

# STATES OF JERSEY

## OFFICIAL REPORT

MONDAY, 16th JULY 2007

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

## **QUESTIONS**

### **1. Written Questions**

#### **1.1 TO THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING THE FREEDOM OF INFORMATION LAW:**

##### **Question**

Would the Chairman specify in what ways the revised draft of the proposed Freedom of Information Law differs from the previous draft and confirm that the simplification will not lead to a dilution of the key principles of the Law?

In what ways does the simplification reduce the need for resources in implementing the Law?

##### **Answer**

Members will be aware that the Privileges and Procedures Committee has prepared two versions of the draft Freedom of information (Jersey) Law 200-. These are both available from the States Bookshop, Morier House, or on [www.statesassembly.gov.je](http://www.statesassembly.gov.je), and their full titles are –

Freedom of Information (Jersey) Law 200-: consultation document, Presented to the States on 21st April 2006 by the Privileges and Procedures Committee - R.33/2006 ('Previous draft')

Freedom of Information (Jersey) Law: second consultation Presented to the States on 18th June 2007 by the Privileges and Procedures Committee - R.60/2007 ('Revised draft')

These drafts were both prepared based upon the key policy outcomes listed at section 17, numbers 1 to 22, of the report of the Privileges and Procedures Committee dated 19th April 2005 supporting the Committee's proposition entitled Freedom of Information: proposed legislation (P.72/2005) The key policy outcomes were approved by the States on 6th July 2005. These are -

##### **“17. Policy outcomes**

The Committee has considered very carefully the concerns expressed during consultation. It has also been greatly encouraged by many who have urged that an effective Law should be introduced.

It remains convinced that the Law must have a presumption of openness at its core and that all official information should have the potential to be considered for release. In other words, there should be no blanket absolute exemption for a particular category of information or a particular government agency. Furthermore, whenever possible the information should be available at no charge to the applicant and there should be no restriction as to whom may apply.

Notwithstanding its belief in freedom of information, the Committee is committed to a Law that will recognise the need to keep some information confidential. It is important therefore to recognise that the appeals process works both ways in that it can be used to prevent information being released just as it can be used to ensure information is accessed. Crucially, the appeals process must be on an independent and legally enforceable footing.

It is believed all policy issues are dealt with within the Law Drafting instructions, but Members will perhaps find a summary of key policies useful –



1. All information should be capable of being considered for release. In particular, information created before the Code came into force on 20th January 2000 and which is not yet in the Open Access Period should be released on request unless exempt in accordance with the agreed list of exemptions.
2. There may be circumstances when there is an overriding public interest greater than the purported exemption. Such an interest will be built into the Law but can be appealed against.
3. All legal persons (both individual and corporate) should have a right to apply, regardless of their nationality or residency.
4. Application, especially for readily accessible information, should not be restricted by having to be in writing.
5. Authorities that are emanations of the state or majority owned by the public should be bound to release relevant information.<sup>1</sup>
6. The Law would not apply to States-aided independent bodies.<sup>2</sup>
7. A formal publication scheme is not yet proposed but authorities should be encouraged to publish as much information about themselves and their activities as possible and will be required to use the Information Asset Register.
8. Authorities are to be encouraged to develop records and document management schemes which will facilitate retrieval of requested information.
9. Information should in general be released free of charge<sup>3</sup> and proportionate assistance should be given to a special need, such as an individual's sight impairment.
10. Information should be released as soon as practicable, acknowledgements should be within five working days and the 15 working day guide is to be seen normally as a maximum for a decision to release the information or not.<sup>4</sup>
11. Information created before the introduction of the Code (20th January 2000) should be available for release, but because it has not yet been categorised its release may take longer than information created since the Code. This means that where justified by the Commissioner, the 15 working day limit may be exceeded.
12. Existing exemption (v) should be revised to refer to legal professional privilege alone. Medical confidentiality<sup>5</sup> and legal advice given to an authority<sup>6</sup> are adequately covered elsewhere in the exemptions. The explicit retention of these provide scope for serious undermining of the Law.

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<sup>1</sup> *The Committee would be very reluctant to restrict the law to government departments, Ministers and Committees alone.*

<sup>2</sup> *These bodies can be adequately held to account by the Comptroller and Auditor-General under Article 50 of the Draft Public Finances (Jersey) Law 200-.*

<sup>3</sup> *However, in order to manage unreasonable or excessive requests, charges for extensive work will be allowed.*

<sup>4</sup> *The Committee has replaced the 21 day limit applicable in the Code so as to recognise the effect of bank holidays. The change more realistically defines a 3 week maximum period.*

<sup>5</sup> *Exemptions (i), (xv), (xvi) are more than adequate regarding medical confidentiality.*

<sup>6</sup> *Any one of the other 19 exemptions might be more specifically used, depending on the nature of that advice.*

13. Existing exemption (xii), concerning the competitive position of an authority, should be amplified to give the same guidance concerning the word ‘prejudice’ as is given concerning the competitive position of a third party in exemption (xi). This would then be as follows –
 

“prejudice the competitive position of an authority if and so long as its disclosure would, by revealing commercial information, be likely to cause significant damage to the lawful commercial or professional activities of the authority;”.
14. Existing exemption (xiii), concerning employer/employee relations, should give greater guidance concerning the word ‘prejudice’ as follows –
 

“prejudice employer/employee relationships or the effective conduct of personnel management if and so long as its disclosure would, by revealing the information, be likely to seriously put at risk a fair resolution of a dispute or related matter;”.
15. Existing exemption (xiv), concerning the premature release of a draft policy, should be amplified so that its purpose is clearly understood as follows –
 

“constitute a premature release of a draft policy which is in the course of development. This cannot exempt information relating to that policy development once the policy itself has been published, nor is it a blanket exemption for all policy under development;”.
16. Existing exemption (b), concerning information originally given in confidence has no place in a Freedom of Information Law as exemption (i) protects personal information, exemption (v) provides for legal professional privilege and exemption (xi) protects commercial confidentiality.
17. Existing exemption (c), concerning whether an application is frivolous, vexatious or made in bad faith is retained but clarified by the inclusion of the statement as follows –
 

“Only rarely should this exemption be used and an applicant must be told that he retains the right to appeal against the refusal to release the information;”.
18. In particular circumstances, if a Law Officer or the police reasonably believes that they should neither confirm nor deny the existence of information then the Law should not require them to do so.<sup>7</sup>
19. Offences and penalties are necessary to make the Law effective and these include the offence of an unreasonable failure to release information that is not exempt.
20. There should be one Information Commissioner combining the role of Data Protection Registrar and oversight of Freedom of Information. This office must be effectively resourced.
21. The existing Data Protection Tribunal and appeals system should be adopted and adapted as necessary to consider Freedom of Information appeals.

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<sup>7</sup> *This is an important issue where on occasions it can be harmful to judicial processes or criminal investigations to indicate whether or not information is held. Like any other refusal to release information, however, it would be open to challenge.*

22. The combined and independent function of the Information Commissioner should have just one States Committee to oversee it and it is proposed for that Committee to be the Privileges and Procedures Committee.”

### **Comparison of the previous draft and the revised draft**

Version 1 of the draft Freedom of Information (Jersey) Law 200- ('previous draft') was more closely based on the U.K. Freedom of Information Law. The reason for this was that it needs to work well with the Data Protection (Jersey) Law, which is based on the U.K. DP Law. This was necessary because data protection has international ramifications that would disadvantage Jersey's finance industry were the legislation not to be comprehensive.

Consultation showed that departments and others felt the previous draft was unnecessarily long and complex for the Island, and queried whether the exemptions were too numerous and wide, and the cost would be prohibitive – and the Committee (which included Senator S. Syvret at the time) decided to request a simpler version - Version 2 of the draft Freedom of Information Law ('the revised draft').

The Law Draftsman has pointed out that far from weakening the Law, in the sense of 'Does it give the people less rights to obtain information from public authorities?' the revised version of the Law does exactly the opposite.

The previous draft of the Law, based on the U.K. Act, included quite a number of exemptions. It was produced as a discussion document and was accompanied by a number of questions from the Law Draftsman asking whether all the exemptions were necessary and, if they were, to what extent. As an instance, the Law Draftsman asked if a public authority should have the ability to neither confirm nor deny if it had the information requested and was told by the Committee that this should be limited to "national security" cases. Other exemptions were omitted as not being appropriate to the Jersey way of doing things or made much narrower in their application.

Also a lot of detail contained in the previous draft becomes the subject of Regulations under the revised draft. For example, the action a public authority must take and the information it has to give when it denies a request will now be set out in Regulations. Apart from making the Law shorter and easier to understand, this arrangement also builds in a greater degree of flexibility.

All this is the direct result of the public consultation process that was undertaken.

In the revised draft, the English has been revised to make it much more accessible, and with any cross referencing to other articles minimised. The previous draft had repeated cross references to Article 8, for example, which were not very accessible for the layman. Articles were reviewed to try and strengthen the right of access in the revised draft.

Given the comments that the previous draft was too complex, the Committee revisited two fundamental questions –

1. Should a public authority be allowed to refuse to say whether it has the information requested or should it only be allowed to refuse to disclose the information?

The Committee decided that a public authority should not be allowed to do this, except in the case of detection of crime (national security). This was in the previous draft of the Law, but removed in the revised draft.

2. Should information be disclosed?

This is the whole purpose of the Law. Therefore the answer is 'Yes'. The next question is - are there any exemptions? Are those exemptions absolute? ( that is, the information is not intended to be released but Article 14 does not stop an authority from releasing it if it wishes to), or qualified? (public interest test required)

Part 2 - General right of access etc. - in the revised draft is very similar to the provision in the previous draft. The definition of 'absolute' and 'qualified' exemptions was not clear to the Privileges and Procedures Committee in the previous draft, and this has now been split between Part 3 and Part 4 in the revised draft.

*Article 13* puts a time limit on all exemptions. This is a new provision and provides that certain matters exempt for maximum of 30 years only

PART 4 deals with information that is qualified exempt information. The primary duty to supply information has been made explicit and clear in a separate short article. Previously this was buried in a long article about refusing requests (cf former article 24)

*Article 37* requires the Information Commissioner, in consultation with the Privileges and Procedures Committee, to prepare an annual report, which the Committee will lay before the States Assembly. The Information Commissioner will be an officer, and it was considered more appropriate for the report to be prepared in consultation with elected representatives.

Environmental information - The previous draft included provisions relating to access to environmental information, and included reference to the Aarhus Convention, to which the Island is not a signatory. It was considered that reference to this was not necessary, as environmental information would be treated in the same way as any other information, and if the Island signed up to the Aarhus Convention in the future, we would cross that bridge when we came to it.

*In what ways does the simplification reduce the need for resources in implementing the Law?*

As the Privileges and Procedures Committee stated in its report 'Freedom of Information (Jersey) Law: second consultation' (R.60/2007)

"The Committee agreed to pursue the request of the Council of Ministers that the full resource implications be investigated. The Deputy of St. Peter, as a member of PPC and of the Panel, referred the Committee's request to a Panel meeting for consideration. There was initial concern that the Panel was fully committed and unable to undertake a review at this time, but following further consultation the Panel agreed on 7th June 2007 that it would be in the public interest to undertake a focussed review of the resource implications of the draft Law with a view to informing the States' decision on this matter. The Panel agreed to advise the Committee that this matter would be covered in the first quarter of 2008.

The Committee is of the view that it is important to obtain the information which the Council of Ministers and members require in relation to the financial and manpower consequences of the Law prior to debate, and although the Committee would welcome an earlier start on this work, it fully appreciates that the Panel has a significant programme of work and is unable to include this in its programme at this time. It is therefore prepared to wait for the report of the Panel in the early part of 2008."

It is intended that information required for States' consideration of the draft ('revised') Law will be available in advance of the debate. The Law Draftsman has advised that the revised draft would be far easier for public authorities to administer, and this indicates reduced cost. However, it would be wasteful of resources to carry out a full financial and manpower consequence study in relation to the previous draft that has now been withdrawn.

**1.2 THE MINISTER FOR HOME AFFAIRS BY DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR REGARDING RATIONALE FOR ENACTING THE UNLAWFUL PUBLIC ENTERTAINMENT REGULATIONS:**

**Question**

Would the Minister outline the rationale for enacting the Unlawful Public Entertainment Regulations (Jersey) 2004, under powers contained in the Order in Council of 1771?

**Answer**

These Regulations replace the Unlawful Public Entertainments (Jersey) Regulations, which are due to expire on the 20th July 2007. There are two changes to the new Regulations, at Regulations 2 and 6. Consequently, owing to the changes, I am advised they are to be made pursuant to the 1771 Order in Council rather than being renewed under the later 1884 Order in Council. The arrangements for reviewing the Regulations on a triennial basis has worked satisfactorily in recent years and, therefore, it has not been felt necessary to adopt a different process.

**1.3 THE MINISTER FOR ECONOMIC DEVELOPMENT BY DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR REGARDING INTERNET TRADERS:**

**Question**

Would the Minister explain whether the imposition of increases in parcel post rates upon small internet traders has affected his Department's 'Small Business Development Strategy'?

**Answer**

The Enterprise and Business Development Strategy forms an important part of the Island's overall Economic Growth Plan specifically establishing the principle of growing and diversifying the economy of Jersey, through a series of measures supporting companies addressing on-Island market growth, market and product diversification, off-island inward investment and international trade.

The e-commerce fulfilment sector has established a notable on-Island presence and has the potential for still further growth, with a number of local companies - large and small - establishing significant profiles within global e-commerce markets. Recent consultations by Economic Development with several of the smaller internet traders have identified postal charges as representing only one element within more complex e-commerce trading models and whilst an important cost component, sits alongside premises, labour and sourcing costs in overall terms, with the majority of local internet traders operating business models able to accommodate fluctuations in postal charges.

Economic Development will continue its dialogue with e-commerce sector companies and monitor the effect postal charges and changes to costs or bandings have upon the internet trading sector.

**1.4 THE CHIEF MINISTER BY DEPUTY G.P. SOUTHERN REGARDING THE ABSORPTION BY RETAILERS OF THE COSTS OF G.S.T:**

**Question**

Will the Chief Minister release to members the evidence he has to support his assertion made in oral questions on 17th April 2007, that many retailers would absorb the costs of G.S.T and not pass it on to their customers, and if not, why not?

## **Answer**

In oral questions on 17th April 2007, I said that there is evidence that a **number** of (rather than many) retailers who will absorb all or part of the 3% G.S.T in their prices when the tax starts.

The evidence to support this statement is from both confidential retailer submissions as part of the major consultation exercise in 2006, and the ongoing programme of education/advisory visits conducted by the States Treasury and Resources Department's G.S.T Compliance staff.

I refer members to the 'Summary of Responses to the G.S.T consultation exercise' document which is available on the States website.

### **1.5 THE MINISTER FOR HOME AFFAIRS BY SENATOR B.E. SHENTON REGARDING REPATRIATION LEGISLATION IN THE ISLAND:**

#### **Question**

In light of the recent sentencing of two Portuguese nationals, convicted of heroin smuggling, to jail terms of 4.5 years and 3.5 years in the Island, with a recommendation for deportation at the end of the sentence, would the Minister agree that the lack of repatriation legislation has cost the Jersey taxpayer a considerable amount of money and caused over crowding at La Moye and, if so, what steps, if any, will she take to address this matter?

#### **Answer**

I remain committed to introducing the necessary legislation to enable the repatriation of prisoners and that work is at an advanced stage to bring this forward. I believe that it is right that prisoners are able to serve their sentences close to family and friends and close to where they will be released to in order to aid rehabilitation prospects.

The economic argument is much more complex than is suggested in the question. Firstly we need to remember that any legislation we introduce will mean that any Jersey citizens serving sentences outside Jersey will have the right to apply to be repatriated to La Moye. We do not have the available data for how many Jersey citizens may be held abroad (and are unlikely to be able to obtain such data).

In addition, the expectation is that when the new legislation is in place, prisoners would not be able to apply until after they are sentenced and experience in other jurisdictions would suggest that it will then take several months before the transfer actually takes place. Therefore, we would still hold foreign national prisoners for some considerable period of time.

Of our current prison population, it is likely that about 10–15 prisoners would consider applying to be repatriated and, if all were to be repatriated, this would help to alleviate overcrowding in some parts of the prison. However, due to the mixture of prisoners held it is unlikely to lead to a significant reduction in operating costs at La Moye as it is not likely to lead to a reduction in staff needed to run the prison. It is this cost which forms the largest part of the prison budget.

### **1.6 THE MINISTER FOR PLANNING AND ENVIRONMENT BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING CASTLE QUAY DEVELOPMENT:**

- (a) In his response to a written question of 3rd July 2007, the Minister stated that the proposed Castle Quay development will have 'significant beneficial impact on wind conditions' on a site 'is generally rated as unsuitable in terms of safety and deemed comfortable, at least in winter, for no more than a level of walking normally associated with business activities'. Will he give greater detail on the significance of the beneficial impact and, in particular, what activities will be possible in safety and comfort due to wind levels?
- (b) What amounts of solid and porous structures are currently envisaged to deflect or otherwise mitigate the wind?

### **Answer**

In broad terms the principal beneficial impacts arising from the development will be the provision of the indoor 'street' around the Marina side of the scheme which will allow protected pedestrian cover all year round. On the eastern side of the scheme the buildings themselves provide the shelter to those pedestrians using the footpaths around the new retail units. The improvement and comfort given to the pedestrian as a result of the proposals will be significant, taking into account that at present the site is unprotected, entirely open to the elements, at times usable and comfortable for pedestrian use, but at other times hostile and uncomfortable.

In my reply to the Deputy's earlier questions on the 26th June 2007 I pointed out that the wind mitigation scheme will be advanced in conjunction with the landscaping plan. I do not at this stage have sufficient detail to answer the detailed question in part (b) above. A landscaping scheme has been submitted and is being refined to accommodate the conclusions of the wind study and the mitigation measures. The marriage of these two schemes is designed to achieve the best possible environment for the pedestrian whilst delivering the highest quality landscaping plan and public realm. I will be happy to release the details of that work to the public and the Deputy once it is complete.

## **1.7 THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE TAX REVENUE CHARGED ON PROFITS MADE BY JERSEY'S FINANCIAL SERVICES:**

### **Question**

- (a) Recent data from the Statistics Department showed profits for Jersey's financial services sector to be up in real terms by 21 per cent on 2006 at £1,314 million, will the Minister reveal what amount of tax revenue was charged on these profits overall, showing the total for each of the five finance sub-sectors along with the effective tax rate charged?
- (b) Does the Minister have, and if so will he reveal, comparative figures for all 11 sectors of the economy, as shown on page five of the Jersey Economic Digest 2006, and if not will he agree to do so and in what timescale?
- (c) Will the Minister reveal how these figures will be affected by the advent of the 0/10 tax regime?
- (d) Can the Minister inform members what efforts, if any, have been made to improve the quality of data received from the legal sub-sector so that activity in this sector can be sampled and reported separately?

## Answer

- (a) It is not possible to give the information asked for in this question as the vast majority of these 2006 financial services sector profits have not yet been charged to tax. This is because the income tax assessments on banks and other financial services sector companies which were issued in February 2007, for the 2006 year of assessment, were based on 2005 trading profits. These assessments are on the long standing and statutory preceding year basis of assessment. In addition, many of the international business company assessments, charged at tax rates varying from 0.5 per cent to 30 per cent depending on the international business tax rate applicable to the individual bank and other financial services sector company concerned - which makes any overall effective tax rate calculation for the international business company sector as a whole virtually meaningless - which were issued in February 2007 for the 2006 year of assessment, were estimated. This is due to the 2006 trading accounts, the basis of the statutory current year basis for 2006 assessment for international business companies, being outstanding, notwithstanding that an appropriate payment on account has been pursued and paid. There is nothing unusual in this, as it would be extraordinary for a business of any kind, never mind an international bank, to have final trading accounts prepared and delivered within 2 months of the trading year end.
- (b) Sectoral measures of Gross Values Added (GVA) are published in the Statistics Unit's annual report on National Accounting aggregates for Jersey. The GVA measures for calendar year 2005 are shown in Table 1 of "*Jersey Gross Value Added (GVA) and Gross National Income (GNI) – 2005*", published in September 2006. The methodology for deriving these measures is based on the income approach of the internationally agreed national accounting framework. Under this approach, GVA is defined as the sum of gross profits and compensation of employees (including salaries, wages, social security and pension contributions and mixed income). It is a straightforward extension of what is already published to present the two components of GVA separately for each sector. This will be done in the report on the Island's GVA and GNI for 2006, to be published by the Statistics Unit on 26 September 2007.
- (c) It is not possible to give the information asked for in this question. See my answer to (a) above.
- (d) In each of the last three rounds of the Survey of Financial Institutions an attempt has been made to present results separately for the legal and trust and company administration sub-sectors. The quality of the data received from the former is not the issue but rather the response rate, which has not yet been deemed sufficient to enable robust disaggregation. Nevertheless, by applying stratified sampling focussed on larger entities and also by making personal contacts with firms in order to raise awareness of the wider utility of the Survey, the coverage of respondent legal firms (on a full-time equivalent, FTE, employee basis) has improved markedly, from about 13 per cent in 2005 to 37 per cent most recently. By making further approaches to individual firms and to finance industry representatives, the Statistics Unit aims to increase the FTE coverage of the legal sub-sector still further in the 2007 round of the Survey (to be published in the summer of 2008).

