by 2 separate States Assemblies still will not be able to do so on 1st July, this is, in my opinion, nothing short of disgraceful. I do not believe it right that Members can cherry-pick the bits of an approved law they like enough to decide to implement. I therefore cannot support this Law coming into force until we have before us the Law as it should be; entire, and as endorsed by States Members. I will end by quoting the Chief Minister in his statement today. His statement included

the phrase: “The States Assembly is the Island’s seat of government and it will remain paramount.”  
Thank you.

## **CONSIDERATION OF ADJOURNMENT**

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

Can I make a point of order, please? Sir, I have a meeting to attend at 7.00 p.m. which I cannot get out of, and I believe the Deputy has raised some very important issues that need to be fully explored. Is it not possible for us to adjourn this matter perhaps until the next sitting?

### **The Greffier of the States (in the Chair):**

Well, it is a matter for the Assembly, as ever. I am conscious it is late and Members have other commitments. Are you formally making that proposal?

### **The Connétable of St. Helier:**

Yes, please, Sir.

### **The Greffier of the States (in the Chair):**

It is a matter for Members. Is there anything you wish to add, Minister, before the matter is put to the Assembly?

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

We can vote for an adjournment, in which case, Sir, I do see we have to go on anyway to deal with the items of business, do we not? I understand that the Treasury Minister is going to go on to propose that the Postal Services Law is not dealt with in 2 weeks time. Would it not be more in order if we are to have an adjournment that it starts in a week’s time rather than just in a few hours? I understand the Minister himself is due to be out of the Island tomorrow.

### **The Connétable of St. Helier:**

Could I propose that this item is then adjourned until the next sitting?

### **The Greffier of the States (in the Chair):**

Yes, next sitting being next week because of the way the dates have worked. All Members content to defer further consideration of this proposition until next week.

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

Point of information; is there any way we get an indication of how many Members would like to speak on this proposition?

### **The Greffier of the States (in the Chair):**

Well, briefly; I think there are a number of Members who wish to speak. It would be realistic to think we will be here until at least after 7.00 p.m. Very well. Those in favour of deferring this item until the first item of business next week kindly show. Against? That item is deferred.

**PUBLIC BUSINESS (continued...)**

**13. Jersey Community Relations Trust: replacement of Chairman (P.47/2006)**

**The Greffier of the States (in the Chair)**

Chief Minister, do you wish to defer also the Community Relations item?

**Senator F.H. Walker:**

Well, Sir, it is a matter for the House. It should take all of 3 minutes, I would have thought, and I am quite happy to proceed.

**The Greffier of the States (in the Chair):**

Members content to proceed with that last item of business? Very well, I will ask the Greffier to read the proposition.

**The Deputy Greffier of the States:**

The States are asked to decide whether they are of opinion to refer to their Act dated 20th January 2004 in which they approved the establishment of a Jersey Community Relations Trust and to their Act dated 8th June 2004 in which they appointed the Reverend Lewis William Matthews as the Chairman of the Trust and to appoint Mr. Nicholas Mark Hutchinson as Chairman of the Jersey Community Relations Trust in pursuance of paragraph 5.11 of the Trust's Constitution to complete the term of office of the former chairman, namely until 7th June 2007.

**13.1 Senator F.H. Walker:**

I bring this proposition with a mixture of sadness and pleasure. Sadly, the Reverend Matthews, widely and affectionately known throughout the Island as Bill, has decided that the time has come to retire as Chairman of the Community Relations Trust. I would like at this stage to pay warm tribute to Bill Matthews, firstly, for all the work he has done socially and on behalf of the church throughout the Island and, particularly, for the absolutely excellent work he has done in driving the Community Relations Trust forward and bringing it to the very strong position it has already achieved after only a very short time in business, as it were. Bill has played a leading role in that, and I pay warm tribute to his work. So, that is the sad bit of it; that we are saying goodbye to the Reverend Matthews. The pleasure is that we have such an able and experienced candidate as Nick Hutchinson to replace him. Mr. Hutchinson is ideally suited and qualified to take-over, having served on the Trust since its inception and, in addition to Reverend Matthews and other Members, other trustees, being instrumental already in bringing the Trust to the level it is. I am very grateful that he is prepared to take on the position of Chairman at this time and I am delighted to propose his appointment.

**The Greffier of the States (in the Chair):**

Is the proposition seconded? Does any Member wish to speak on the proposition? I put the proposition. Those Members in favour of adopting it kindly show. Against? The proposition is adopted.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Greffier of the States (in the Chair):**

The Assembly does indeed come finally to Section M of the Order Paper: the arrangement of public business for future meetings. There has been some confusion. I apologise to Members; the consolidated Order Paper does not quite reflect the supplementary and I think another sheet has been circulated to Members that gives the arrangement as it is understood to be requested at the present time on the white sheets. Do you propose that, Vice Chairman?

**14. The Deputy of St. Peter (Vice-Chairman, Privileges and Procedures Committee):**

I propose that as amended by taking P.46 first as the next item of business. **[Seconded]**

**14.1 Senator F.H. Walker:**

Just to make confirm I am looking at the right piece of paper. This means the Postal Services Regulations will be debated on 6th June and the Strategic Plan on 20th June.

**The Greffier of the States (in the Chair):**

That is indeed correct Chief Minister.

**14.2 Deputy G.P. Southern:**

May I request that the Employment legislation: petition (P.214/2005) be further postponed. I am still awaiting some responses from the mainland.

**The Greffier of the States (in the Chair):**

Very well. So that will be deferred. It cannot be deferred later than the 6th June, Deputy, at this stage. So it will be listed for that meeting.

**ADJOURNMENT**

**The Greffier of the States (in the Chair)**

Very well. There is no further business. That concludes the business of the Assembly, and the Assembly will reconvene next week on 23rd May 2006.