## **1.8 THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE IMPACT OF INCOME TAX MORTGAGE RELIEF:**

### Question



In his response to a written question on 3rd July 2007, the Minister stated that would be unable to give an accurate assessment of the impact of income tax mortgage relief on tax revenues prior to the operation of ITIS in 2008. Will he nevertheless respond to the question with estimated figures?

**Answer**

I believe that the Deputy means the operation of 20% means 20%, rather than ITIS.

No. It is impossible to answer even with estimated figures as interest tax relief is given not just for mortgage interest tax relief, but also on interest on loans to buy shares in a trade, partnership or trading company, interest on loans to buy commercial property and interest on loans to buy plant and machinery used for trade or employment purposes. It is impossible to distinguish mortgage interest tax relief in the total interest relief figure on the Income Tax computer system as all that interest relief is lumped together. An answer to this issue is likely to be available at the end of the assessing cycle in October 2008.

**1.9 THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE TAXATION OF A PRIVATE EQUITY COMPANY OPERATING IN JERSEY:**

**Question**

- (a) Will the Minister inform members, in respect of a private equity company operating in Jersey and subject to Jersey tax –
  - (i) whether the profits accruing to the company from the onward sale of any acquired business would be tax-free in Jersey?
  - (ii) the motivation for the usual three to five year gap between acquisition and sale of businesses by private equity to minimise Capital Gains Tax in the United Kingdom would not exist in Jersey and could produce shorter term turnarounds?
- (b) Will the Minister outline to members what powers, if any, he, or other Minister, has to control the level of ‘gearing’ used to minimise tax on operating profits by private equity companies?

**Answer**

- (a) (i) Yes. It would be a capital gain. Jersey income tax is only levied on revenue profits.
- (ii) It could, though the period between acquisition and sale is most likely to be determined by other factors.
- (b) I have no powers to control the level of gearing of any company which is currently not owned by the States. The JCRA can exercise powers to control the gearing of regulated companies.

**1.10 THE MINISTER FOR HOUSING BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING THE SALE OF THREE BEDROOM STATES RENTAL HOUSING STOCK:**

## **Question**

In his response to a written question on 3rd July, the Minister revealed that at least 66 households were in need for medical or overcrowding reasons of three-bedroom States accommodation and even if 23 such properties could be released by ‘downsizing’ to one or two-bed properties, that would still leave 43 families in need. How does the Minister justify the proposed sale of many three bed-roomed properties in view of this shortage?

## **Answer**

There is no shortage. 16 of those tenants waiting to transfer to three-bedroom homes are already living in three-bedroom States rental properties and are merely moving for medical reasons. In addition there are 25 three bedroom homes presently empty for refurbishment, which will become available for occupation in due course. There are also 29 existing States tenants who will be purchasing homes at Phase 1b Le Squez in August this year. 12 of those tenants are currently occupying three and four-bedroom homes elsewhere in the stock which will then become available. These figures already demonstrate that there is ample supply within the stock to meet this particular demand; what prevents this demand from being met is the shortage of one-bedroom life-long homes which unblocks the stock and provides for all those internal transfers.

## **1.11 THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING THE IMPACT OF G.S.T:**

### **Question**

Would the Minister advise, in relation to the proposed G.S.T, his latest calculations regarding –

- (a) the cost of administration (in both manpower and monetary terms);
- (b) the sum needed to top up Low Income Support;
- (c) the total increase in the revenue and capital expenditure of the Island over the next five years as a result of introducing G.S.T (inclusive of the costs outlined in (a))?

### **Answer**

- (a) At this stage of the implementation process I am pleased to report that we are still working within the original estimate / projection which was provided by Crown Agents in its final report “Design of a Prototype G.S.T” published in January 2005. The report estimated 10 additional staff would be required – five for Customs and Immigration and five for Income Tax. This will equate to an increase in recurrent expenditure, for staff and non-staff costs, in a full year of around £1 million. So far in 2007 five staff members have been recruited and are now in post – three for Income tax and two for Customs and Immigration. Further staff will be recruited as / when required in the lead up to the target G.S.T start date of late April / early May 2008. The estimated additional staff numbers are mainly dependent on a simple G.S.T system being adopted by the States and the deployment of modern ICT to support the administration by the agencies and compliance by the taxpayers... I am very conscious of a number of factors (including the de minimis value for imports) that could impact on manpower resources and we have requested Crown Agents to perform a review / manpower audit based on developments to date. The first stage of the review was completed in June and the report is due soon and will be made available to States Members.

- (b) Currently we have £1.75 million in place for the onset of G.S.T. This figure will be revised when we know the increased rates of benefit that will apply from October 2007 and therefore Income Support from January 2008.
- (c) We anticipate that the ongoing revenue costs for 2008 – 2012 will be maintained at £1million per annum excluding any pay awards over the next five years. The capital expenditure estimated from 1st January 2007 to completion of the implementation of G.S.T, including IT systems for both Customs and Income Tax is £1,569,500. These are one-off costs.

**1.12 THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING THE REDUCTION OF THE VOTING AGE TO 16 YEARS OF AGE:**

**Question**

- (a) Would the Minister advise, given the reduction of voting age to 16 years, together with the concentration of schools in some parishes, whether he will put in place measures to ensure that school children are not unduly influenced by their schools as to their choice of candidate(s)?
- (b) Would he also agree to put in place measures to ensure that children are not pressured into feeling they have to vote unless they wish to do so, and explain how this, and the possibility of influence at school, will be prevented?
- (c) Would the Minister indicate how many children aged 16 or above are in education, and would he give an approximate indication of how many at each school?

**Answer**

- (a) Following the decision of the States to reduce the voting age to 16 years, I have asked officers at the Department for Education, Sport and Culture to consider the implications of this for schools in two respects –
  - (i) whether the existing code of conduct for teachers explicitly precludes them from consciously influencing how young people might vote;
  - (ii) whether this change has implications for the ‘political eligibility’ of teachers as set out in ‘Political Activities by States Employees’, P.17 approved by the States in April 2006;

The Code of Conduct and Practice for Registered Teachers developed by the General Teaching Council for England sets standards of propriety expected of the profession. Conduct which falls short of those standards is considered ‘unacceptable professional conduct’. Teachers in Jersey are registered with the General Teaching Council.

- (b) Again this is something that I would expect to be covered by the Code of Conduct for Registered Teachers. However, I do intend to raise this as a matter for discussion with teachers’ representatives at the next Education Consultative Council which is the forum for the discussion of professional matters between the Department and the teachers’ associations.

(c) There are 2,076 pupils aged 16 or above in our schools. The distribution is as follows -

<b>SCHOOL</b>	<b>No. PUPILS 16+</b>
Jersey College for Girls	283
Victoria College	268
Beaulieu	175
De La Salle	166
Hautlieu	568
Haute Vallee	147
Grainville	135
Le Rocquier	142
Les Quennevais	148
D'Hautree House	8
Mont a l'Abbé	12
Alternative Curriculum	24

## **2. Oral Questions**

### **2.1 Senator B.E. Shenton of the Minister for Social Security regarding means testing of the States' pension:**

Can the Minister confirm that he has no plans to means test the States' pension and outline what policies his department has in place to encourage people to work hard and save for their retirement?

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

I am amazed and somewhat disheartened that any member of the States would even think that it would be considered an option to alter the States' pension in such a way. I remind Members that the Social Security Fund, which pays for the States' pensions is rightly a separate fund outside of other States' expenditure and should not, and will not, be targeted while I have any influence over it. I do hope that makes it clear. With regard to encouraging people to work hard and save for retirement, I remind Members that the States' pension is an age pension, which is not a barrier to work for those that are able to, and is not reduced by any other pensions or income or indeed any earnings that anybody may have. This is a major incentive compared to other jurisdictions that do have means tested States' pensions. Compared to other jurisdictions that are now recognising the importance of upraising pensions by the earnings index, Jersey has been and, as far as I am concerned, will be protecting the States' pension by indexing it to the community's earning index, and is therefore the main pillar of social financial protection for pensioners.

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

I am amazed and somewhat disheartened that the Minister decided to means-test the Christmas bonus. Can he just explain how a unanimous decision of the Council of Ministers was turned around to a unanimous decision not to means-test it and what his thinking was when he proposed such a ridiculous measure?

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

I would remind the Senator that the States voted 3 to 1 in 2004 to introduce an income bar to Christmas bonus. This is a States' decision. The Council of Ministers was challenged with the problem of finding money to fund the winter fuel allowance, which the Senator brought forward, and it was considered that the mechanism which the States had already approved would be the way forward because there was no other way that we could find any money. But on reflection, and with the knowledge that the States have now found themselves in a far better financial position than we thought at the time that we set out making the decision about introducing funding the winter fuel allowance in such a way, we have now found ourselves in a better financial position and I thought it was appropriate to ask the Council of Ministers to reconsider that matter, and I am pleased to say that they have found favour with that thought and, as Members will be aware, the States are now going to be asked to increase the overall spending within the States' Business Plan.

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

The Minister, in response to the first question, outlined the fact that the Jersey pension is an aged pension and does not bar somebody from receiving a pension and going on to work if they are able. He also made the point, although I do not have the exact words in front of me, that that is not inhibited in any way. Would the Minister explain then whether or not he could look into the fact that people who work once they are in receipt of pension have those earnings and those pensions and amalgamated to produce an income that is taxed and thereby having the original pension taxed once again by the Tax Department, and is that not an unfair penalty on people at that age?

**Senator P.F. Routier:**

I think the question probably would be better answered by the Treasury Minister or the Income Tax -- who is responsible for income tax rules, but when someone does have a pension or other income from other sources it would be, I believe, appropriate to continue applying an income tax to that. It is the total income of someone which is taxed by the Island authorities, and I believe that is probably the right measure.

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

Does the Minister not agree that rather than look on his about turn as a mistake, which has now been corrected in the light of financial circumstances, it reveals a deep and fundamental flaw in the philosophy of the Minister's actual politics that suggests that he intends not to help pensioners in the future but to punish pensioners?

**Senator P.F. Routier:**

I honestly do not follow the thinking of the Deputy with regard to suggesting that I have flawed political views on helping pensioners. I think my record has shown that I do support pensioners in an appropriate manner.

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

Could I just ask the Minister how many other options were considered or looked at prior to making the decision to reduce or take away the Christmas bonus fund to make for the winter fuel?

**Senator P.F. Routier:**

The Council of Ministers asked every department to come forward with options for finding savings to fund the winter fuel payment, and they all required cutbacks in every department, and I cannot recall the actual number of options that came forward from the various departments but they were considerable, and one that jumps to mind, which was turn the Christmas lights off in the town, and things like that. There were loads and loads of options which came forward, but the Council of Ministers decided that it was appropriate to focus on within the Social Security budget.

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

I would like to press the Minister on a previous question. The fact that the elderly residents of the Island who are in receipt of pension go on possibly to seek work because of the increase in the cost of living may be put off entering the workplace when they find that their pension is once again being calculated into their income, and once again receiving taxation. Is this human rights compliant, and would the Minister look into this issue to see whether or not it is debarring some people from re-entering the workplace or staying in the workplace because they suddenly find that money that they have paid tax on, and they are in receipt of as part of a pension, is suddenly being paid tax on again?

**Senator P.F. Routier:**

I can assure the Deputy that it is human rights compliant for the Income Tax Department to charge tax on all income, and it is an appropriate mechanism to carry forward with. I have no other comments.

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

The second part of the question that Senator Shenton asked the Minister was whether he was going to encourage his department to, or put policies in place that would encourage people to work to save harder while working. He did not answer that piece of the question, and I just wondered if you will continue to lend support to the Treasury Minister's current policy of allowing income tax relief on private pensions, and is that, in your mind, sacrosanct and will you continue to support the Treasury Minister on that front?

**Senator P.F. Routier:**

I tend to support the Treasury Minister on most things, but if it is felt appropriate for that to continue, certainly I do feel that is an appropriate mechanism. There is obviously, once Income Support has been included, there is a major piece of work which I will be carrying out with my department to look at other options with regard to savings for pensions, possibly secondary pensions and those sort of things. There is a major piece of work which will be carried out at a later stage.

**Deputy G.P. Southern:**

I would like to ask a point of procedure from you, Sir? My understanding was that priority was to be given in question time to those who were not members of the Executive. I just noticed there were lights flashing and one of the Assistant Ministers got to ask a fairly friendly question at that stage?

**The Deputy Bailiff:**

The ruling is that we certainly discourage Ministers asking questions of Ministers but we do not discriminate in any way against Assistant Ministers unless they are the Assistant Minister of the relevant Minister. In other words, on other areas they are free to ask such questions along with other Members.

**Deputy G.P. Southern:**

Thank you, Sir, I believe that is probably human rights complaint.

**2.2 Deputy G.P. Southern of the Minister for Treasury and Resources regarding measures envisaged to prevent the loss of tax revenues through the takeover of Jersey-owned non-finance companies:**

In the absence of any mechanism to tax non-Jersey domiciled beneficial owners of non-finance companies under Zero/Ten what measures, if any, does the Minister envisage to prevent the loss of tax revenues through the takeover of Jersey-owned non-finance companies, and how will these

operate in practice, and has the Minister taken legal advice on consequences of any unequal treatment of local and non-local companies?

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

It is not necessarily correct to say that there will be no mechanism to tax non-Jersey owned, non-finance companies once the Zero/Ten corporate tax comes into force. While it is true that the RUDL (Regulation of Undertakings Development Law) charge relating to the takings charge has been rejected I am still actively considering whether a revised Blampied proposal has merit and is worthy of legislating and implementing. In that respect the Corporate Services Scrutiny Panel and I have recently received further advice from Judith Blampied. The major difficulty with the original proposal is that according to advice commissioned by the Scrutiny Panel and U.K. tax experts, any Jersey tax paid on such a deemed rent would not be creditable against U.K. tax suffered. The Comptroller of Income Tax is now actively seeking a further opinion as to whether Jersey tax payable under the revised proposal would be creditable, and if not, what corporate structures might be put into place and whether they would be practical from a commercial and business perspective to achieve tax credit status in the U.K.. I will, of course, share my conclusions with the relevant Scrutiny Panel and with the Assembly later in the year, but the priority at this time is to ensure that the Zero/Ten shareholder taxation provisions are approved. I have not taken any legal advice on this matter, any government, including this Assembly, has a very wide jurisdiction indeed and a great degree of latitude to set taxation policies. I have no doubt that the fiscal strategy we have in place fulfils all of the criteria.

**2.2.1 Deputy G.P. Southern:**

Is the Minister aware of any legal advice which has been taken by the Economic Development Minister and his department on the capacity of the Regulations of Undertakings beneficial ownership clause to, in fact, restrict the takeover of local companies by non-local companies?

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

No, I am not aware of any legal advice taken by the Minister.

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

Is the Minister aware that this particular issue is likely to lead to increasing levels of aggressive tax planning by locally owned companies, specifically because of the, generally felt to be, unfair position that they are going to, or could be placed in as a result of Zero/Ten and this particular issue?

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

I suspect that locally based companies will have difficulty in tax planning in the future when their tax rate is zero. The shareholders of those companies may well do so, and that is something we have to take great care of, and that is why, despite all the obstacles, I am still pursuing alternative routes in order to try to minimise any disparity between local and non-resident shareholders.

**2.2.3 Senator J.L. Perchard:**

Does the Minister agree that the last line and a half of the question is in fact misleading in that all companies, local or non-local, will be treated equally?

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

Yes, the question could be misleading, but I think it relates to the consequences of the treatment rather than the treatment itself.

**2.2.4 Deputy G.P. Southern:**

Could the Minister state (a) how long he has been aware of the revised Blampied proposals which, as far as I am concerned, were presented at least 4 months ago, and can he give a date when he

might get back to the House with his conclusions, and secondly, in the absence of being able to formulate any working proposal --

**The Deputy Bailiff:**

One question, thank you.

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

The latest document I received from Jurat Blampied was dated last week, I do not know the exact date, but certainly in the last 7 days. When I will come to a conclusion is when I have satisfied myself, when the Scrutiny Panel have also been satisfied that those proposals have merit.

**2.2.5 The Deputy of St John:**

Sorry, I am asking another question as an Assistant Minister but I wonder if the Minister could advise the House as to what approximate loss of revenue does he anticipate from non-locally owned companies that the Treasury may not receive due to these policies?

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

Well, I am glad the Deputy uses the word "approximate" because we cannot be certain but the current estimate is between £5 million and £7 million a year.

**2.2.6 Senator J.L. Perchard:**

Would the Minister inform the Assembly whether it is an option to ask non-locally owned companies whether they would opt to pay tax in Jersey?

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

It is an option and I would be surprised if I got very many affirmative replies to that, particularly when the Jersey companies themselves would not be paying tax, but certainly it is an option.

**2.2.7 Deputy G.P. Southern:**

Will the Minister return to the House with information to back up his estimate of £5 million to £7 million from this particular mechanism when his original estimates for the loss from non-finance companies was around £30 million?

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

Yes, my officers are tasked at the moment with reassessing all the contributing factors to the fiscal deficit, including that from the loss of tax by non-resident shareholder of those companies, and I will be presenting those updated findings when I bring the shareholder tax regulations back to the House in the autumn.

**2.3 Deputy G.P. Southern of the Chief Minister regarding the breakdown by category of staff recruited from outside the Island by the finance sector in 2006:**

Will the Chief Minister or his Deputy advise Members of the breakdown in categories ("j" category/secondment/other) of the 350 staff recruited from outside the Island by the finance sector in 2006. Of the 145 graduate recruits employed can he state how many were returning locals and advise what measures he and his ministers will take to raise the proportion of school leavers in the finance sector recruitment from 75 in 2006, which was less than 9 per cent?

**Senator T.A. Le Sueur (Deputy Chief Minister - Rapporteur):**

This is a question which would have been better framed as a written question since Members who are interested are going to have to absorb several numbers in a short time, and indeed my answer, short as it is, is rather long and you may have to cut me off half way through. But the Deputy's



question arises from incidental information collated from the survey of financial institutions. That survey is used to monitor trends in the recruitment of staff and firms are not requested to report the residential status of staff. It is not possible therefore from that survey to provide the breakdown required by the Deputy. Furthermore, the 350 staff quoted as recruited outside the Island relates to total recruitment over a year and includes replacement of staff as well as new posts. In dealing with this question it is far more important to consider the information contained in the labour market report on the manpower survey published earlier this year. This provides the appropriate and definitive information on the residential status of additional staff. I remind Members that the increase of 810 head count recorded by the sector in 2006 comprised 130 “j” categories, 70 residentially non-qualified and significantly 610 locally residentially qualified people, and employers continue to seek locally qualified staff whenever possible. But for the reasons given above the survey does not identify how many of the graduate recruits employed were local. The Deputy’s question also seems to imply that the finance industry only attracts a small number of school leavers. I should remind the Deputy that the majority of our school leavers go on to seek further education, either here or on the mainland, and that the finance industry is now demanding higher skill levels of its recruits. Nevertheless, the number of school leavers entering the finance sector has increased in recent times and a range of initiatives have been developed to support this, including 6th Forms offering courses directly related to employment in the finance industry, an initiative from the Jersey Finance Limited to raise the profile of the finance industry among school and university students, and collaboration to the finance industry generally aimed at a locally delivered foundation degree in financial services. Perhaps the most significant measure taken by the Council of Ministers is the commitment to the creation of a training and skills executive, which will bring together functions of 3 States’ departments in order to provide a focus on developing and uplifting the skills of the local workforce, not just in the finance sector, but throughout the economy.

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

Some interesting numbers. The manpower return is obviously something where we should be focussing our attentions in relation to see whether or not the efforts and the money we put into educating people in this Island, the offspring of the locals, whether they be from Scotland, England, Jersey or wherever, can I ask then out of the numbers the Minister has given us, 810 was the headcount from the manpower return in relation to those recruited to the finance sector last year, 610 were locally qualified. Out of those 610 locally qualified, which I believe means they have been here 5 years, how many were locally educated?

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

That information is not obtainable from the manpower survey, and I cannot give the Deputy, at this stage, any likelihood that I would be able to answer his question in the future either, so I apologise but that is not within the information we have.

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

Will the Minister take any steps to ensure that this survey reflects more useful information when it is conducted in the future, rather than the present state?

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

Surveys are carried out for particular purposes and a survey of financial institutions is a voluntary survey of firms who have been looking at their economic prospects and their profitability. It is not a manpower survey. We do another survey for firms for manpower requests, and in fact I think many businesses might start complaining that they are getting too many requests and too many forms to fill in and too many questions to answer, and that it is not really particularly commercially desirable. We aim to keep that bit obviously to a minimum and find out the information which we need in the most appropriate way.

#### **2.4 Deputy G.C.L. Baudains of St. Clement of the Chairman of the Environment Scrutiny Panel regarding reviews being undertaken by the Panel:**

Would the Chairman advise Members what reviews his Panel is currently undertaking and when will they be completed?

#### **Deputy R.C. Duhamel of St. Saviour (Chairman of the Environmental Scrutiny Panel):**

The Panel is currently finishing its Design of Homes review, which will be completed by 31st July 2007. At its meeting on 11th July it considered a number of further reviews, but has not as yet decided which of the shortlist it will consider. Among those topics considered were air quality strategy, the integrated travel and transport strategy, the Hopkins' master plan and the energy strategy and policy.

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

It appears the Panel is not doing a great deal. Could the Chairman advise why he has not undertaken to start reviews in the full knowledge that the Waste Review is coming to an end. Why is there this period of virtually nothing happening before terms of reference are sorted out and a review is started?

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

The questioner is well aware that there was an outstanding body of work that had to be completed and due to the nature of those reviews, which were in themselves large issues for consideration, the amount of work involved was quite extensive. The Committee therefore felt that it was right and proper in order to complete those outstanding bodies of work before entering into a final decision as to what is the next course of action for review. The questioner will also be aware that although I have mentioned 4 items that were short listed, in fact there were 9 items considered, so it is not true to suggest that there is not a lot available to be reviewed, there is.

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

The Chairman has outlined 3 areas that he is considering; could he tell me whether or not he is considering following on from the Planning Report, because many things have happened in the planning policy since that was finished? He has also mentioned energy, another item that needs looking at, as with transport. I would be obliged if the Chairman could tell me when these reviews that he is anticipating are likely to start and what timescale is envisaged; when are they also likely to be completed?

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

That is not completely possible to do at this moment. All I can inform the House is that, as per the minutes for the last meeting, the Panel did select a number of possible areas for review to enable initial research and the preparation of scoping documents to be undertaken. When those initial scoping reports are considered at the next meeting, to be held on 26th July, I will be in a better position to inform the House, or indeed the questioner, as to the overall timeframe for the completion of those issues.

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

The Chairman of the Environment Scrutiny Panel described the Waste Strategy report that he made publicly available last sitting as a large body of work. What was his reaction when he heard that the Minister for Transport and Technical Services said it should be immediately directed to the recycling bin?

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

I think, Senator, it is really hard to see how that arises out of the work currently being undertaken.

## **2.5 Connétable A.S. Crowcroft of St Helier of the Minister of Treasury and Resources regarding the possible deferral of implanting G.S.T:**

In view of the Island's improved financial situation, and the delay in implementing the new Income Support System, would the Minister be prepared to defer the implementation of G.S.T. (Goods and Services Tax)?

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

No. The improvement in our financial position is welcomed, but it does not in any way diminish the need to implement G.S.T in 2008. In that context it is unfortunate that the Constable did not attend the recent presentation to all States' Members on the Annual Business Plan being published tomorrow, although I have to add he was not the only absentee. Those who attended should have been left in no doubt that while the current position is indeed healthy the longer term situation, following the introduction of Zero/Ten, remains uncertain. Our success in meeting our aim of economic growth shows that the elements of the States' fiscal strategy were wisely chosen. When we change the way we taxed companies in 2009 the States' finances will take a severe jolt. It is impossible to predict accurately the total loss in revenue caused by the necessary changes in our corporate tax arrangements, but we know that G.S.T will bring an annual revenue which will be crucial if we are to make up the loss of corporate tax revenue and continue to provide the services which our community requires. The delay in implementing a new Income Support System is irrelevant. I gave an undertaking that Income Support needed to be in place before G.S.T was introduced, and we are on track to achieve exactly that. Income support is due to come in from January or February next year, but G.S.T will not come in until April or May, 3 or 4 months later. Our improving financial position means that we might be able to maintain a 3 per cent rate of G.S.T for far longer than the minimum of 3 years, to which we have committed. But it most emphatically does not mean that we do not need G.S.T or that we should defer its introduction. We need economic growth, we need Income Support and we need G.S.T. G.S.T and economic growth will work together to provide the income from taxation that this Government needs to maintain the high level of public services it wishes for the community, including that of Income Support.

### **2.5.1 The Connétable of St Helier:**

Of course the Business Plan briefing was moved from today backwards to Friday at very short notice, so it is not surprising why many Members could not attend it. If I could ask a supplementary please, the Minister of Treasury and Resources says that it is irrelevant that the Income Support System will only be introduced in January, we now hear it could be slipping as far as February, how can he say it is irrelevant when it was originally supposed to be introduced in August of this year, and do people who are less well off not deserve some chance to settle in with a new welfare system before they are hit with a new tax?

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

I certainly was not trying to imply that Income Support itself was irrelevant, but the timing is irrelevant. When Income Support was due to come in, in August of this year, that was when G.S.T. was also supposed to come in from 1st January 2008. Having deferred the introduction of G.S.T. by a few months, the deferment of Income Support by a similar period simply reinstates the previous position a few months later.

### **2.5.2 Senator L. Norman:**

Is the Minister aware that only a few days ago the Minister for Economic Development said that the 3 per cent rate promise for 3 years could easily now be extended for 5 years, and is that not indication enough that the introduction of G.S.T. could be delayed, which would also give us the opportunity to introduce the price marking legislation to protect the interest of consumers?

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

No, it does not. What it means is if we start on track and we continue on track, we may be able to stay on track. If we get off track now we will never get back on to that track. I think the price marking situation will be dealt with in the questions addressed to both the Minister and myself later on in this session, and I do not think we should get sidetracked by that issue at this stage.

**2.6 Senator L. Norman of the Minister for Economic Development regarding the introduction of G.S.T. without price-marking legislation:**

Does the Minister consider that the introduction of the Goods and Services Tax (G.S.T.), without price-marking legislation could cause confusion and disaffection among consumers?

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

It has always been my intention to ask the States to decide on the issue of inclusive versus exclusive G.S.T price marking before the summer recess, and in fact I gave an undertaking to do so. One of the prime reasons for doing so was to debate the likely consumer detriment if exclusive pricing was permitted. Due to Deputy Southern's announcement that he intended to block the passage of that legislation, inclusive pricing upon introduction is now impossible and to be fair to retailers we have had to delay the whole thing because it would not be possible to give an indication for retailers later this year for introduction in April. I have to agree with the Senator that I do consider that the introduction of G.S.T without price marking legislation is, I am afraid, likely to cause some confusion among consumers. However, the question of disaffection among consumers is not clear. There are some that have expressed their views through the media that would seem to prefer to have G.S.T at the till, I am aware that this is by no means a unanimous view. The decision to carry out a review after 12 months of G.S.T will give a firm steer on what consumers want. What I can say is to try and minimise confusion among shoppers, regulations under Article 94 of the G.S.T law will be brought to the Assembly in the autumn. These regulations will ensure that those retailers who do decide to charge G.S.T at the till, and I hope that they will be a minimal number of retailers, will have to make this very clear to their consumers so that they are aware what they see on the shelf is not what they are going to pay at the till.

**2.6.1 Senator L. Norman:**

I accept the Minister's determination to be fair to retailers. Will he accept my determination to be fair to consumers, which I consider a much more important issue? And will he accept that many retailers already charge U.K. VAT (value added tax) inclusive prices? And will the lack in the absence of price marking legislation enable and indeed encourage such retailers to increase their prices by something more than 20 per cent than they ought to be?

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

I have to say I have great sympathy with the views of Senator Norman. I want to be fair to consumers. And the research that we have carried out across the world, and the implementation of G.S.T across the world, shows that consumers are better off when it is inclusive pricing; what you see is what you pay. Unfortunately, it has not been possible for this debate to happen in the States today. It has been impossible for this Assembly to determine this; a matter which I have to say is a matter of deep regret. I am well aware of the issue of 17.5 per cent of VAT being charged, and I think exclusive pricing will mean that it is possible that we will be charging 20.5 per cent in some cases, that is VAT inclusive margin plus 3 per cent G.S.T. There is going to be no motivation to absorb some of that cost. In fact I can tell the Assembly that I am aware of 2 U.K. retailers which were perfectly happy to absorb the 3 per cent cost if it would have been inclusive. I do not know what is going to happen now. As for the issue of rounding, I simply do not understand and it would have been good to debate the issue of rounding and the concerns of rounding in the Assembly. Unfortunately we have not been able to do so.

### **2.6.2 Senator L. Norman:**

In view of the fact that the Minister accepts that without price marking legislation G.S.T is going to be confusing and unfair to the consumer, would he not press the G.S.T to be delayed by 12 months, particularly bearing in mind the improved financial position of the States to have that legislation in place before G.S.T comes into force, in fairness to the consumer?

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

No, empathically not. I favour inclusive pricing, and because it probably will not be me at that stage, I will confirm that a consumer survey would be carried out. I do not think that G.S.T should be delayed. I stand shoulder to shoulder with the Treasury Minister, and I hope the rest of the Council of Ministers, on needing to keep G.S.T on track. It is not ideal to have unfair inclusive pricing brought in, but I am afraid that is something we are going to have to live with for 12 months. It does not mean that G.S.T is impossible to bring in.

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

Will the Minister note my intention to hold first a public hearing on this matter in the middle of next week, and will he do his utmost to come and present his arguments and his evidence to the Scrutiny Panel at the first possible opportunity, which is next week?

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

I am getting sick and tired of the Deputy using his position in this Assembly to say whether or not I am going to turn up to meetings. I am unaware of any invitation to turn up to a public meeting or anything else concerning G.S.T inclusive pricing. I beseech the Chairman of the Panel to engage in proper teamwork in relation to Scrutiny rather than point scoring across this Assembly. He is well aware of the issues that I am currently dealing with personally. I will do my best to attend. And as to the issue of inclusive pricing, I hope that his review is going to be carried out with an open mind. He has already informed this Assembly that he favours exclusive pricing. I think that he is wrong, but I hope his review will be carried out --

### **The Deputy Bailiff:**

Senator, sorry we do not want to get on to too much of a debate about that.

## **2.7 The Deputy of St. Martin of the Minister for Transport and Technical Services regarding the number of people waiting to attend compulsory basic training courses:**

Would the Minister advise Members of how many people are waiting to attend compulsory basic training courses and whether any action could be taken to reduce the length of the waiting list?

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

There are 135 people currently awaiting their allocated compulsory basic training courses. The courses are held on weekends and the next available course in which there are spaces is Saturday, 8th September, which is 7 weeks on Saturday. Most of the participants taking the course are new riders who plan the purchase of their machine, obtain the necessary equipment, provisional licence and insurance in advance of taking to the road. In planning to take to the road many book compulsory basic training seeking a date for the course that suits their plans. This being the case, only those few who have acted spontaneously and have not planned in advance will have an actual so-called wait of 6 or 7 weeks. The Jersey School of Motorcycling has confirmed to me that at no time in the past 6 months, or prior to this, has anyone, be that a member of the public, motorcycle dealer, Parish Hall, et cetera, raised any concern or complained about the Deputy of St Martin's so-called waiting list. Furthermore, in the 3 years that this service provider has been operating the compulsory basic training course not one single complaint has been received by the department about the waiting time to attend the course.

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

Obviously they do not feel very comfortable making their complaints to anybody else other than the Deputy of St Martin. I understand that the compulsory basic training courses are not run by the Transport and Technical Services, as the Minister said, but under a licence-all agreement. Could I ask the Minister how that licence operates and how often is it monitored to ensure that the conditions of that licence are operating satisfactory?

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

Firstly, in reference to the Deputy of St Martin's rather off-hand comment about people referring complaints to him, I have in fact the most recent correspondence from the only person I know who has referred a complaint to the Deputy, and in it he says in the fourth paragraph: "I did not take the letter to the Deputy of St Martin to further my complaint, and I would have been much happier never to have seen it again." In respect of the monitoring of the licence we monitor the licences as often as is necessary, and at this stage I am extremely happy with the way that compulsory basic training courses are concerned. There has been one marginal issue, which is that the cancellation costs have been the same as booking costs, and those booking costs have been repeated as course attendees have attended over time, and I have asked the gentlemen that conduct these courses to review that situation so that perhaps charges could be reduced over time on the basis that obviously people attending should be getting some level of training, and it would be unfair to continue to penalise them at the initial rate, and I think that realistically is the only single feature issue with our licensing.

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

I am delighted that my question has at least addressed an issue which had been a concern, but just in closing could I ask the Minister to confirm that the letter he draws reference to and understandably why the person gave up any hope of getting an answer was in actual fact addressed to his department on 20th September last year?

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

I can confirm that the original letter was addressed to Driver Vehicle Standards; I cannot confirm the precise date. However I would say to put things in context for Members, it is important to realise that when anyone takes a powered vehicle on to the roads it presents a potential hazard. It should be clearly understood by people --

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

Minister, we have got a long agenda today, you have answered the question. Thank you very much.

### **2.8 Deputy D.W. Mezbourian of St. Lawrence of the Minister for Planning and Environment regarding conditions imposed for the reinstatement of a staircase in the De Gruchy Department Store:**

Will the Minister advise what conditions, if any, were imposed to ensure the reinstatement of the staircase in the De Gruchy Department Store, and when will they be enforced?

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

On 9th December 2002, the Planning Committee before last granted permission to redevelop the building on New Street and to refurbish the remainder of the De Gruchy Store. The consent was subject to the transfer of 16 New Street to the National Trust for Jersey. The approved plans showed the relocation of the ornate staircase from the ladies' department to another location in the store. However there was no requirement of the Committee of the day to retain or reinstate the staircase and the permit was not conditioned. Indeed it may have been difficult to condition the

permit to require this as only the King Street façade and the arcade were P.S.S.I.s (Proposed Sites of Special Interest). The consequence of the lack of a specific condition in the permit is that I am unable to insist on the reinstatement of the staircase. Furthermore, worryingly, I was advised last week that very little of the staircase remains and only part of the handrail survives. The present owners do not presently intend to relocate the staircase I am informed. This is a very regrettable situation, particularly as this is not the only significant interior historic feature the Island has unnecessarily lost in recent years. Had the De Gruchy staircase situation arisen under the present system I would have been able to require its retention or reinstatement as a planning obligation; a system wisely conceived by my predecessor, Senator Ozouf. Finally, I wish to apologise to the Deputy as she was not provided with comprehensive information by my department at the time of her initial inquiry in April.

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

I would like to thank the Minister for his response, and notwithstanding that he has apologised to me not receiving comprehensive information from his Department, I would state that in April I received information saying that the Minister will insist on the reinstatement of the staircase and in June I have correspondence stating that the Minister has no legal powers to require its reinstatement, and I wonder if the Minister would advise whether there is any confusion within the Planning Department?

### **Senator F.E. Cohen:**

I am afraid it is appropriate to hold my hands up on behalf of my department and senior officers and say that the advice given to the Deputy and to myself was wholly inadequate and there is nothing I can say or do to correct that. It is perhaps a consequence of an under-resourced department but it is most unsatisfactory. I have implemented very recently, as a response to this issue, a new system of manual card indexing which will apply to States' Members' questions. I hope that will improve the quality of the advice given to Members.

### **2.8.2 Connétable T.J. du Feu of St. Peter:**

Could the Minister inform the House, is he aware that the same issue has presented itself at Voisins Store recently, and can he enlighten us as to whether he is aware of it, and secondly, if he is aware of it, are there any conditions that perhaps were missing on the De Gruchy's?

### **Senator F.E. Cohen:**

I am afraid I am not aware of it. I will get my department to carry out some accurate research today and will distribute the research to Members later in the day or tomorrow.

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

I would just like to ask the Minister whether there has been any similar confusion in his department concerning the replacement of the granite arch at St Paul's?

### **Senator F.E. Cohen:**

No, I am not aware of any similar confusion, but no doubt there will be other areas of confusion within my department. However, as far as I am concerned the arch will be reinstated, it is a question for an appropriate place.

## **2.9 Deputy D.W. Mezbourian of the Minister for Health and Social Services regarding the formal response to S.R.1/200: 'GP Co-operative Out-of-Hours Service':**

Notwithstanding the Minister's recent indisposition, when will the Minister formally respond to S.R.1/2007 'Overdale Closure of Leoville and McKinstry wards' presented on 10th January 2007, and to S.R.6/2007 'GP Co-operative Out-of-Hours Service' presented on 8th March 2007?

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

The formal ministerial response to both of these reviews will be on Members' desks tomorrow morning.

**2.9.1 Deputy R.G. Le Hérisssier of St. Saviour:**

I wonder if the Minister, again notwithstanding his indisposition, on 13th March he told us it would be available at the end of that particular week, the Overdale response, and he was able to be with us several weeks thereafter. Could he tell us why it has taken so long?

**Senator S. Syvret:**

In respect specifically of the Overdale report, so utterly defective and profoundly flawed was the review and the report that came from it that it has, in fact, taken a substantial period of time to produce a very detailed and in depth response to it, but it is also worth bearing in mind that originally the review itself was supposed to take 3 months but in fact ended up taking 6 months.

**2.10 Senator L. Norman of the Minister for Treasury and Resources regarding decisions to be taken regarding the application of G.S.T:**

Following the decision of the Minister for Economic Development to withdraw the Draft Price and Charge Indicators (Jersey) Law, would the Minister inform Members whether all decisions on how, when and where to apply the Goods and Services Tax when it comes into force will be taken by the retailers?

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

There is a sense of déjà vu here, but the short answer is, no. In the case of any lingering doubts I would refer Members to the news release issued on Monday, 9th July, which made it absolutely clear why the Draft Price Marking Law has been withdrawn. The decision was taken jointly between the Economic Development Minister and myself taking into account the best interest of all concerned, but mainly the businesses and the consumers. Although retailers will be able to choose whether to include G.S.T in their prices or add it on at the till, regulations will be issued under Article 94 of the G.S.T law requiring the retailers to put up clear signs explaining whether their prices are G.S.T inclusive or exclusive in order to minimise consumer confusion. Retailers are required to comply with all aspects of the G.S.T law and the Regulations.

**2.10.1 Senator L. Norman:**

Does the Minister not accept that the decision has in fact been made in the best interests of retailers? Many retail items are price-sensitive under the current regime, and therefore difficult for retailers to increase the price. Will not the freedom they have now been given with the lack of price marking legislation; the freedom they have been given to protect their profit margins, make it easier for retailers to increase their prices to the detriment of the consumer?

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

There is no price restrictions in place now or in the future, and retailers have already been free to charge exactly what prices they choose and what prices they think their customer is prepared to pay. I accept that there may be other incentives which will maybe motivate consumers in a certain way, but that is something which legislation will not deal with in a sensible way.

**2.10.2 Senator L. Norman:**

Given the choice the retailers will now have, is it not almost certain that the majority of them will choose the system which will protect their profit margins rather than act in the consumers' best interests?



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

My objective, and I am sure that of the Economic Development Minister, would be to ensure that there is adequate competition to ensure that those retailers who might try to increase or maintain the profit margins when others are charging with a lesser margin, then the consumer will be encouraged to vote with their feet and look at the prices, but we will have to see when the legislation comes into place and I think as the retail spokesperson of the Chamber of Commerce said: "It is a sensible short-term compromise and the market will probably find its own level."

**2.10.3 Senator B.E. Shenton**

Would the Minister not concede that the whole price marking debacle could have been avoided if we had the same exemptions as our main trading partner, i.e. the U.K.?

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

No, Sir.

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

Is the Minister aware, or could he confirm that he was aware, and as also was the Economic Development Minister, that Corporate Services were about to lodge an amendment to the price marking law on the very morning that it was withdrawn, and that that amendment would have given effect to Corporate Services' report SR7 where we effectively were promoting the same kind of situation that we have now where the market decides in the very early stages? Would he not accept that it might have been better to have allowed the law to come forward with the amendment, and if the amendment had been passed at least we would have the law in place so the Economic Development Minister could act in the interests of consumers one way or another, we all know how long it takes to get laws through with Privy Council, and what have you? Does he not think that would have been a better option?

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

Firstly, yes, I am aware that the Panel were considering lodging an amendment to the Price Marking Law and that that amendment would have been consistent with their Scrutiny Report SR7, a report which I welcomed. But the Price Marking Law is a law which was lodged by the Minister for Economic Development and it is to that Minister that the Deputy would have to ask the reasons for withdrawing. I think the reasons for withdrawing have been made perfectly clear and I think the objective, which maybe the Deputy would have tried to achieved in the Scrutiny Panel's amendment, which the words I have not seen so I cannot be certain, that an objective has been achieved in the short-term by the withdrawal of that law and the use of Article 94.

**2.11 Deputy K.C. Lewis of St. Saviour of the Chief Minister regarding reconsideration of the proposal to fund the winter fuel allowance from the senior citizens' Christmas Bonus:**

Does the Chief Minister have any plans to ask the Minister for Social Security to reconsider the proposal to fund the winter fuel allowance from the senior citizens' Christmas bonus? If I may, I am aware that my submitted question was largely answered in the media Friday last and as the Chief Minister is away I am more than happy for the body of this question to be answered by the Deputy Chief Minister or indeed the Minister for Social Security himself.

**Senator T.A. Le Sueur (Deputy Chief Minister - Rapporteur):**

The question is addressed to me, although as the Deputy rightly says, I think events have overtaken this question and that the winter fuel allowance proposals have been modified. Given that said, I am not sure whether we need to go into much detail on this but I just point out 2 matters for the information of States' Members really to justify the original decision which Council of Ministers has made, and that is that the Council of Ministers are fulfilling 2 decisions made by this House.

The first decision made by this House in 2004 was that the Christmas bonus should be subject to an income bar. The second decision was made in the contents of the 2007 Business Plan when the States agreed that the winter fuel allowance should be funded from within existing States' expenditure limits. It is within that context, Sir, that the proposition was originally lodged the Council of Ministers were, in fact, carrying out the States' instructions. But, Sir, as I say, events have now overtaken us, the proposition has been amended, winter fuel allowance will be funded without touching the Senior Citizens' Christmas bonus and I think that probably deals with the question.

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

Just a quick one, Sir. On both the meetings, one to means-test the fuel and the one to now not means-test the fuel, can the Minister confirm these were both formal meetings of the Council and as soon as the minutes are signed off they will be available to Scrutiny?

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

Yes, Sir, they were both formal meetings of the Council of Ministers and the minutes will be available as soon as possible.

**2.12 Senator B.E. Shenton of the Minister for Economic Development regarding public policy exemption under the Competition (Jersey) Law 2005 in respect of the current dairy arrangements:**

Is the Minister of the view that a public policy exemption under the Competition (Jersey) Law 2005 in respect of the current dairy arrangements is not necessary and that open competition and that local dairy industry, the removal of centralised quotas and milk quality checks, and the possible importation of milk is in the best interests of the Island?

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

I believe that the Minister for Economic Development does not normally deal with dairy matters because of a conflict of interest and I suspect that that question may need to be addressed to the Assistant Minister.

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

In fact the Chief Minister has been dealing with dairy matters himself personally because of the Minister's conflict. However, I will take this question in part. Senator Shenton's question is, to a large degree addressed by the statement that the Chief Minister will present to this Assembly when he returns to the Island tomorrow. In this respect, Members supplementary questions might be better deferred to the Chief Minister tomorrow. However, in the meantime, I can comment as follows on the question put by Senator Shenton. On the question of Public Policy Exemptions, the use of a PPE (Public Policy Exemptions) has never been ruled out. In fact, the Chief Minister has made it clear on several occasions that he would issue a PPE in the short term if it became necessary to allow a new and compliant structure to be put into place. This has not been required and now seems even more unlikely given the J.M.M.B.'s (Jersey Milk Marketing Board) willingness to make arrangements that should satisfy the Competition Regulatory Authority. Regarding open competition in the local dairy industry, the operation of the dairy industry must be compliant with the Competition Law. The degree of competition will be tempered by the fact that a very large majority of dairy farmers wish to work together as a voluntary co-operative. Regarding the possibility of the removal of centralised quotas and milk quality checks, a system of controls that limit all Island milk production will be retained as will checks on milk quality. Finally, on the question of the possible importation of milk, the Chief Minister has stated that every possible route

will be explored to resist the importation of liquid milk as it is felt that such a move would not be in the best interests of the Island.

**2.12.1 Senator B.E. Shenton:**

I thank the Assistant Minister for his reply. May I just point out that many members of the dairy industry are extremely concerned at the way that the Economic Development Department is handling this issue and that this is a very, very important matter and we must look after the dairy industry and avoid importation at all costs, and I look forward to the Minister's statement tomorrow.

**2.12.2 Deputy R.G. Le Hérissier:**

Would the rapporteur agree that if the policies proposed within the body of Senator Shenton's question were to be implemented we could find ourselves in a situation comparable to that of England where dairy farmers are being put to the wall by the buying power of supermarkets?

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

It is clearly a very important issue, as Senator Shenton was alluding to, the dairy matters, and that is the reason that the Chief Minister has taken it upon himself to act personally in this regard. It is also an extremely complex issue and I have to agree with the Deputy that it has to be handled with the greatest of care and consideration and the points he raised are ones that have been taken under close consideration.

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

Could the Assistant Minister confirm that it is indeed the Economic Development Minister that is able to grant a Public Policy Exemption under the competition law and not the Chief Minister?

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

It is indeed the Minister of Economic Development who can issue a PPE, that is correct, but in this instance, this particular matter has been deferred to the Chief Minister and so it would ultimately be the Chief Minister's decision to do so. He would have to make the request to the Economic Development Minister to facilitate.

**2.13 Deputy R.G. Le Hérissier of the Chairman of the Privileges and Procedures Committee regarding the effectiveness of the pre-election notices published by the Judicial Greffe:**

Does the Chairman regard the pre-election notices published by the Judicial Greffe as effective? What is the cost of these notices for this year to date and for 2005 and 2006, and what improvements, if any, would he suggest?

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

The Public Election (Jersey) Law 2002 places a statutory duty on the Judicial Greffier to place certain notices in the *Jersey Gazette* relating to public elections. The Judicial Greffier is a non-ministerial department of the judiciary. PPC (Privileges and Procedures Committee) has no involvement with the work of the Judicial Greffe and no authority to interfere with the operation of that department. It would therefore be inappropriate to comment on the manner in which the Judicial Greffe undertakes its statutory duty to publish these notices. An examination of the recent notices published for the election of the Connétable of Grouville, for example, nevertheless shows that they contain all the required statutory information. PPC is keen to do everything it can to encourage voter turnout. The Committee agreed last week to set up a small working group under the chairmanship of the vice-chairman, the Deputy of St. Mary, to look at how the Public Elections (Jersey) Law 2002 could be amended to improve electoral registration process and address other

concerns within the law. As part of this review it is likely stakeholders, such as the Connétables, the Jurats and the Judicial Greffier will be consulted. It is likely that this will include the manner in which matters are brought to the attention of the public through official notices. Current notices are not the responsibility for PPC and are not funded through the Committee's budget. To assist members, the Judicial Greffe have indicated the cost of the notices for 2005 are £1,108.36, for 2006 £2,773.70 and for 2007 to date, £1,680.75.

**2.13.1 Deputy R.G. Le Hérisier:**

Notwithstanding the apparent abdication of direct responsibility, would the Chairman not agree that this is an area where highly bureaucratic and legalistic looking advertisements are having absolutely no impact whatsoever? If he is, indeed, as part of an overall thrust interested in improving turnout, radical reform is required in this particular instance?

**The Connétable of St. Clement:**

I think I have answered the question when I said that we have no means of interfering with how the Judicial Greffier operates. The sub-Committee will look at these issues for sure.

**2.14 Deputy J.A. Martin of the Chairman of the Comité des Connétables regarding acceptance of voter registration forms from 16 and 17 year-olds:**

Will the Connétables accept voter registration forms from people aged 16 and 17 pending the required changes in the electoral law prior to the 2008 elections? What steps will the Committee take to encourage voter registration among this age group over the coming months?

**Connétable G.F. Butcher of St. John (Rapporteur):**

I am unable to give a reply to the Deputy at this point of time. The Comité des Connétables have not met since the States' decision but I can reassure the Deputy that the matter is an item on the agenda for the Comité des Connétables next Monday, 23rd July. Furthermore, I can say that I will be making sure that all Members, and especially the Deputy, are informed once a decision has been reached.

**Deputy J.A. Martin:**

I thank the Constable, Sir. Thank you.

**2.15 The Connétable of St. Helier of the Minister for Transport and Technical Services regarding implementation of a residents' parking zone in the Cheapside area of St. Helier:**

Would the Minister confirm that his department will now facilitate the Parish of St. Helier's wish to implement the new residents' parking zone in the Cheapside area and will progress the necessary legislative changes this autumn?

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

I can confirm that my department is facilitating the implementation of a residents' parking zone in the Cheapside area. I have approved the concept of the scheme and require my officers to ensure that the detail is both correct and feasible. There remain a number of unresolved issues which I do not consider to be major but which do need to be finalised before an order can be drafted. Discussions between the Parish and Transport and Technical Services Department are ongoing. As soon as agreement has been reached and a law drafting brief received, the legislative changes can be drafted, I would hope that I would be able to sign the order by this autumn as the Constable has requested.

**The Connétable of St. Helier:**

I thank the Minister for his reply.

**2.16 Deputy J.A. Martin of the Minister for Social Security regarding assessment of recipients of income support for additional funds to cover extra living costs following the introduction of G.S.T:**

Will the Minister inform Members how people receiving income support will be assessed as to their need for additional funds to cover extra living costs following the introduction of G.S.T (Goods and Services Tax)?

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

Before G.S.T is introduced the basic component rates of income support will be increased by 3 per cent which will protect those in receipt of income support from the impact of G.S.T.

**2.16.1 Deputy J.A. Martin:**

Could the Minister confirm that this is nowhere in the law, in the regulations or in the orders and does he not have any concern that this could be just: "Trust me, I am a concerned Minister and that this time it will go up 3 per cent." I think we have had this debate on -- I have concerns because we had a similar debate on the Island Plan when we got assurances from an Assistant Minister, nothing written in the law, no regulations and we all know what happened about the Island Plan debate. Can the Minister not go away, Sir, and make sure that G.S.T is written somewhere in the law, in the regulations, that are now coming out?

**Senator P.F. Routier:**

The States will debate the States' Business Plan prior to debating the Income Support Regulations, and within the Business Plan there is an amount of money to cover the increase in G.S.T. I believe that that is an appropriate mechanism to use and the States will be making that decision at that stage, and then obviously I would be held to account if that did not happen. But the mechanism we have in place is that the States will make that formal decision in the Business Plan.

**2.16.2 Senator B.E. Shenton:**

Is the Minister saying that any subsequent increases in G.S.T, income support will not be automatically adjusted?

**Senator P.F. Routier:**

I am not saying that, no.

**2.16.3 Deputy G.P. Southern:**

Will the Minister build into the regulations some sort of assurance that his descendants in his position will ensure that G.S.T is covered in income support?

**Senator P.F. Routier:**

It is not something I previously considered. I was relying on the fact that the States will be making a conscious decision in the Business Plan to increase the income support budget to cover the G.S.T and I was relying on that. I will consider the matter but, as I say, I believe that the mechanism the States have to ensure that the G.S.T is covered is sufficient.

**2.16.4 Deputy G.P. Southern:**

Supplementary on that, Sir? The Minister appears not to distinguish between that which binds him and him alone for this year and that which then binds future Ministers. Will he reassure the House that he will build in these actions for future Ministers?

**Senator P.F. Routier:**

I will consider the matter, Sir.

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

Will the Minister give his latest date for the implementation of income support and can he say whether he believes that that gives him enough time to adjust his systems before the introduction of G.S.T?

**Senator P.F. Routier:**

I was a little bit taken aback this morning when the Treasury Minister, the words “February” came out of his mouth. There is certainly no intention in my mind to have a February implementation date. The date is January, it will be a Monday in January, because it needs to be a Monday because that is when benefits are paid from, and that will be when it happens. Was there a second part to the question, Sir?

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

Does the Minister believe that that gives him sufficient time to adjust his systems before the introduction of G.S.T?

**Senator P.F. Routier:**

Yes, certainly, Sir. Everything is on track to ensure that once the States’ debate is had on 26th September it gives us a good period of time to ensure that everything is in place and everything is working. As soon as the debate is had the computers will be live and the information will be put into it and everybody will be informed of what their rates for income support will be. So they will have good notice prior to the January start date.

**2.16.7 Deputy G.P. Southern:**

Is the Minister aware of plans to charge G.S.T on the cost of residential care in residential care homes and will he come to the House with proper regulation in place to administer income support as far as residential care is concerned?

**Senator P.F. Routier:**

Residential care, as Members will be aware, is something which is not dealt with within the regulations which are being lodged at this present time. Because of the very wide range of residential care costs which there are across the Island it is something that we are going to be addressing as the second piece of work next year to ensure that we have an appropriate negotiation with the residential homes, that we can come to an agreed contract with them to ensure that we are paying a fair and proper price for residential care. With regard to the aspect of G.S.T, I am not aware that there is an indication that G.S.T is going to be implemented on residential care. In fact, the Minister for Health and Social Services has been campaigning to ensure that that is not the case and he has just indicated to me, as I was on my feet, that that is still the position. That it is anticipated that residential care will be exempted from G.S.T.

**2.16.8 Deputy G.P. Southern:**

If I may, Sir, additional supplementary. The Minister must surely be aware that residential care is not healthcare. Healthcare is exempt from G.S.T, residential care we need a ruling. When are we going to see a ruling on whether G.S.T will be applied to residential care?

**Senator P.F. Routier:**

That is a question I think probably appropriate to ask the Treasury Minister, and it is the Treasury Minister who is bringing forward the regulations regarding G.S.T. What I can say to Members is that whatever G.S.T is applied to people on low incomes, they will be protected.

**2.16.9 Senator S. Syvret:**

Is the Minister aware that I have had in recent months discussions and correspondence with the Treasury Minister and the Chief Minister, and as part of those discussions certainly it was my understanding that he is in agreement to finally accede that the health exemption for G.S.T did, in fact, extend to residential and nursing home care accommodation?

**Senator P.F. Routier:**

I have not had sight of the communications that have been taking place between the Chief Minister and the Treasury Minister but I take the word of the Minister for Health and I look forward to the outcome of those Ministers' deliberations and obviously the outcome of the debate that will be held in this House when the regulations for G.S.T are debated.

**2.16.10 Deputy J.A. Martin:**

Final supplementary. I am glad to hear that the Minister is considering looking at the regulations and hopefully putting in a part for G.S.T. I will give him warning, Sir, of course not wanting to -- they will be ready for the debate in September, if he does not do it, his department, the Sub-Panel will, Sir, be bringing amendments because I think this is fundamental that G.S.T. is written into the Income Support Regulations so they are ongoing and not just reliable on this Social Security Minister and a good hearted Chief Minister and Treasury Minister, and any other Tom, Dick or Harry. They must be in the regulations, Sir, and as I say I would like the Minister to confirm how quickly he can get back to the Sub-Panel to let me know if he is going to deal with it or shall we start writing the amendment?

**Senator P.F. Routier:**

I thank the Deputy and the Chairman of the Income Support Sub-Panel for our close co-operation and work we have had over the last 18 months and it is evident that we can still work on that basis. The suggestion has been made, I will consider it, I will consider it obviously with my department and the Treasury Minister, and we will make a positive response to ensure that people are protected from G.S.T.

**2.17 Deputy K.C. Lewis of the Minister for Social Security regarding introduction of insurance for long-term residential care:**

Would the Minister inform Members what progress, if any, has been made regarding the introduction of insurance for long-term residential care?

**Senator P.F. Routier:**

The States' Strategic Plans and Business Plans approved by the States require that a review of the benefits provided by the Social Security Insurance System be carried out. This review will be commenced when the implementation of the Income Support System is complete. This policy initiative will build upon previous consultations and will include further research and public consultation to seek the views on a range of various options including a long term funding scheme to provide people with the means to pay for long term care in old age.

**2.17.1 Deputy K.C. Lewis:**

Supplementary, Sir? I thank the Minister for his reply, Sir, but as the Minister is aware I, and many of my colleagues, have considerable correspondence from people in their senior years who have worked hard all their lives to buy their own homes, are absolutely terrified that if one of the partners is taken ill and has to go into long term residential care the homes have to be sold to pay for this. Will the Minister undertake to treat this as a priority?

**Senator P.F. Routier:**

It is my next priority, there is no doubt about it. There is certainly a big piece of work to be carried out and I recognise it is something we must be getting on with as soon as we possibly can. As soon as income support is implemented that is my next priority.

**2.17.2 Deputy R.G. Le Hérisssier:**

I wonder if the Minister could tell us when he expects the report to be completed?

**Senator P.F. Routier:**

I should imagine it will not be a quick job because it will be something that will require a lot of consultation with the public. We will have to have government actuary reviews on the social security system, existing system, and to see what can be achieved with that. Obviously, the consultation has to be wide-ranging. I mean, it really does. I mean, it is not something we can -- the policy principle, I think, I understand that there is a desire and there is experience held in Guernsey which will obviously help us on our way. But certainly to introduce any change to a social security system is not something that happens overnight and it is something we have to have the buy-in of the public to ensure that they are prepared and willing for this to happen.

**2.17.3 Deputy R.G. Le Hérisssier:**

Given the apparently complex bureaucratic situation or possible situation which the Minister has outlined, would he be prepared to put his shoulder, if this thing started sinking into the bog of bureaucracy, behind a private scheme which had the general approval of his department and enable the scheme to get off the ground a lot more quickly than the one he seems to be involved in?

**Senator P.F. Routier:**

I have no fundamental problem with private schemes. It is a matter of the detail of that. I think it would need to be considered in the round with other proposals.

**The Deputy Bailiff:**

That concludes questions with notice. So we come now to questions to Ministers without notice and the first period is to the Minister for Health and Social Services.

**3. Questions to Ministers Without Notice - The Minister for Health and Social Services**

**3.1 The Connétable of St. Helier:**

Is the Minister satisfied that the industrial operations, including composting and ash disposal, carried out by Transport and Technical Services at La Collette are being monitored by his department with sufficient rigour?

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

I think they are being monitored with sufficient rigour. Whether the operations themselves are being carried out sufficiently rigorously, that is by Transport and Technical Services, whether on a day-to-day basis the handling of the ash that is transported, its tipping and its disposal is being dealt with to the very highest standards that is perhaps another question. My personal view is that I am not persuaded at the moment that that is the case. My personal view is that there is a need for improvement in this area.

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

We were informed recently that 33, on average, ash transports are undertaken from Bellozanne through St. Helier to La Collette every week. Could the Minister say whether the monitoring of such handling of toxic ash is happening on a daily or weekly basis, or if he has not got that information would he undertake to supply it?



**Senator S. Syvret:**

I can certainly undertake to supply that information, Sir. I am not aware of the precise regularity with which monitoring takes place but the general point that the Constable is making is entirely correct. Although the ash is damped in theory, when brought from Bellozanne to La Collette for disposal in the lime pits, it is not, to be honest, unknown for it to have been moved in a dry or semi-dry state in the past. In years gone by wholly inadequate inefficient standards were adopted with the transport and disposal of this ash, so the Constable is quite right. It is a subject that should be viewed with the utmost rigour.

**3.2 Deputy D.W. Mezbourian:**

I understand from discussions with the Minister that he believes the Overdale Scrutiny Report contains a number of inaccuracies. When reports are produced by Panels they are submitted to the department to allow the department to comment on any factual inaccuracies or errors and I wonder whether the Minister can explain to the House why, when this happened with the Overdale Report, there was no response from his department at all as to inaccuracies or anything else?

**Senator S. Syvret:**

The Deputy is misinformed, Sir. There was some response to the Panel Officer from my department concerning certain inaccuracies within the report with the invitation that those inaccuracies be corrected. The inaccuracies were not corrected and the correspondence was ignored. The general point about why the comments may not have been made to the Panel prior to publication is really because, notwithstanding an express request from me to the chairman of the Panel, we were denied prior access to the recommendations and key findings. We had only the body of the report itself, but the real heart of the issue, the recommendations and the key findings, were withheld from us, notwithstanding a specific request to see them. On that basis, it was immensely difficult to see particularly what direction the report was going in, in terms of its findings and the recommendations it was making.

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

I wonder if the Minister would like to comment on staff vacancies and whether recruitment and retention is currently a problem and whether there is currently a large number of vacancies?

**Senator S. Syvret:**

Yes, Sir, recruitment and retention is a problem. There are a number of vacancies in areas. I do not have the precise latest figures because it is an ever changing scenario in an organisation like Health and Social Services, but there are vacancies; in particular, specialist nurses in various areas, for example, day surgery, theatre nurses, renal nurses. There are shortages. There are reasons for that, I think, are at least 2-fold. Firstly, the arrangements for recruiting staff, relocation fees and perhaps recently the rates of pay that we were offering were not sufficient given the great investment that has taken place in the NHS (National Health Service) in the United Kingdom. But also, more generally, there is a very substantial nationwide shortage of specialist nurses, so it is a very difficult area to recruit to. Unfortunately, we are having to use bank staff, agency staff, to fill some of these vacancies which we would rather not do. We would much rather have the posts fully filled on a permanent basis and we are working towards that end.

**3.3.1 Deputy A. Breckon:**

Can I ask the Minister, as part of that, if there are exit interviews with staff to find out why they are leaving, if that is the case?

**Senator S. Syvret:**

In theory there should be exit interviews for all staff who leave, whether all staff go through that process I honestly could not say, I suspect not. Certainly I am aware of some aspects of the Health and Social Services Department - in some areas of it rather - where staff have left and either none

or probably an inadequate departure interview has been undertaken. It is not something I am happy about and it is something I have had cause to be examining just lately, certainly in respect of Social Services.

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

Would the Minister acknowledge that it was made very clear to him, reference the Overdale Report, that the Panel was acting totally within protocol in only sending the body of evidence and that the whole intention of sending that evidence was simply to check it for accuracy. It was not at that stage to embark in a philosophical or contentious discussion about the nature of the reasoning that underlay the report? The protocol was strictly followed which is that the evidence is presented and the Minister of the relevant department is invited to comment on that evidence. Secondly, Sir, would the Minister comment on the fact that the Panel was, and indeed the public, was quite right to draw the conclusion that there was considerable bias as from the very beginning he had classed this report as a total waste of time and had maintained that positioned right through its work?

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

Yes, Sir. I do not believe that people generally think that there was bias in my view. I think people, certainly the great majority who speak to me about health and social care matters, have been entirely indifferent to the question of the Overdale review, so I do not think it is a matter of any great particular concern. Did I still believe, as the response will make clear, that particular exercise, the way it was framed, the deficiency of the scoping beforehand, made it largely a waste of time; yes, Sir, without question. That was my view and it remains my view. Notwithstanding that the Deputy says that it was the protocol of the time not to issue the key findings and recommendations, that is as maybe, but the fact remains, it is not possible to make a reasoned assessment of the accuracy and validity of the document without being able to see the recommendations and the key findings.

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

Could the Minister inform the House how many patients are in the Jersey General awaiting placement either in a residential or nursing home?

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

I do not have the precise figures. Off the top of my head, of course again these are the kind of statistics that change on a day-by-day basis, indeed, morning and afternoon figures will be different but I am happy to inquire what the latest figures are and give those to the Assembly either today or tomorrow. But I can assure the Assembly by the time the figures are given they will be inaccurate, they will be obsolete, because things will have changed.

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

If the Minister has data showing that the handling of toxic ash is not at a satisfactory standard why has he not issued an enforcement notice or brought a prosecution against Transport and Technical Services under health laws? Does he not accept that a private company carrying toxic ash would have to comply with health laws and so consequently so too should the Government?

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

Certainly, as far as the last point is concerned, any laws that apply to a private company must also, do also, apply to States' departments. States' departments are not above the law. As far as whether I could or should issue an abatement notice or bring about a prosecution, I am afraid the Deputy does not understand that those kind of powers do not reside with Ministers. We make the laws in this Assembly, Ministers have the power to make subordinate legislation such as orders, we set the policy framework. As far as the actual enforcement of laws is concerned on a day-to-day basis, those are carried out by the relevant law enforcement agencies, and any subsequent prosecution, first of all a recommendation would go to the Law Officers' Department and they would then

determine whether a prosecution was merited. So politicians do not, rightly, have direct day-to-day control over individual law enforcement regulatory agencies. I think that would be a recipe for chaos because you would run the risk of politicians using for political purposes specific regulatory and law enforcement agencies, and I do not think that would be at all in the public interest.

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

I note with interest and concern statistics presented in the Medical Officer of Health's annual report concerning Jersey's drinking culture. In particular, that of very high levels of alcohol consumption by women aged 18 to 25, some 20 per cent higher than the U.K.. What strategies does the Minister's department have planned to deal with this particular medical time bomb?

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

The current strategy is the substance misuse strategy, which is a few years old now. We are going to attempt to produce a new strategy to deal with alcohol consumption in the Island. The Deputy is absolutely correct, Jersey as a society, as a culture, has a profound drink problem. We are, as a community, a chronic alcoholic as it were. The per capita rates of alcohol consumption in Jersey are astounding. Higher than many other places, major inner city areas, other countries in Europe that might perhaps be noted for their alcohol consumption. We have a real problem with alcohol consumption in Jersey. I do not pretend for one moment that there is going to be any kind of easy solution to it but we are going to attempt -- well, we will devise a strategy that will attempt to address the issues.

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

If the Overdale and GP Out-of-Hours report was so incorrect, surely refutation should take no time at all. Does the Minister not think that the length of time, which is over 6 months, to reply to this reflects on the efficiency of the department and perhaps the effectiveness of his management? Could the Minister also supply a detailed organisation chart to the Scrutiny Panels?

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

I believe such information has been provided in the past but I am sure if the Scrutiny Panels make a request to the department for that kind of internal information they will be supplied with it. Just to be clear; I was not levelling any particular criticism at the report into the GP Out-of-Hours Co-op. There does appear to have been some kind of communication breakdown because that was completed some time ago, and indeed a draft was submitted to the Scrutiny Office but it has not, for one reason and another, come forward as official ministerial response. As far as the Overdale response is concerned, as I have pointed out, the original review was supposed to take 3 months, it ended up taking 6, so I really do not think the Deputy, who is a member of the Panel, is in any position to criticise. I have also unfortunately been off work for about the last 3 months recovering from major surgery which also has a significant impact on the time it has taken to get the report together.

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

The Minister might not have exact figures for what I am interested in; could the Minister inform the House since the Kathy Bull report recommended at least one of our children's home were closed down and as many children as possible put into foster care, hopefully good foster care as well, if there is a date for closing one of the homes? If he does know, could he tell us exactly how many children are in each home? Are they at capacity at the moment?

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

I do not have the precise figures because, again, as with other issues, they will change on a day-to-day, perhaps even hour-by-hour basis. But to get to the heart of the question, are we anywhere near -- is there any prospect of shutting down one of the homes yet, I have to say, no. I have serious concerns, to be honest, about the whole child protection, child welfare standards of performance of

Jersey, not just within my own department, Social Services and the Children's Service, but across the board. I am aware of a number of issues, this being one of them, a number of cases, a number of incidents that lead me more and more strongly to the conclusion that we are failing badly in this area. I am probably going to be seeking to initiate a major independent review into the whole sphere of child welfare, child protection in Jersey. So if you are asking me honestly, do I believe the performance of certain senior individuals within this field and of the departments generally is acceptable, no, it is not.

**The Deputy Bailiff:**

That brings the questioning of the Minister for Health and Social Services to a close. I think the Assembly has already agreed that the second question period to the Chief Minister will be dealt with when he returns to the Island tomorrow. There are no matters under J, Personal Statements. Under K there is to be a statement from the Chief Minister but, again, I think it is proposed that he should deal with that when he returns to the Island tomorrow so that he can take any questions on it. We come then to Public Business.

**PUBLIC BUSINESS**

**4. Draft Community Provisions (Wire Transfers) (Jersey) Regulations (P.71/2007)**

**The Deputy Bailiff:**

The first item is the Draft Community Provisions (Wire Transfers) (Jersey) Regulations, Project 71, lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

The Draft Community Provisions (Wire Transfers) (Jersey) Regulations. The States in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996 and having regard to regulation EC No. 1781/2006 of the European Parliament and of the Council of 15th November 2006 on information on the payer accompanying transfers of funds have made the following regulations.

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

Members, looking at the title of the regulations might wonder if it is something to do with moving bundles of wire around. It is not, it is to do with transfers by wire or, I think, sometimes these days even without wire, by electronic means. Sir, these are simple but vital regulations for the Island. They are vital for 2 reasons. Firstly, that without these regulations we do not comply with the requirements of the Financial Action Task Force and, in particular, special recommendation 7. It is also vital because without them bankers would not be able to continue to use what is known as BACS (Bankers Automated Clearing System) anywhere in the EU (European Union).

**The Deputy Bailiff:**

I am just checking we have a quorate at the moment. Just? So nobody leave.

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

Why have these regulations been introduced? Basically, they are a consequence of the move to combat terrorism following events of 9/11 and so on, and recognising that one of the tools that is used by terrorists is that of money laundering. So these regulations are designed to monitor and control the transfer of funds by electronic means. But the same arguments for money laundering also hold equally good for drug trafficking, and Jersey does not want to become involved in money laundering for terrorism or drug trafficking, or indeed for any other purpose. We would therefore want to enact these regulations in any case, whether they were a requirement of the EU or not. Furthermore, as I say, if we did not have the ability to pay out BACS transfers banks would soon get fed up with Jersey and want to operate elsewhere. In practical terms these regulations apply almost exclusively to banks who are the ones that are going to be making the electronic transfers. The regulations set out the procedures to be followed and, in simple terms, there are 2 basic

requirements. The first is the banks are required to know and to be able to identify their customer. Secondly, they require a clear and complete audit trail between the sender and the recipient bank and any intermediaries. If there is not a complete audit trail the recipient bank is required to refuse to accept the transfer and must return the funds to the originating bank. Sir, these regulations have been the subject of consultation with the local banking industry and I can confirm that they are 100 per cent supportive. Similar legislation already has been or shortly will be enacted in the Isle of Man and Guernsey, and it would be unthinkable for us to do other than to follow suit. Finally, Sir, I confirm these regulations have no financial or manpower implications and I propose the principle.

**The Deputy Bailiff:**

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles? All those in favour of adopting the principles kindly show. Those against. The principles are adopted. How do you wish to propose the regulations, Minister? Deputy Ryan, forgive me, do you wish to have these matters referred to your Panel?

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

No, thank you, Sir.

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

I think these regulations are of a relatively technical nature and more appealing to bankers than to Members of this House so I suggest I propose them *en bloc* and invite Members who have any questions to ask them to me.

**The Deputy Bailiff:**

Are they seconded? [**Seconded**] Does any Member wish to speak on any of the individual regulations? All those in favour of adopting the regulations kindly show. Those against. They are adopted. Do you propose the regulations in third reading?

**Senator T.A. Sueur:**

Yes, please, Sir.

**The Deputy Bailiff:**

Seconded? [**Seconded**] Does any Member wish to speak in third reading? All those in favour of adopting the regulations in third reading kindly show. Those against. The regulations are adopted in third reading.

**5. Draft Unlawful Public Entertainments (Jersey) Regulations (P.72/2007)**

**The Deputy Bailiff:**

We come next to the Draft Unlawful Public Entertainments (Jersey) Regulations, Project 72, lodged by the Minister for Home Affairs. I will ask the Greffier to read the citation.

**The Deputy Greffier of the States:**

Draft Unlawful Public Entertainments (Jersey) Regulations, these States in pursuance of the Order in Council dated 20th March 1771 have made the following regulations.

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

The present Unlawful Public Entertainments (Jersey) Regulations 2004 are due to expire on 20th July. These are triennial regulations and new regulations are now required to replace them. Triennial regulations were first introduced in this area in the 1990s to strengthen the Bailiff's existing control of public entertainment which derives from the late 18th century when it was feared that too much interest in the theatre on the part of local citizens might encourage idleness or worse, public misbehaviour. Bailiff Poingdestre wrote in the 17th century to the effect that it properly fell to the Bailiff to ensure the orderly and lawful conduct of places to which the public

had resort for drinking and entertainment. These customary powers were reflected in the Bailiff's Oath under the Code of Law 1771 which required that he shall keep and shall cause to be kept the peace. Neither the 1771 Code nor the Act of the States of 1778 laid down the powers of the Bailiff over public entertainment. These powers were intrinsic to the office itself. However, the Orders in Council have provided a suitable authority and law on which to bring forward regulations relative to such customary powers. While all this background may seem arcane to some I have been asked by Deputy Le Hérisier, by way of written questions, why these regulations today are being made pursuant to the 1771 Order in Council. These draft regulations are a replacement for those made in 2004 and make minor changes to them. I am advised therefore that it is appropriate that the 2007 regulations should be pursuant to the same 1771 Order in Council. The regulations are really a straight re-enactment of previous ones with the exception of 2 minor changes at Regulations 2 and 6. Turning now briefly to identify those changes, Regulation 2 of the draft regulations creates a new offence of contravening or failing to comply with the conditions subject to which a permit is granted. It would become an offence therefore to fail to take reasonable steps to ensure that conditions upon which permission has been granted were adhered to. Many events can take place as long as the audience numbers are fixed or the noise levels adhered to or some other conditions meant. Although this is implicit in the current process the changes make clear an obligation which will have been agreed in advance following consultation with the Panel which advises the Bailiff. Regulation 6 introduces a standard provision as to the liability of an individual where an offence under the regulations is committed by a body corporate or a limited liability partnership. In modern times the regulations were introduced, as I have said, in the 1990s specifically to deal with instances of unauthorised raids taking place in fields and on headlands in the Island when concerns about safety and public disturbance made it necessary to be more precise about the requirement for permission and the penalties of acting without that permission. The regulations which relate to public entertainment in general have been in force since that time and it is now necessary for the States to agree to renew the regulations for any public entertainment requiring Bailiff's permission to take place. The regulations have never included the definition of public entertainment and it was again agreed following discussions with relevant parties that no definition of a public entertainment should be included in these draft regulations. This is because of the difficulty of drawing precise boundaries and the fact that existing regulations have been effectively administered since their first introduction in 1992. It remains an offence at customary law to organise public entertainment without the permission of the Bailiff and all major public entertainment events are passed before the Public Entertainment Panel chaired by the Bailiff's Chief Officer as a matter of routine. Event plans and full risk assessments are submitted in advance and the Panel provides support advice and offers recommendations regarding the safe and appropriate operation of the event before the permit is issued. In practice, the person intending to stage an event generally finds it difficult to do so without publicising that event and if permission has not been sought he or she is likely to be challenged by either the Parish or the Bailiff's Chambers. If the event proceeds without permission it would be very difficult in those circumstances for it to be claimed that there was no awareness of the requirement to obtain permission. From time to time the exercise of the Bailiff's powers has come under review. Discussion in the recent past of whether control of entertainment should continue to lie with the Bailiff was undertaken by a Legislation Committee Working Party headed by Deputy Le Hérisier. My understanding is that an alternative means of licensing is likely to be both relatively costly and entail substantial law drafting. For those reasons, I believe, there has been no pressing political imperative to change the status quo and thus renewal of the regulations continues to be the means by which the powers to regulate public entertainment continues to be achieved. The draft regulations were sent for consultation to the Bailiff with feedback also received from Economic Development and Education, Sport and Culture, who have expressed no concerns regarding the proposed amendments to the regulations but have made recommendations regarding procedural improvements and these observations will be passed on to the Bailiff's office. Sir, I propose the principles of the regulations.

**The Deputy Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on the principles?

**5.1.1 Deputy J.A. Martin:**

Just a small question for the Minister. She draws our attention to a small change under 2(a). Is this anyway an enabling law, in a way, for it to be easier to make -- if one of the Bailiff's conditions were for the organisers to pay for policing of an event I can see this could be a condition and I think that is a separate debate. I just want reassurance that this could not happen under this new 2(a) because if it does mean anything like this I could not support it, Sir.

**5.1.2 Senator S. Syvret:**

I understand the need to renew these regulations now so the Assembly has little chance other than to renew them with the relevant amendments. But I do make a plea to the Minister for the future that we really ought to be thinking about getting away from the whole notion of the Bailiff, or his subordinate, licensing public entertainment or deciding, with the advice of his Panel, what should or should not be permitted to take place. It really is obsolescent, paternalistic, frankly probably not an appropriate involvement of a member of the judiciary who is supposed to be neutral on all matters. Really if there are issues such as public safety, decency, potential risks, policing issues and so on, then they are relevant laws in those fields and the relevant law enforcement agencies ought to be able to deal with it. I think the time has come really to take the judiciary out of this kind of executive role.

**5.1.3 Deputy S.C. Ferguson:**

I am a bit concerned about this because the amendment to the regulations gives a much stronger status to the Bailiff's Panel. Previously it has been more advisory than stipulating things and I query whether, following on from Senator Syvret, we have the Bailiff's Panel. Well, the Panel are specialists in their own fields, perhaps. You know, you have a fire officer, the chief ambulance officer, an inspector from the police, health and safety and so on. Yes, okay, they are specialists in their own field but they are not event specialists. Running an event is quite different to running an ambulance. There are differences. It is quite wrong to allow people with no experience in running an event to dictate the conditions. Now this is something that I understand that all the people involved in organising events in the Island consider, I am not just particularly talking about one event. As I say, there are a number of people. I would ask the Minister to look to the structure of the Bailiff's Panel and perhaps discuss ways in which this should include, perhaps, a couple of events organisers or somebody involved in this type of business so that you get a more balanced view about what is an acceptable risk in this sort of organisation. Unfortunately, if you do not have any experience in organising an event then your perception of risk and acceptable risk is quite different to people who are experienced in organising these things.

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

I have sympathy with the Minister's position. I fully understand the difficulty that she finds herself in, in these regulations, as somewhat uncomfortable as they are. She did say in her opening remarks that Economic Development had been consulted on them. Is she aware that Economic Development has offered to have a member of Economic Development staff on the Bailiff's Panel so that they may advise on the issues concerning the issues that Deputy Ferguson raised about events organisers? Does she not support me in my call for a member of Economic Development to be part of that balanced team? It appears that it is simply only regulators that are part of that team and having personal experience of dealing with the Bailiff's Panel I think that there are issues that need to be improved upon the way in which decision making is made, not necessarily the accountability of them but certainly the balance in which they make their decisions. Some people organising events do find the Bailiff's Panel quite difficult for, I think, unfortunate reasons, and I

think that some of those difficulties would be assisted if they would be in agreement that there would be somebody from Economic Development or Culture to be part of the Panel.

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

Under 3(3) of the regulations, Sir, it states the proceeds from any confiscation would be transferred and credited to the consolidated fund. Would the Minister welcome some clarity and transparency with regards to this transfer, and similarly the proceeds of crime confiscation funds and the drug trafficking confiscation funds, being transferred but the transfer being recorded as an addendum to the States' annual accounts and the use of those funds being associated with that record being made clear and transparent in the annual accounts of the States?

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

Just a couple of points. One is following up a little bit from what Senator Ozouf was talking about a minute ago. On page 4 of the report it does mention that: "Draft regulations have been sent for consultation to the Bailiff whose comments have been included within the report. Feedback was also received from Economic Development, Education, Sports and Culture and expressed no concerns regarding the proposed amendments to regulations but have made recommendations regarding procedural improvements." Possibly the Minister in summing up could give us a little enlargement of what those procedural improvements are. The second one, is raising a -- a little of the issues have been raised again probably by Deputy Ferguson was that I get a little bit confused about when we have regulations which do not seem to be compliant with human rights and laws that are. I note that particularly with some of the areas that we have here about the role of the Bailiff, et cetera, giving permission whether, in fact, that is compliant with convention rights and why is it not necessary to be shown in this particular regulation, that what is being proposed is indeed convention compliant.

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

Just a brief word to support what Senator Kinnard said, in fact, and it will interest Senator Syvret if he was to look at R.C.26 of 2002, because there the working group did come out against the Bailiff's role in public entertainment. The real problem occurred once the working group had reported, Sir, that it was enormously difficult and we were likely to enter another bureaucratic nightmare in terms of creating what almost sounds a bit communistic, a Public Entertainments Authority, where somebody would preside the great and the good. Certainly not the politicians. Of course the arguments for not having a judiciary are as compelling in terms of not having politicians. They would deal with the moral aspects of public entertainment and they would deal with the public safety one, Sir. It is probably, in a totally pragmatic sense, the proposal collapsed because of the sheer bureaucracy and the sheer need to define every aspect of public entertainment and so forth once you removed it from the customary area, as Senator Kinnard said. So, for that reason, the follow-on collapsed. It just was not seen as possible to set up this vast bureaucracy with this vast law which was trying to define what public entertainment was and was trying to define the grounds upon which discretion could be exercised in that field. So, I am afraid, Sir, we were in a bit of a conundrum in this regard and I can well see why the Senator has ended up having to propose something unsatisfactory for fear that it might lead to something in many respects even more unsatisfactory. All very unfortunate, but that is where it ended.

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

Just a couple of brief points, Sir. One is that I am concerned about the over bureaucracy of this, as has been mentioned by previous speakers, and I also agree with the Minister for Economic Development in that I think we need to be a bit pro-active in the leading of event-led tourism and would not wish for it to be squashed by an over-bureaucratic Committee. Secondly, Sir, I am surprised that in the report there are no mention of the parishes and Honorary Police being involved. The Minister did mention in her speech the parishes but I would have liked to have seen



this written in this report because the Honorary Police, as Members will know do play quite a large function in these events.

#### **5.1.9 Connétable J.Le S. Gallichan of Trinity:**

I would just like to follow the former Connétable but just also bring it out that I have sat on many various Panels. They are to my idea, helpful when it comes to something like Jersey Live which happens in Trinity, which is a major policing event and, of course, the only problem that I find sometimes with the Bailiff's Panel is when the organisers come with set dates they decide before we sit on what day the festival is going to be held. Even though we might bring up concerns about it, it seems to be an immovable feast and I would sometimes question how much power the Bailiff's Panel has. I think that if there are concerns on policing and for the safety of people on the egress of these events -- we fully support Jersey Live, do not get me wrong, Sir. The Parish fully support it but when 10,000 people leave an event at about 11.00 p.m. it is a major policing event and it is a major problem if problems occur. So far the event is very well organised, we have had very few problems but it does become the problem to the smaller parishes who have an Honorary system which are meant to be policing their own Parish. We do have major draws now. Each Connétable will also, I am sure, say exactly what I am saying, the amount of event-led tourism in the Island at the moment is giving cause to the States Police for the policing and more and more the Honorary Police are being asked to help other parishes. We do this as much as we can but there is a limit to how many times the officers are called. We have the Battle of Flowers, Air Display, the Marathon, Jersey Live, which are wonderful for tourism but the policing must be taken into consideration. I have a great deal of concern with this draft, I think it is quite fair to say it is a very hard one to bring for the Minister. I fully support it but I would just say that on major events the Bailiff should still have the power.

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

I call upon the Minister to reply.

#### **5.1.10 Senator W. Kinnard:**

First of all, Deputy Martin raised the issue of charging for policing events. This is an entirely different proposition. This proposition is not about policing per se, it is purely about the mechanism that is used to grant permission. So a lot of the comments, I think, are really, in a sense, matters for another day. But in terms of the charging for policing events, there is no particular rush to bring that piece of legislation forward as agreement has already been reached with Jersey Live for 2007 for that event to take place, so I would say that that is out with this proposition. It is not really relevant in this particular perspective. Senator Syvret raised the issue about the Bailiff and whether the Bailiff should have executive powers and certainly I was grateful to Deputy Le Hérisier who was the chairman of the working party that looked into this whole issue, and I think he gave an excellent response in explaining that what might be needed to replace the Bailiff's Panel could turn out to be a bureaucratic nightmare and would take up quite a lot of resources that I think can perhaps be better utilised elsewhere at the moment. But, having said that, it is open to any Member of this House to bring a proposition, whether it is Deputy Ferguson or Senator Syvret or anyone else, to obviously change that position if they saw fit once having done the research. But I would certainly recommend that they read the report of the Legislation Committee Working Party of the day on this particular matter before they jump to any particular conclusions on that matter. Deputy Ferguson did raise the issue about perhaps those that have more of an interest in events taking place in the Island should be members of the Bailiff's Panel. It is not for me to say who should or should not be a member of the Bailiff's Panel but I certainly think that a wider representation from that perspective would certainly do no harm, and one of the things that I mentioned in my speech was that I would be passing on the comments about procedural changes and recommendations that have been made by Economic Development to the Bailiff's office on conclusion of this debate, and indeed that is the case, and I am aware of the offer made by

Economic Development to put someone forward, and certainly it is a matter I will be taking up with the Bailiff's office. Senator Perchard talked about that anything that is confiscated would go to the consolidated fund and whether there should be absolute transparency about that. Clearly, that is an issue, I think, more that could be better answered by the Treasury Minister. Clearly, I am keen on transparency wherever it can occur but as to how it should appear in the accounts, I am afraid I do not feel I am absolutely qualified to answer that so perhaps that is a question that could be put to the Treasury Minister on another occasion. The Deputy of St. Martin talked about what were the procedural improvements, and again these are matters not specific to the regulations today. They are matters that I will be passing on to the Bailiff's office but they included matters to do with organisers being made more aware of the need for permits, ensuring that the parishes are aware of events taking place in their parishes and, obviously, the involvement of someone from Economic Development as a representative of the Panel. Those were the procedural improvements that were recommended which will be put forward to the Bailiff's office and that really was about it. The other points were really points of detail in the report that were made by Education, Sport and Culture and their comments were taken on board in the re-writing of the draft report. The Deputy of St. Martin also asked why it is that bringing regulations forward there does not have to be a statement about convention rights. I think, perhaps, that is something I should ask the Solicitor General if she could answer. I cannot remember the rhymes and reasons and wherefores as to why -- I think regulations do not have to. I think it is because they are not substantive law but I am sure the Solicitor General will give a much more eloquent explanation. Deputy Le Hérissier, as I say, I was very grateful to him for his explanation, and the Constables were concerned about over bureaucracy. Again, I think this will be assisted, if there are concerns about that, if the proposal to have a member from Economic Development on the Panel was taken forward. Again, the issues are not around policing here today, we are just talking about the regulations which is the mechanism for granting permission. They are designed, the amendments that have been made, to give the Bailiff's Panel recommendations greater power and I think that is something that some of the Connétables will probably be looking for because it is important that if events can be allowed to take place with certain restrictions that those restrictions are adhered to for the benefit of the public. One of the ways in which we are seeking to, if you like, bolster the Bailiff's powers is to make that absolutely clear within the regulations. They are at the moment, if you like, assumed or taken for granted. But I think it is important that they are now included on the face of the regulations so everybody is clear as to what their responsibilities are. So that is it, Sir. I maintain the principles of the regulations.

**The Deputy Bailiff:**

Do Members wish to hear from the Solicitor General briefly on the point on human rights?

**The Deputy of St. Martin:**

If I could on convention compliant, please.

**Miss. S.C. Nicolle Q.C., The Solicitor General:**

The question was why it is that a law has a human rights compatibility statement and regulations such as these do not. The answer is that Article 16 of the Human Rights (Jersey) Law 2000 says that a Minister who lodges 'au Greffe' a projet de loi must, before the second reading of the projet, make a statement to the effect that in his view the provisions of the projet are compatible with the convention rights, or alternatively make a statement to the effect that although the Minister is unable to make a statement of compatibility, he nevertheless wishes the States to continue with the projet, and the statement must be in writing. Now a projet de loi is a proposition for a law and that is why when a proposition for a law is presented it has the human rights statement. But Article 16 refers only to projets de loi, it does not refer to triennial regulations which is what these are. But if it is any comfort to Members I have to say I cannot see anything in the regulations which is not human rights compliant.

**The Deputy Bailiff:**

All those in favour of adopting the principles of the regulations kindly show. Those against. The principles are adopted. Minister, do you wish to propose the regulations?

**Senator W. Kinnard:**

Yes, thank you, Sir. Regulations 1, 3, 4 and 5 are re-enactments of previous regulations covering the offence, powers of forfeiture and seizure of the proceeds of the offence and the standard provision in respect of aiders and abettors. Regulation 2 creates the offence of contravening or failing to comply with a condition subject to which a permit is granted. As previously outlined, Regulation 6 adds a standard provision to cover bodies corporate and limited liability partnerships and the regulations, Sir, will come into force for 3 years from 21st July. Sir, I propose the regulations.

**The Deputy Bailiff:**

Are they seconded? **[Seconded]** Does any Member wish to speak on any of the regulations? All those in favour of adopting all the regulations kindly show. Those against. The regulations are adopted. Do you propose them in third reading?

**Senator W. Kinnard:**

I do, Sir.

**The Deputy Bailiff:**

Seconded? **[Seconded]** Does any Member wish to speak on third reading? All those in favour of adopting the regulations in third reading kindly show. Those against. The regulations are adopted in third reading, although I do beg your pardon, should I have referred this to the Scrutiny Panel? I am afraid, Deputy Mezbourian, I omitted to ask whether your Scrutiny Panel wishes to have this referred to them. Do you wish to?

**Deputy D.W. Mezbourian:**

No, thank you, Sir.

**The Deputy Bailiff:**

That is a relief. **[Laughter]**

**6. Registration of Political Parties (P.73/2007)**

**The Deputy Bailiff:**

We come now to Projet 73, Registration of Political Parties lodged by the Privileges and Procedures Committee. Would Members agree to taking the proposition as read, it is extremely long? In that case, I ask the Chairman to speak to the proposition.

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

In introducing a system of registration of political parties PPC is not envisaging an upsurge in party formation. This proposition will allow the Committee to bring forward legislation so that existing parties and any party formed in the future can be formally registered. The formal part of the registration will be handled by the Royal Court as it was felt that it would fit in with their current responsibility of overseeing elections. The Court has indicated that it would be willing to undertake this role. The process of registration is simple, the party will need to submit as part of the registration process a copy of the party's constitution (which must include a clause that one of its objectives is to endorse candidates to fight elections), a copy of their most recent set of accounts, a list of office holders (including its leader, secretary and treasurer), its name (which must not exceed 6 words), an emblem and show that it has the support of 20 registered electors. I should point out that a name or an emblem will not be registered if it resembles that of another registered party or could be confused with an existing organisation. The Royal Court will have powers to

refuse registration. If a party does not field a candidate for 5 years then that party will have deemed not to have fulfilled the purpose of registration and will be de-registered. It was the Committee's intention that a full list of members should be submitted on registration and then kept completely up-to-date. After further consideration, and in light of the amendment proposed by Deputy Southern, PPC has decided that this would be an inappropriate invasion of a person's right to privacy and fully support that part of the Deputy's amendment. To enable the public to be able to judge the size of the party, and this was one of the aims behind requiring a list of members, the party will need to submit to the Royal Court a set of accounts within 3 months of the end of their financial year. Any change of officials will have to be notified within 10 days of any change. All this information will be open to the public for inspection. Moving on to the procedural corrections. At nomination, if the candidate wishes that the party's name appears on the ballot paper alongside their name, then they will have to have their nomination form countersigned by 2 of the 3 party officials listed on the registration document. It should be pointed out that after nomination has been made it will be too late for the candidate to decide to change if he or she does not wish to be identified with that party. If approved, PPC will ensure that the changes required to the law will be in place for the elections in 2008. I move the proposition, Sir.

**The Deputy Bailiff:**

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

**7. Registration of Political Parties (P.73/2007) - amendments (P.73/2007 and)**

**The Deputy Bailiff:**

Now we come first, I think, to amendments by Deputy Southern, because I think Senator Cohen has withdrawn his amendment. Deputy, it is proposed, I think, that you should deal with amendments one to 3 only. So, I will ask the Greffier to read those amendments.

**The Greffier of the States:**

One, in paragraph (a)(ii), delete sub-paragraph (5). 2, in paragraph (a)(iv), delete the words: "And to supply the court an updated list of members at least once every 12 months." And 3, in paragraph (a)(v), for the words: "The names of their officials and the list of members" substitute the words: "And the names of their officials".

**7.1 Deputy G.P. Southern:**

I do not intend to speak very long on this because obviously PPC have accepted this amendment. However, I just want to focus a little upon the thrust of these amendments, in that the original proposition came forward from PPC and suggested that it was perfectly acceptable that any political party should publish a list of its membership through the Royal Court, and that that is a reflection of the amount of thinking that has gone into this proposition from PPC, it seems to me. I deal in my report with a number of issues as to why that is absolutely and completely inappropriate. I would like to hear from the Solicitor General before the end of this debate as to which of the articles of the Human Rights Law or Data Protection Law have the PPC responded to, because I believe it was unthinkable on all 3 grounds. Nonetheless, I welcome their change of mind. But if one wishes to imagine the consequences of what might have happened and the abuse that such a regulation could be put to, one only has to imagine what would happen in Zimbabwe in the current regime were this publication of membership lists put into the law. I believe the answer would be fairly obvious to most Members as to what would happen to the minority public - the opposition political party - in fairly short order. Now, I am not suggesting that that was a danger in Jersey, but nonetheless those are the sort of consequences from having this particular part of the proposition and why I believe it is absolutely essential that we must remove that. I will talk later on about the second half of the amendment because I believe the thinking that is going into this proposition from PPC again is similarly incomplete in that part in any case. However, I do urge Members to support the amendment to this proposition, and to do it shortly.

**The Deputy Bailiff:**

Amendments 1 to 3 seconded? **[Seconded]** Does any Member wish to speak to amendments one to 3?

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

I have to say that I am not entirely happy with this amendment. I would have been more comfortable with the proposition as originally worded. The Deputy brought up an emotive example, in my view, of Zimbabwe and how voters would feel if their names were published as being supporters of one or other political party. I do not believe that is a useful analogy, particularly in a civilised society like Jersey. The problem in Zimbabwe is the outrageous violence that is being used against legitimate members of political parties. That is the issue. The issue is not whether you are a member of a political party or not. I think we need to get our thinking clear on what the issue really is. In a civilised society, if you wish to belong to an organisation, club, association or political party, I do not believe that you should feel any shame or any need to have a covert approach to that particular view. So, there I diverge with Deputy Southern. I think Members should also consider how they would view a sponsorship of political parties, for this again is relevant to who are your members and, indeed, how many members do you have. In due course, I have no doubt we will come to consider election expenses. Well, just to what extent is it important to know how much members of political parties are paying in fees? Who are those members? Are those members important members of the local trade unions or businesses or interest groups? Are these significant issues that people should know about political parties, or are they something that we should say is covered by data protection as a matter of personal privacy? I am not sure that I have the answer at this stage, but I certainly think it is a question that we should consider in some depth, particularly when the matter comes round to election expenses, and who is funding them and how it is all being funded. It will also be of enormous importance if you compare how individual members carry out their election campaigns and how political parties may, for example, be able to enlist the physical support of their members. How exactly is that accounted for? So, I think that there are issues here that need to be addressed and cannot simply be ignored on the basis that this is a matter of personal privacy or data protection. I do not believe it is as simple as that. Finally, if we are going to agree with Deputy Southern's amendment, and accept that you should be able to join a political party without anyone knowing, I still think there is an importance, at the very least, of knowing how many members there are, because that is a matter of some significance. Political parties invariably try and over-exaggerate their membership, and it seems to me entirely fair that at least once in the year when they present their annual accounts or whatever will be required for submission, it seems to me there should be an accurate head count, not just of who the treasurer and the honorary secretary are, but also how many members do you have paid up at the end of the year. It seems to me an entirely significant fact that should be known, even if we go down the road of saying that you can all be effectively members of a secret organisation of whom we only know your name and who your one, 2, 3 or 4 leading bureaucratic officials are. I am not entirely happy with Deputy Southern's amendment. At this stage I can see no strong argument to support it.

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

I certainly support the first 2 amendments. I would say, Sir, that these first 2 amendments are absolutely crucial in order to keep the concept of the secret ballot. I am amazed that anyone can think that that is so unimportant that it can just be disregarded. The third amendment, the inclusion of a party emblem on a ballot paper, I would --

**The Deputy Bailiff:**

No, Deputy. We are coming to that one shortly

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

Sorry, Sir.

**The Deputy Bailiff:**

At the moment we are dealing with one to 3 which are, in fact, all related to this issue of the list of members.

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

Well, on that I would just end by saying that if we lose the fact of people having the ability to vote in secret for a party or for whom they wish, then it is a very sad day for democracy in Jersey.

**7.1.3 Deputy S.C. Ferguson:**

Yes, just a query, Sir. Would access to such a list of members be available under a sort of freedom of information heading?

**7.1.4 Senator W. Kinnard:**

It is quite interesting listening to this debate. I am quite surprised to hear my colleague across the way, my fellow Minister, with the views that he has expressed, because it seems to me paramount that if we are going to ensure that we are a democratic society, that we keep beyond doubt the ability to hold a secret ballot. We are aware that even in other communities where there is a party political system --

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

On a point of correction, I made no suggestion whatsoever in my speech of invading the secret ballot box. It is quite outrageous to suggest I did.

**Senator W. Kinnard:**

Well, I apologise if I got the wrong impression. But even in communities where we are aware that there are political party systems, there one has to rely on the exit poll as the best kind of information as to whether or not an individual may or may not have voted for a party, let alone whether or not they are in fact a member of a party. I do not think we need to go so far as a place such as Zimbabwe to think about the dangers of a situation where lists and names of members were provided to report, or to any government agency, on a regular basis. It seems to me an undermining of one's absolute, ultimate freedom of association and freedom to hold your own political beliefs. So, I am in favour of these amendments brought by Deputy Southern, notwithstanding that I am not wholly enamoured of a party political system. In terms of the issue of election expenses, it seems to me that that matter is as important and as relevant for individual candidates who may be rather wealthier than others as it is for party members. I think that those issues are properly dealt with through the States of Jersey law and through Standing Orders. I think that we have taken great strides in dealing with some of those issues. So, I do not share the views of my ministerial colleague across the way, and I will be supporting these amendments.

**The Deputy Bailiff:**

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

**7.1.5 Deputy G.P. Southern:**

May I thank Senator Kinnard first off, the most recent speaker, for speaking her usual sense on issues of democracy and representation, unlike Deputy de Faye who seemed to think there was something sinister about not wishing to have your political affiliation made public automatically. While the comparison with Zimbabwe is somewhat emotive given the circumstances there, nonetheless I do believe it is realistic. There are many ways of exerting pressure - political pressure or otherwise - on individuals other than by direct use of violence. Whether or not the leaders are getting beaten up, there should not be a list that you can get from your government which shows

who else you might wish to beat up at the same time. The fact is that as we move into a more political and more active political time, I hope, with the arrival of political parties, there is a mindset - a change of philosophy - required. Already some of our members in the Jersey Democratic Alliance talk about, when they join: "No one will get to know, will they? Because I work for the States and I do not want that pressure." Or: "I work for a bank. I do not want it known I am a member of the Jersey Democratic Alliance and support you." There are all sorts of ways in which people are sensitive to the pressures going on in any community so that they do not want their name automatically to be released. There are many who would say: "Yes, I do wish my name to be released and I am happy to be known as a supporter, and I will be manning the stands and joining in activities" with no reservations whatsoever. But nonetheless, people who wish their political allegiance to be kept not as a matter of public knowledge should be respected. As to the accounting for, and the election expenses issue, it is not really relevant to this part of the debate. It belongs later on with the PPC amendments that they brought themselves. Thanks, Deputy Scott Warren, for her support, with or without the correct numbering. It is welcome. Deputy Ferguson asked a question on freedom of information which possibly -- I indeed asked a question that I wished to get a response from the Solicitor General. I would give way to her if she is prepared to talk about that, and possibly freedom of information as well.

#### **7.1.6 The Solicitor General:**

I thought that the Deputy's question was: "Upon what grounds did PPC decide to agree to accept the proposition?" Now, that is a question for PPC, really. I mean, I can advise on the law, but I cannot say why PPC have reached a particular decision. I mean, if that was not the Deputy's question, I am happy to answer a different one.

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

Could I rephrase it so that you can answer it in the sense of which of the 3 items that I cited, freedom of information, articles 6 and 11 of the Human Rights law might have been the case that was put to PPC for them to withdraw?

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

For clarification, Sir, my question was: "Would this list of members not be available under freedom of information?"

#### **The Solicitor General:**

Yes. Well, the answer to the question about the human rights is that firstly, a list of people's political affiliations is likely to breach Article 8(i) of the European Convention on Human Rights, and it would only be legitimate if justifiable under Article 8(ii) which does empower interference. Now, European case law does say that if a breach of 8(i) is not justifiable under 8(ii), then *ipso facto* it will be a breach of Articles 10 and 11. But that is, of course, dependent upon it not being justifiable under 8(ii).

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

The point on freedom of information, Solicitor General? I think that that focuses it on --

#### **The Solicitor General:**

No. In my opinion it would not be available under freedom of information.

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

Very well. All those in favour of a vote? The appel is asked for. So, I invite Members to return to their seats. The matters before the Assembly are amendments one to 3 proposed by Deputy Southern. I will ask the Greffier to open the voting. All Members had an opportunity of voting? The Greffier will close the voting. The amendments are adopted by 39 votes in favour and 4 votes against.

<b>POUR: 39</b>	<b>CONTRE: 4</b>	<b>ABSTAIN: 0</b>
Senator S. Syvret	Connétable of Grouville	
Senator L. Norman	Deputy J.J. Huet (H)	
Senator W. Kinnard	Deputy G.W.J. de Faye (H)	
Senator T.A. Le Sueur	Deputy of St. John	
Senator P.F. Routier		
Senator M.E. Vibert		
Senator P.F.C. Ozouf		
Senator T.J. Le Main		
Senator B.E. Shenton		
Senator J.L. Perchard		
Connétable of St. Ouen		
Connétable of St. Peter		
Connétable of St. Clement		
Connétable of St. Helier		
Connétable of Trinity		
Connétable of St. Brelade		
Connétable of St. John		
Deputy R.C. Duhamel (S)		
Deputy A. Breckon (S)		
Deputy of St. Martin		
Deputy G.C.L. Baudains (C)		
Deputy C.J. Scott Warren (S)		
Deputy 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 P.J.D. Ryan (H)		
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.D. Maclean (H)		
Deputy K.C. Lewis (S)		
Deputy of St. Mary		



## **8. Registration of Political Parties (P.73/2007) - third amendments (P.73/2007 and (3))**

### **The Deputy Bailiff:**

Very well. So, the amendments are adopted. I think then we come to the amendment proposed by the Privileges and Procedures Committee itself. I will ask the Greffier to read that amendment.

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

One, after paragraph (a)(ii)(4) insert the following: new sub-paragraph: “(5) Be accompanied by the party’s most recent statement of accounts.” 2, in sub-paragraph (a)(iv), after the words: “10 working days of any changes” insert the words: “And to supply to the court an annual statement of accounts within 3 months of the end of their financial year”. 3, in sub-paragraph (a)(v), after the words: “Names of their officials” insert the words: “And the most recent statement of accounts”.

### **8.1 The Connétable of St. Clement:**

There really was nothing sinister in asking the parties concerned to publish a list of members. It was really to give the electorate an idea of the size of the party. Having said that we felt that we were in error in proposing it, we still think that the electorate has a right to know how big this party is. We feel that can be undertaken by the party submitting an annual statement of accounts. From that there should be sufficient information to judge how many members that particular party has. I do not think there is any other comment I wish to make at this stage, Sir. I move the amendment.

### **The Deputy Bailiff:**

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on those amendments?

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

Yes, Sir. Sadly, I am afraid, the paucity of thinking put into this amendment now by PPC leaves it somewhat lacking I believe. The motivation brought forward for both the previous amendment and for this one, was that we want to have some idea of how large the party is. That is all well and good. That is fine. However, publishing a list of membership is not a way forward. I do not believe that this particular amendment is the appropriate way forward for that purpose in itself. The problem with this is that it has one purpose, we are told, and yet does something else. It sets out conditions on political parties which might enable the system to deregister them if they do not meet scheduled dates - which may well be appropriate. However, it contains no such similar requirements on anyone standing as an individual. So, the appropriate place for statements of accounts and election expenses and accounting for what is going on within a party belongs alongside measures which regulate, in general, election expenses and campaign expenses. That is the appropriate place. Otherwise, this says if you wish to stand as a member of a party we have one set of rules around you, which is more stringent than a set of rules around you standing as an individual. At the moment we have not got election expenses done and dusted - covered - so that it is all legitimate and above board, published, et cetera. Yet, here we have a special case being made for registering and limiting and constraining political party activity, which does not apply to members standing individually. Now, I do not believe that can be the correct way forward. This may well be appropriate and may well be the sort of requirements that is necessary to monitor, regulate expenditure for election and other purposes conducted on behalf of parties. It may well be the right legislation, but it does not belong here in this particular registration system. It belongs in a separate, and I believe, proposition which must come from PPC in fairly short order, which governs election expenses. That is the appropriate place for it. So, while I have no great argument with the individual items contained in there, except that they do appear to be just another hurdle to jump over, which apply per se, I do object to the fact that we are bringing in a special set of regulation around parties that is not going to apply to individual members, and in particular with respect to sourcing, revenues, expenditure and where you are getting that sourcing from. So, we are in danger of producing one set of rules for parties, and another set for individuals. I do not think that is a sound basis on which to proceed. This, or something very similar, should come before this House,

and I will bring it myself if PPC do not bring it in short order, as an appropriate adjunct to election expenses. Let us monitor and regulate there, but this is the wrong place. So, I personally will be voting against this proposition. It is in the wrong place. It is not appropriate now. It may well be the right one, but let us study it further and let us bring it alongside a whole set of regulations which cover properly support and election expenses and sponsorship of where you get your money from, as brought up by Deputy de Faye in the previous debate. Let us do it in the right place. I shall be voting against this. I would urge Members also to pause, think again, vote against this and let it be brought back.

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

I am going to support the amendment. I think the whole point is also about accountability. To me there is always an extra level of probity required of any organisation that receives membership subscriptions and things along those lines. The main reason I did want to stand up and say something, Sir, was to also request PPC that if they are going to file accounts, could they be audited, please?

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

Just to point out, I presume it has not escaped Deputy Southern's notice that in (a)(i) it states that any political organisation that wishes to endorse candidates for election to the States should be able to apply to the Royal Court. There is no compulsion.

#### **8.1.4 Deputy J. Gallichan of St. Mary:**

I would just like to comment on what Deputy Southern said. The House is well aware of commitments made by PPC already about bringing legislation for regulation of election expenses. This amendment has absolutely nothing to do with that. This is simply to enable a gauge to be made of the size of any political party and therefore to substantiate how much weight can be given to any arguments it might have. They may say: "Our members believe this. Our members believe that." If there are 6 members, it carries less weight than if there are 600 members. The simple fact is it is exactly balanced by what applies to independent candidates. Independent candidates stand for themselves by nature of what they are.

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

I think, certainly, I understand to some extent Deputy Southern's concern that this does not necessarily mirror the U.K. electoral system, and that many people will stand as independents. But I do think that he is missing the point. Any candidate who is going to stand as a member of a political party I think has an obligation to the members of the public to let the public know what he stands for. One of the ways which the public can gauge that, apart from the maybe slightly biased way in which they can elect representatives, is by looking at the accounts of the society or the party itself. I am surprised that the Deputy, who is normally keen on maximum freedom of information and open government, is so concerned about displaying the accounts of any particular political party, whether it is his or any other party. But I am concerned that sometimes the general public can look at individuals and think: "Well, they may be a good person" and look at parties and do not know what is with the individual or party they are voting for. But where you have a party which perhaps might be funded by, we will say, the Institute of Directors or by the BNP (British National Party), I think the public have got a right to know where that party is getting its source of funding from. I do not see that it is just a sneaky way of trying to get membership. I think it is a more open way of saying what is behind this party and what sort of principles are behind this party. I think, if you look at any business, the way in which you would understand what that business is trying to achieve, is looking at the annual report and accounts of that company. I do not see the difference in trying to ascertain what the party is trying to achieve in looking at the annual report and accounts of that party. I see no reason why this information should not be available to the public. If it helps them make a better informed decision at election time, so much the better for the government.

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

I will support the amendment because I think it is serving those that wish to be in political parties more than it is against them. Clothier wished to introduce a system that would avoid political parties. When Clothier was discussed, many people stated quite clearly that political parties would be inevitable. As they emerge, and as people get used to this new system of executive and non-executive, the public are coming to understand what it means to have this form of government, and all that that means, whether or not Scrutiny members or non-executive members are part of that government and are receiving equitable advice and equitable information. I think it is also wrong to try to use this as a mechanism to identify not only names, but also numbers, because I am quite certain that when certain members of political parties - for example, like Mr. Cameron - stands up and speaks in the United Kingdom, he certainly does not speak for every Conservative Party member. So, his particular views on any particular subject in politics do not necessarily reflect those views of that party and all of their members. But what I think this amendment does do which it is right to do, is it brings a certain degree of regulation which should be a requirement when people are in receipt of public subscriptions, whether they be a one time, lifetime subscription or an ongoing annual subscription, and, as the Treasury Minister pointed out, source of funding. If there is a need for Jersey politics to mature then let us usher that in as quickly as possible. If political parties exist in Jersey, as we are told they do, and if they are going to be offered to the electorate at the next election as they were in past elections, then let those political parties be correctly regulated. I do not see that this is something that is unbalanced. I believe it is something that is coming at the right time while we are considering this issue. If there is a need to regulate more of what politicians and people standing for election do in this Island, then let those things come with all due haste after this debate today. But let us not put off the fact that we need to mature, and this is indeed the right time to make sure that the regulations are in place.

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

Just 2 points. One question to PPC. Why is there not an explicit requirement to simply list the number of members as opposed to the names of members? Secondly, Sir, just to dispute the point made by Deputy Gallichan of St. Mary, I think there is a close linkage between election expenses because, quite clearly, if a person is independently wealthy and they can run a very aggressive and assertive campaign, that is as important as a political party being bank-rolled from whatever source. Because at the moment we have no knowledge as to how that person is bank-rolled and what particular influences are playing upon their particular political stance in life. So, I think the issues are connected, Sir.

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

I think that Deputy Southern seems to have got 2 issues conflated here. There is no serious relevant comparison between individuals standing as members for the States and political parties and their representatives. To say that because one does not provide a set of accounts therefore a political party should not, does not stack up. Although, intriguingly, Deputy Southern and his 2 front bench colleagues from the vanguard of the Jersey Democratic Alliance appear to have found a unique solution to the problem in that, my understanding is, at the last elections they all stood as independent candidates, which would have resolved any issue about providing accounts, as I see it. Then, I believe they held some form of convention in a telephone box and now appear before us as the Jersey Democratic Alliance. I think one has to see clearly the difference between being a States' Member, either independent or charged with all the manifest obligations of your political party, and that is, in fact, divorced from the existence of the political party itself which is an entirely exterior body to the States and could have anything from 3 non-paying members on a registered and honorary basis to hundreds, not to say thousands. If you have an external body that is directed only at being a politically influencing body, I see no reason why there should not be an obligation to provide a set of annual accounts, simply so that there is an indication of how big a political force you are, what activities you get up to and, at the end of the day, who is putting all the

money in. Is it all the members each paying a weekly £1, or are there some big bank-rollers involved? I think, on that basis, it seems clear to me we must have annual accounts.

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

Well, I believe that the published audited accounts of political parties are essential, but I also ask is this the right proposition to include this provision? Or should this proposition be within a different proposition which requires this information on election expenditure of parties and of individual candidates? I suppose, Sir, the choice is ours. I would ask a member of the Privileges and Procedures Committee to clarify whether they do think there would be merit in a separate overarching piece of legislation.

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

I suppose I come from a rather more prosaic angle. If you have an organisation which is involving money from the public, such as a charity or a political organisation, then I feel that in this age of transparency you must be held to account. You must ensure that you meet the standards of public probity and ensure good corporate government. The other thing also, quite basic, if you are organised and can produce a reasonable set of accounts within the time, then it demonstrates that the organisation is efficient. You know, there are a number of organisations where the accounts are sort of late or whatever, and demonstrates that the organisation is nothing like as efficient as it should be. I understand that expenses will be coming in, and I thoroughly hope that it will be here before 2008 because I think it is something that is very necessary. There is a lot of scuttlebutt - I am sorry, a very unparliamentary word, but you understand, I think - you know, scuttlebutt about who is supporting who and who gets sponsored by who, and I think those sort of things should be out in the public arena. But I do feel that I will support this amendment.

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

Having followed the debate so far, I very much hope that this amendment will get defeated. Not because I oppose the requirement upon political parties to have their accounts published. That is an entirely reasonable requirement. But this particular amendment and the amount of thought that has gone into it is badly, badly flawed. I mean, frankly, the Deputy of St. Mary, I felt, in her speech showed the true hand and revealed what is behind this amendment. It is to require basically that the total numbers of party members are revealed in the audited accounts that are submitted, so that people will know how many members the party has. Now, this is not a requirement, I understand, upon a company when it registers and files its accounts. It does not have to say specifically, precisely, how many individual shareholders there are - there might be thousands. But it could change, indeed, on a day-to-day or weekly basis. But the idea of requiring a party to always publish how many members it has is nothing more, in the Jersey context, than clearly a device designed to damage entry into the political arena - to make entry into the political arena much, much harder for political parties. I mean, obviously parties that may get launched, as indeed all parties do at some point, by a very small handful of members. That is the history of political parties, if you consider it. Parties that may initially start with only 6 or 7 or 8 members, or whatever, can indeed grow into major organisations over the years, the decades and the centuries, that end up leading whole nation states. But the problem is, I am afraid, we risk incurring Manchester United supporters' syndrome, whereby if parties are forced to reveal it is only about 10 people who are members at that particular time, may be visionary - great individuals with great ideas for the future of the community - people will look at it and say: "Oh, well, there is only 10 members there. We cannot take that organisation seriously because it is so small." Meanwhile the combined and well-resourced might of the Chamber of Commerce and the I.o.D. (Institute of Directors), for example, could combine and try and persuade all of their collective members to come together and form a party and have a couple of thousand, just like that, straight off the mark here, in that way. I think there is no escaping from the fact that this kind of around-the-houses back doorway of trying to compel the parties to reveal the size of their membership is simply the erection

of another barrier to parties into Jersey. I do think some of the other points made by Deputy Southern are also of concern. I mean, these are a requirement that will apply to political parties that do not apply to organisations that do presently sponsor or encourage candidates. They and the candidates they are supporting would, of course, deny that they are political parties and that they are the candidates for this or that organisation, but nevertheless it happens. It takes place in Jersey. But because they are not political organisations, quote unquote, none of this transparency requirement will apply to them. I think there is a big problem here. Registration, yes. Publication of accounts, yes. But I do think there has got to be a better way of doing it than the particular method that the PPC has come up with on this occasion. I do believe that this amendment should be defeated and we should readdress the subject, perhaps under the issue of election expenditure and things of that nature.

**8.1.12 Senator P.F. Routier:**

I rise to my feet as a Manchester United supporter. [Laughter] Really, I think we are starting to confuse matters quite considerably with this debate. This debate is about the registration of political parties. It is not about election expenses for political parties or for private individuals. It is totally 2 separate issues. I think the way that Deputy Southern has tried to link those things is not appropriate for this debate. They are totally separate. We will be moving to consider election expenses at a later stage, and that will address individuals and political parties. So, as the previous speaker spoke that it is right that accounts should be provided, and it is right that political parties should be registered, this is not a mechanism to try and control political parties in any way, shape or form. It is there to give them a standing within the community. That is what is being achieved by this proposition. We have also known for quite some time about the need for charities to have a commission and all the rest of it. That is another piece of work which needs to happen within our community. We need to ensure that charities are laying their accounts publicly so people can check on them, and this needs to be the same with political parties. I will be supporting this proposition because I believe it is an appropriate thing to do. It is a sound mechanism to ensure that the registration and the workings of a political party are publicly available to anybody to look at. I suggest to everybody that they should support this amendment.

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

I am slightly concerned to have heard some earlier remarks about the maturity of our political system. Personally, I think that we have an incredibly mature political system. I do not believe in party politics in small jurisdictions, but I will come back to that for the main part of the debate. I think if we are going to have political parties, then they should be treated with great care. Anybody suggesting that there is a difference between the funding of an individual versus the political party, Members must understand there is a huge difference. I agree that we should probably be having regulations to election expenses. That is happening by Privileges and Procedures. But there are huge issues concerning the issue of funding of political parties. Elsewhere, in other places, the funding of political parties is regarded as a major issue. Any other legislature or parliament discussing whether or not you should have the open accounts of a political party, there would be cries from all sides of the Assembly that there would be utter secrecy. You are dealing with democracy. You are dealing with an inability for people to know where the money is coming from, or what the scale of resources that are in party politics. In any other place there would be cries from all sides of the political system. Of course political parties are potentially much more influential, much more important in a democracy than to an individual. Of course we must be having the publication of accounts for political parties, so that we can have an understanding of exactly where the money is coming from and what is going on with their funding. At the moment we do not, and that has been the problem with some of the political parties that have been put in place already. No. I will be favouring most strongly a publication of their accounts.

**8.1.14 Deputy J.A. Martin:**

What is a political party? Yes, there are some of us who admit we belong to a political party. My problem is, under one, as Deputy Baudains pointed out, any political organisation that wishes to endorse candidates for election to the States may be able to apply to the Royal Court, and they are then a registered party. I may have their name wrong, but we did have what I think they are called Elect 2005, which were not a political party. But they had a lot of political clout, and that clout was money. Now, this is where the difference is. I agree with Senator Ozouf that there would be an outcry, but, yes, everybody should register their accounts and that, and even possibly have them audited. But it is not in this amendment. What this amendment is trying to do is exactly what the accepted amendment was - who belongs to the party, or at least how many people are in the party. At least be honest. If you do not want parties and you do not want parties to register please be honest, because this is not the amendment that will do it. There is nothing at the moment that would make any party do so. As you say, it is optional. So, by any other name they are a political get-together, they meet, they talk about things and even formalise ideas. But they will not be a party. This already happens. We know individuals, and individuals themselves know who sponsor them. I have heard many times people say: "Well, it is between me and my good friend who I have known for years. I tell them not to do it, but they insist on putting a full page ad in the *JEP (Jersey Evening Post)* every other night, but I cannot stop that." Well, of course you do not stop that, and you would not stop that. But it is not fair, and if somebody wants to do that, how do we know? We do not know who they are. Deputy Ferguson seems to think that if an organisation can bring in a set of accounts on time and they balance, then it must be a very good organisation. Well, I think there are a lot of countries in the world, and parliaments and governments, that could bring in a set of accounts that could also still have you suddenly disappear the next day if you mention anything against the leadership of that country. To me, Sir, her reason to have audited accounts in a certain amount of time would then at least prove that they were an efficient company, because none of us are a company. We are all politicians. As I say, I agree with Deputy Southern. Obviously, you would say I would. But there are many times in this House that I do not always agree with Deputy Southern. But this is not the right place. I am not the one confused in this. If you think anyone is confused about what this amendment is trying to do, it is trying to do exactly what the Deputy of St. Mary says it is. You all want to know. Come out and say you want to know. That was not acceptable and was not passable, how many people are in this party and who these people are. So, now, it has been brought another way round. I will not support this. If you want to bring it back and call it what it is, elections, and we want to know how much money is supporting this party, who is behind that money - fair enough. No problem. I will support that. I will stand up, and if I am a member of a party, I would expect no more. But not this amendment. I cannot support it. It is not what it says it is, Sir. Not on the tin, thank you.

#### **8.1.15 Deputy A. Breckon:**

I think there is a confusion here. I do not know if it has been done deliberately, or what, but to mix the statement of accounts with election expenses, I think that is dangerous. It is interesting, Sir, that paragraph 2, it said that the statement of accounts must be produced within 3 months of the end of the financial year. The States do not do that. We do not do that ourselves. So, perhaps it is a little bit rich if we ask somebody else to do it when we do not do it ourselves. We probably do it within 6 months. Deputy Martin, I think, mentioned Elect Jersey. So, when is a party not a party? Who was it? Who funded it? They had a website, they had hustings coverage, and it was: "Join the club." The details did not emerge, and it is something PPC may fear to tread, as it were, and find out if people are promoting or supporting individuals or groups of individuals. Are they a party or are they not? Do they have jurisdiction? Should they be involved? Where does the rights of the individual or an organisation go regarding supporting or not supporting somebody? Do we not have some freedom in this matter? I think, Sir, all these things are being confused. I would just leave Members with a question. We are being asked here, perhaps, who funds the parties? The question I would ask is, who funds the opposition?

## **LUNCHEON ADJOURNMENT PROPOSED**

### **The Deputy Bailiff:**

Very well. The Assembly is agreed to adjournment. We reconvene at 2.15 p.m.

## **LUNCHEON ADJOURNMENT PUBLIC BUSINESS (Continued)**

### **Registration of Political Parties (P.73/2007) - third amendments (P.73/2007 and (3)) - (continued)**

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

I do not think we are quorate at the moment. Can we have the usher to bring people in? We are now a quorate and the Assembly is debating the amendment put forward by the Privileges and Procedures Committee. Does any other Member wish to speak on that amendment?

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

Very briefly, and I am sorry I missed some of the early debate. I had to pop out for an urgent meeting. But as I understand, as a member of PPC there was some concern about the amendment about the most recent statement of accounts. I think people are reading far too much into it, and imagining things that are not there. Quite simply it is to give the public as much information as reasonable for them to be as well informed as possible about any political party - and that is quite clearly defined what a political party is. That is, a body that is putting forward candidates for election. If they are putting forward candidates for election it is, to me, quite reasonable that electors should at least know something about the party that is putting forward the candidates - not just what they want them to know, in the form of a manifesto, but also, for example, how big are they. You know, anecdotally, I used to be in the media, Sir, and one of the difficulties when you are in the media is that anybody can set themselves up with a name and call themselves the group for this or the group for that, and it is very hard to know who do they represent. You sometimes think that this group is one person or a couple of people who have set up a pressure group, so how much credence do you give them? I think, when it comes to the important business of voting and political parties, political parties should be proud to publish their accounts and say: "Look, from our accounts you can see we are a well run party. You can see how much we are getting in membership which equates to roughly how many members." So, the public have an idea. Is this a well-supported party with a large number of members, or is it a very small party with very few numbers of members? I cannot see why any political party could possibly object to such information. PPC have put their hands up and said they have not thought it through properly, and it would be wrong to ask for names of members to be reported. It was not done with Machiavellian reasons. It was a similar thing. We just wanted to give the public an idea about the size of the party that may be putting forward candidates that the public can have some idea of how established that party is. I think that we have now come up with a reasonable proposition that is done in a number of other jurisdictions, and that is that accounts should be submitted because this gives the public some idea of the provenance of the party that is putting forward candidates at the election. I would urge Members to support it, Sir.

#### **8.1.17 Senator W. Kinnard:**

I am interested in the comment that was made by my colleague, Senator Vibert just now. He said that it is clear that a political party is a party that puts up political candidates. Well, that is the problem. It is not so clear. I believe that Deputy Southern and others do not have any particular objection to the principle of accounts being made available on a level playing field. This is why I am not in favour of the PPC amendment, because I do not believe that there is a level playing field, and I believe that there should be. I think that PPC has not given this sufficient thought. I think we need to take the issue back and to think it right the way through, to include not just those political parties who are prepared to say they are political parties, but also those organisations that look and act as if they are political parties but deny that they are such - or, indeed, perhaps even support

candidates financially or in other ways but do not decide to register as parties. Because even within the PPC proposition, it is not essential that political parties or organisations that look like parties become registered, so I do not think this has been sufficiently thought through. I think I can draw attention, again, to organisations such as Elect Jersey or Seven Angry Men or there are probably others that have been certainly quite vocal in their support about political issues and also in supporting members to stand for election. It seems to me that PPC need to look more carefully at the kinds of rules that should apply to that type of organisation. I do not think this has been sufficiently done in the proposition that we have before us today from PPC. So I would urge Members, on this occasion, to vote this amendment to PPC down on the basis that, not that one is against the principle, but that they have to think more carefully about ensuring that, when you see an elephant, it is an elephant, it is described as such and is dealt with in a similar fashion. But I do not believe that what is before us today is sufficiently robust in order for us to achieve that, so I will be voting against the PPC amendment.

**8.1.18 Senator J.L. Perchard:**

Deputy Martin, in her speech, mentioned the word “confusion” several times but I have to admit I am confused now. I thought the House was debating the third amendment from PPC and listening to the speeches, particularly the last speaker, it was completely irrelevant to this particular amendment. The amendment quite clearly says that any political party must produce a set of accounts within 3 months of their financial year-end and the names of their officials. That is all the amendment says as far as I am concerned and it is nothing more complicated than that, Sir, and if we agree with the original PPC proposition - and I think there is general agreement with the proposal of the second amendment - this is not controversial at all really. It is straightforward and I would suggest that the House moves promptly to a vote, quite frankly. It is quite straightforward.

**The Deputy Bailiff:**

Does any other Member wish to speak? Very well. I call upon the Connétable of St. Clement.

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

The confusion seems to be that people wish to debate election expenses and not this proposition. What we are debating is the creation of the register of political parties that wish to have their names on the ballot paper. This is what we are debating. We are also debating that the political parties, once registered, are transparent with their dealings and they show the accounts. If we want to mention, just briefly, election expenses, PPC are looking at election expenses but election expenses will be individual’s election expenses and they will show where the money comes from, either from their party or from other organisations. This has nothing to do with that. It is quite separate. We are talking about how the political party is organised and how it is funded and as I said, and I underline again, PPC are preparing to lodge, during the summer, a proposition about electorate expenses but that will be relating to individual members. I would like to thank all the Members that contributed to the debate. I think the major issue was this one about accounts and I think I have dealt with that adequately, Sir. Can I just say one other thing? This is not something that PPC have conjured up. This is a requirement for registered political parties in the U.K..

**8.1.20 Deputy G.P. Southern:**

May I ask for a point of clarification from the Chairman? Could he address the question of what happens under this legislation with an organisation like Elect 2005, were it to appear in 2008?

**The Connétable of St. Clement:**

If they wish to promote candidates with the names on the ballot papers, then, yes, they will register.

**The Deputy Bailiff:**

All those in favour of adopting the amendment, kindly show.



**Deputy G.P. Southern:**

Can we have the appel, Sir?

**The Deputy Bailiff:**

The appel is asked for. Very well, I invite Members to return to the Chamber to consider the amendment of the Privileges and Procedures Committee and the Greffier will open the voting.

<b>POUR: 33</b>	<b>CONTRE: 10</b>	<b>ABSTAIN: 0</b>
Senator L. Norman	Senator S. Syvret	
Senator P.F. Routier	Senator W. Kinnard	
Senator M.E. Vibert	Senator B.E. Shenton	
Senator T.J. Le Main	Deputy A. Breckon (S)	
Senator J.L. Perchard	Deputy of St. Martin	
Connétable of St. Ouen	Deputy C.J. Scott Warren (S)	
Connétable of St. Peter	Deputy R.G. Le Hérisier (S)	
Connétable of St. Clement	Deputy J.A. Martin (H)	
Connétable of St. Helier	Deputy G.P. Southern (H)	
Connétable of Trinity	Deputy S. Pitman (H)	
Connétable of Grouville		
Connétable of St. Brelade		
Connétable of St. John		
Deputy R.C. Duhamel (S)		
Deputy J.J. Huet (H)		
Deputy G.C.L. Baudains (C)		
Deputy P.N. Troy (B)		
Deputy J.B. Fox (H)		
Deputy S.C. Ferguson (B)		
Deputy of St. Ouen		
Deputy P.J.D. Ryan (H)		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy G.W.J. de Faye (H)		
Deputy P.V.F. Le Claire (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		
Deputy of Trinity		
Deputy S.S.P.A. Power (B)		
Deputy A.J.D. Maclean (H)		
Deputy K.C. Lewis (S)		
Deputy of St. John		
Deputy of St. Mary		

**9. Registration of Political Parties (P.73/2007) - fourth amendments (P.73/2007 and (4))**

**The Deputy Bailiff:**

Very well. We come next to Deputy Southern's fourth amendment and I will ask the Greffier to read that amendment.

**The Greffier of the States:**

Number 4: in paragraph (b) after the words "or its abbreviation" insert the words "together with the party emblem."

**9.1 Deputy G.P. Southern:**

Again, we see the thinking of PPC underlying this particular proposal and the reasons for my amendment or rather, we do not see because nowhere in their comments or in their original proposition do they say why they oppose the inclusion of the party logo or symbol on the ballot paper. It says, on amendment 4: "The Committee does not believe this proposal is appropriate in a jurisdiction where the majority of candidates have no party affiliation" listen to this "as it could give an unfair advantage to some candidates." "An unfair advantage to some candidates." Some candidates who are attempting to change the system into a party political system where the majority of candidates are standing proudly and rightly perhaps as independents and the suggestion is the inclusion of a party logo may give some "unfair advantage". Hardly, surely. Never mind that in almost every other jurisdiction in the world where they have reasonably democratic elections, large and small, advanced or otherwise, developed or underdeveloped, there is usually the ability to put a symbol on the ballot paper. Why? Because, sadly, in many societies, there are a substantial number of people who cannot read. In our society - whether we like to remember it or not - there are sufficient numbers of people who do not have great levels of literacy and who find it difficult to (a) read a ballot paper and (b) participate. I personally have had experience of encouraging someone who just simply did not want to say that he could not read to go down to the election and participate and elect and I took him through the ballot paper. He was talking to me and to others and, eventually, we ended up with: "You decide who you want to vote for. You can have 3 crosses." And he talked to his friend who was also going to accompany him down there who could not go into the booth with him - that is forbidden obviously - but, nonetheless, was going into the room alongside him saying: "It is the third box down. Put your cross there." Because that is what he wanted to do; to vote for the third box down. That is the reality. Now, whether we like it or not, if we can - and we have heard a lot of words in the last 2 months about encouraging participation among all levels in our society - do we really want to do that? Come on, let us also include those with very low literacy skills who cannot read. Let us put the symbol on the ballot paper, as everybody else does in the entire world and if people want to vote for that person, they know the symbol and they can put the cross in the right place; it is simple. We could do that or we could go with what the Committee says, for no reasons in particular; we just do not like it. The rest of the world says this is helpful; we say it is not. I think the case is almost overwhelming that, whatever happens, this does no harm and may do some good in terms of the electoral process. There is absolutely no reason, I see, and no reason given by PPC of why we should vote against this amendment. Please vote for it.

**The Deputy Bailiff:**

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the amendment? Senator Vibert.

**9.1.1 Senator M.E. Vibert:**

Thank you. I was interested because I could not see any reasoning in the Deputy's report really as to why he really wanted a party symbol to be allowed on the ballot paper. I think, in his speech, I have just found out. It seems to me that he wants voters who have literacy problems to be able only to vote for all parties with an emblem. Of course, that would be the effect because, in Jersey, which is different to other jurisdictions, most Members stand as independent and do not have an emblem

unless we want to have to have numerous emblems and we all adopt an emblem; whatever takes our fancy which will be totally confusing to the electorate. No, just have on the ballot paper the occasional emblem representing a party. I thought P.P.C.'s comment was particularly clear in that, in a jurisdiction, where the majority of candidates have no party affiliation, it could give an unfair advantage to some candidates. If you have got on a ballot paper a whole list of names and only one has an emblem next to it, how is that fair? And, really, I would hope that we can help people with literacy problems in different ways and not just by suggesting they only vote for a political party but that they can be understood to vote for the candidate they want and the best candidate and not just because it has got an emblem next to his name, Sir.

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

One does, from time to time, in these debates, I am afraid, hear some complete cobblers and I think we just did. The great majority of civilised, respectable, well-established democratic countries in the world; modern functioning democracies permit the inclusion of a logo on the ballot forms. So why should we not? It is what modern democracies permits and if we are moving down the path of introducing the registration of political parties and acknowledging - albeit in the 21st century - that political parties do and can exist, then why not embrace the standard accepted regulation that we find in the great majority of western, respectable democracies? And to suggest, I am afraid - as the previous speaker did and as PPC do in their comments - that the inclusion of a logo might give an unfair advantage to the party, well, I just do not buy it. The culture, being as it is in Jersey, the sight of a party logo would probably make most people in fact vote not for it, so I just do not buy that for one moment in any event. But if it is unfair advantages that you are concerned about, why not require those candidates who are having £20,000 or £30,000 election sponsorship from a large corporation by law to have something that says so on the ballot form? Because the failure to declare that you are in fact owned and bought and in hock to some large, rich corporate backer gives you a grossly unfair advantage. You are able to buy your way into office but the public do not know about it because you are able to keep it secret. So I am sorry, the arguments about unfair advantages are just complete rubbish. The fact is, there are a number of people in Jersey - perhaps more so than some jurisdictions - who are, for all kinds of reasons, for their backgrounds and places of origin, functionally illiterate. There are a lot of people who are functionally illiterate, even in their first language, and many people who do not speak English and do not read English who now live here and work here. And it would be absolutely ridiculous if we were to put an obstruction in the way of those people in going into the voting booth and being able to recognise what it is they may or may not wish to vote for.

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

For clarification, the Senator made almost a sort of accusation that some people in this Chamber might be supported up to the tune of £20,000 by business. Does he have anything that supports that information, Sir, or is it just a "for instance"?

### **The Deputy Bailiff:**

I think he was just making a general point. I do not think he is meaning anything specific. Deputy of St. John.

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

I would quite like to draw Members' attention to the back page at page 8 of the P.73 amendment. There you have a little diagram of a voting slip. Now there are 5 emblems there and one missing. Now, picture this. If you had 5 candidates to choose from, so you have 5 votes to have, which one would you not vote for? You know nothing about the political process; nothing about the people. You probably would not vote for the one that did not have what you thought was like accreditation next to it. And that is what worries me. I can understand what Senator Syvret is saying but if, for example, the majority of the candidates in the next election are independents - as most of us are at

the moment - and next to their name, it had the States of Jersey emblem perhaps but “independent” underneath it with the party political candidate there as well, so you had continuity down one side, I could accept that but to have 5 there and one blank - which is what could happen - I am sorry, that does not wear with me and I think that would have an opposite effect, which is what Senator Vibert was saying. So I think one has to be very careful as to how something is designed as to how you end up influencing the potential voter. So having a blank box against several logos gives a false impression to somebody, particularly somebody that is illiterate, which is what we have been talking about. I do not want to disadvantage them at all by not giving as much information as possible as to how and who to vote that may be pictorial rather than written but, I am afraid, if that design says it all, to me, it says it all. Your one blank space and that is the one, if you had 5 votes, you probably would not vote for. So I can see where the Deputy is coming from and I can understand what the Senator is saying but, if you look at that design, if that is what you end up with, I am sorry, nobody wins and I would suggest that people vote for the PPC’s proposal. Thank you, Sir.

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

In similar but not necessarily the same vein, Sir, I was somewhat surprised by Deputy Southern’s speech, Sir, because this has absolutely nothing to do with literacy, Sir. In fact, I thought it was an outrageous allegation because what the Deputy fails to understand, in my view, Sir, is that until we have a party political system - by which, I mean a full party system and not just the existence of parties such as they have in the U.K. - then a party emblem would be the odd one out. It would stand out. It would bring an advantage to a party on an election ballot paper because emblems are not normally used by independent candidates as we have seen in the appendix. Sir, that is why the Privileges and Procedures Committee have adopted the stance that they have and Senator Syvret also, Sir, I was somewhat surprised by what he said because he suggested also that it would assist those who could not understand our language, of which there are many in the Island. Well, Sir, leaving aside the fact that there are some people who have been in the Island for a number of years and still cannot understand our language, and I cannot quite understand why --

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

There are a few of them in this Chamber.

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

-- they have not integrated, which candidate would those people choose, Sir, from a list of half a dozen or more candidates and just one has the emblem? Surely, it is blatantly obvious that the one that has the emblem would have an advantage that the others do not. So I do wonder sometimes, Sir, whether Deputy Southern should declare an interest.

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

Well, Sir, I have had the unenviable privilege of being in 2 political parties and standing as an independent in the last election and I think that, really, the emblems that Deputy Southern is asking for will come in any event in time. So as I said in the last speech I made, we should get on with promoting a more mature approach to this. I think we should endorse it today. I do not know if it will have enough support to be endorsed but I think it should be endorsed because it will usher in this new era of understanding and accepting the new system we are in. So, conversely, last time I voted against Deputy Southern, this time I will be voting in favour of him, even though it would disadvantage me in the next election, should I stand, because I will not be seeking election again in a political party. It may - quite to the contrary of some people’s views - act as a disincentive to give somebody a vote because, although I have not said this before, and it has been said a couple of times in the broadest terms joviality could be expressed in, by Deputy de Faye, at the last elections the 3 members of the JDA (Jersey Democratic Alliance) were standing as independent members. I think, in the future, it would be much preferable for not only the JDA and their members and their

elected candidates but also any political party and the electorate to know in advance that the people that are standing for election are standing for election openly in a grouping of people with a grouping of policies. I must say I found the rationale for the proposition or the amendments rather weak, although it might be factual and experientially correct, I thought if that is really the only reason that you are bringing this because maybe some people cannot read, God forbid somebody cannot count 3 numbers down. So this might work against political parties where people could be identified clearly as being with a political grouping but, nonetheless, whether you can read or whether you cannot read, it is inevitable that, over time, policies on issues will drift but collective beliefs in whether or not you are left, centre or right will be made and will be supported by various factions of any society you are living with whether you are Liberal, whether you are Labour, whether you are Conservative. And that is becoming a bit difficult to distinguish in the United Kingdom but, in most places, there are social parties and then there are right-wing business parties that are quite identifiable, for example, the Democrats and Republicans in America. I think it is an inevitability that this will come about. I think it might disadvantage me but I do not mind. I think it might disadvantage them also. I think it is an approach that needs to be looked at and considered because I think it is a generally accepted principle around the world that this occurs and I think it is a mature approach, as Senator Syvret said, so, for that reason, I will be supporting Deputy Southern. I just hope that people will realise in the future that there will inevitably be people that will come to the polling booth voting for their politicians. Nine-tenths of them - I would say somewhere around that much - will have no real idea as to what the intricacies to what their policies are or who their supporters are or who their allegiances are when they get in here at the end of the day.

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

Well, I do not have a problem with emblems and if we do have one or 2 political parties where they are going to be more likely to be like this page where the independent candidate is alone in the list, it seems fairly obvious to me that we could put “independent” underneath and have a nicely designed “I” as a logo beside it, so that if you cannot beat them, join them. And I feel we are arguing about something, we are in the 21st Century and we have just brought the age of voting down to 16, are we now going to say: “Well, no, we must not have emblems in these political parties”? To me, I think we are making a lot out of something that can be easily resolved. Thank you, Sir.

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

There are 2 real issues that I want to cover. Firstly, there have been a number of assertions - and that is what they are - that in every civilised country, you see logos on ballot papers. Well, I voted in the United Kingdom national and local elections, I voted in French elections and I voted in this Island and it is not my recollection that the ballot papers I received universally had logos over them. That is simply not the case and it is tedious to have States’ Members continually getting up, claiming they know the facts when, apparently, they do not. The other issue - and I think this goes to the heart of the matter - is we take an enormous amount of trouble in this Island to ensure that elections are carried out in a scrupulously fair manner. This is now going to boil down to even providing, potentially, all the expenses for your election campaigns - which is something we will come on to consider in due course - and the rigour that pertains around the room where the ballot boxes are held outside the balloting stations is something for this Island to be proud of. And I recall the days when I worked in local television the scrupulous activity that went into ensuring that all campaigning election material was dealt with in an utterly even-handed way and that included, under the old IBA broadcasting regulations, that should one candidate in a particular election not be prepared to do an interview for television, then that meant that no other candidate could be broadcast. It was a rigorous rule. And I think that is the approach we should take in this case. It seems to me entirely reasonable that candidates’ names are listed and if they wish to show an affiliation to a particular political party, that can be done quite simply, and those that do not, are

listed as independents. Where I think we are going the step too far at this stage in our electoral development is to include logos because some people will have logos and other candidates will not, and I would certainly say that if you were applying the old rules that I applied as a political journalist, if there was one person who did not have a logo, then no one had a logo. My sensible, I hope, suggestion here is let us not even start down that route at this stage. The Privileges and Procedures Committee are quite right on this issue. Logos are just an extra piece of fiddle faddle that we really do not need and can only complicate the issue in a circumstance where we should be ensuring to the utmost that everybody gets an equally fair crack of the whip and I really do not see how anyone can support the idea of random logos popping up on ballot papers.

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

It is probably fairly useful to be following Deputy de Faye because maybe I can draw the attention to the Solicitor General and get a clarification of how it says here, because if one reads the amendment it talks about altogether with a party emblem. However, if I am an independent - and indeed most of us are here and, in fact, most people in the Parish of St. Martins know me for riding my bike around the Parish - I am just wondering if one looks at the amendment from Deputy Southern, on the back page, it talks about parties but if one looks down at number 3, you will see that the person there is not a member of the party. And you can see a "Stop the Bypass" candidate and it has got a nice little logo there obviously to depict some form or other to stop people going through the bypass. Now, if indeed what is being proposed says that you can only have an emblem if you are a party, are we being rather unfair to those people who are not members of a party? However, if we look at the examples being shown here, it appears that, whether you are a party member or an independent, you are entitled to a logo. And this is maybe the question for the Solicitor General. I will use myself as an example. I could see the Constable of Trinity over there, he might like to have one of the heads of one of his cattle. "Vote for Constable Gallichan" with a cow, or anyone, but I would use a bike. As the amendment stands, would I be able to put a bike against mine, if I wanted to, because I think it is an important question?

#### **The Solicitor General:**

Well, the answer is no, not on my reading because it refers to it as a party emblem.

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

If I could just finish, Sir, I think that is an important point because what we are saying is that the only people then that would be allowed to have it would be a party and, again, would that be disadvantaging those people who were not members of a party and I think the answer I have got I think helps me to make up my own mind in which way I want to vote.

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

It is indeed instructive, if one covers up the left-hand side of the sample given, how similar the emblems are to each other and if you are not very conversant with the British political system, you could be forgiven for thinking that they all represent much the same thing and, indeed, the flying banana would probably be worthy of a place [Laughter] in that list. The only one that is, I suppose, clear is the "Stop the Bypass" one but that could be mistaken for someone crossing out a cigarette and could be seen as an anti-smoking candidate. This led me to wonder how our predecessors would have fared in the 19th century when there was a Rose and a Laurel party because unless one has a good deal of botanical skill, I think one could be forgiven for voting for the wrong party in that case as well. All this leads me to believe, Sir, is that while I can see no very strong case on either side, it does seem to me that the addition of a logo at the current time could be liable to confusion. It is surely something that could be brought back later if the Island is awash with political parties, which clearly is not the case at the moment.

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

I have been politically motivated for all my life really but I certainly remember great, old elections, particularly in the Parish of St. Martins where the band would be outside and the canvassing went on really right into the polling booth and this became a bit of a problem and, more recently, the bands and the banners outside the public voting stations have been moved and even 18 months ago when I stood for election, I had a very enthusiastic Jurat ring me on my mobile on election day and said: “You must get that poster moved. I can see it if I stand on tiptoes from the Parish Hall” and that poster was a couple of hundred metres away from the public hall. And so we have taken to a position now where - and I did this myself - I had to remove my rosette to show no influence or bias entering the sanctity of the polling station and I suggest, Sir, that if we do include logos on ballot papers, it is a form of States’ sponsored advertising. And I think it is something we must not allow. It is the ultimate advert and I would suggest to Members that if you bear in mind that you cannot wear a rosette and you cannot have a canvassing poster within sight or sound of the public hall or the polling station, what about putting an advert on the ballot paper? What a coup. So, no, definitely not. It will certainly not get my support and I would suggest Members recognise this for what it is.

**9.1.12 Senator B.E. Shenton:**

Senator Perchard mentions the fact that you cannot have banners around the polling stations and the bands have disappeared. Well, I think that was a retrograde step and I think this Chamber does a disservice to the intelligence of the general public. I think the public are not going to go and get swayed by some pretty rosette or emblem on the ballot sheet and, at the end of the day, it is just a picture next to a voting paper. A lot of them will have made their minds up before they go in, they are not going to be influenced by it and I cannot believe we are wasting so much time on it.

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

Very briefly, Sir, because I honestly believe that PPC has quite clearly set out in our comments in our report but there is one item that I should clarify raised by Deputy Scott Warren earlier: “Why could not the independents have an independent logo?” Well, we did talk about this, Sir, and it is just that a logo has a purpose. Its purpose is to unify and to promote and that would ultimately mean there was some kind of link between all the independent candidates, very much like an independent party perhaps which does exist in some places and for that reason alone that would be, in our opinion, a dangerous move, Sir. Thank you.

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

I am going to be very brief. This appears to be an interesting little wheeze, as far as I can see. The concept of a logo where, possibly, there is only going to be one party gives significant advantage to all members of that party because there is great discussion about election expenses. Of course, if the party happens to have more than 5, 10, 15, 20 members and they all run underneath this wonderful little logo, they can of course happily promote the logo and get significant leverage from a promotional point of view and I would be interested in PPC’s view as to whether or not they would control election expenses regarding political parties. So I cannot see any way in which one can sensibly, at this particular juncture, support this proposal and I will certainly be voting against it. I think there is one Member who used, what I consider, a rather unparliamentarily comment of “cobblers” earlier on and I think this probably quite nicely sums up this particular item. Thank you, Sir. [Laughter]

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

Well, as an independent member of the Ben Fox Party, I would like all the logos of the independents to be the head of a fox and, therefore, I would be perfectly comfortable, but at the moment, I do not think you are ever going to end up with some agreeable thing for an independent and this causes complications, so I will not be voting for this amendment. Thank you, Sir.

**9.1.16 Deputy P.N. Troy:**

I think some Members are getting a little too worried over this whole emblem idea. I would be standing as an independent. I would not be standing as a member of the party and I would be quite content to stand as an independent against 4 or 5 members of the JDA. I think I would be quite content to do that and I think I would still get in. It does not concern me at all. **[Laughter]** It does not concern me at all and I am quite content to let them have their logo because, as some other Members have said, it will show people the group not to vote for.

**9.1.17 Senator W. Kinnard:**

Yes, I do think we have made very heavy weather over this issue of whether we can have emblems or logos but I did want to address briefly some of the points that were being made about unfair advantage. I think, in terms of emblems, there has been enough debate to explain that it could go either way; either in favour or not in favour of someone having a party logo attached to their candidacy. But what I would like to draw Members attention to is the real issue of unfair advantage on the ballot paper and that is in fact that, with the ballot paper, if you have a ballot paper which is in alphabetical order and if you have, for example, in a senatorial election, 6 votes but you have got 15 candidates, clearly, those with surnames with the letter beginning in the first half of the alphabet - when there are only 6 votes to be allocated - have an unfair advantage. And that is a well-known statistical concept of bias known as a response set, so if they have any concerns about that, that is, I think, where the greater disadvantage might come. Being Kinnard, I am about halfway down, so I do not really have a view either way. But I would go on to say, Sir, that the focus has been very much, in the debate, more about candidates and whether or not they are going to garner enough votes and my focus, I think, is not so much on candidates but on voters and whether or not this would be an advantage or a disadvantage. And I think, so far, the arguments have been fairly evenly balanced but I think when we take a focus on voters, I think it slightly wins it because I think that we should be doing everything that we can possibly do to encourage those who have a vote in our Island to vote. And I think that the current system that we have does, to some extent, it could be argued, slightly disadvantage those who might be slightly visually impaired, those with poor literacy skills and those who do not have English as their first language. And I do not consider that some of the examples that have been used to almost, if you like, indicate that those with literacy problems are somehow stupid and then therefore cannot distinguish between different symbols and so on, I think is absolutely an appalling attitude to take. And I would say that the public, including those with literacy problems, ought to be given the benefit of the doubt. They are mature enough and I believe quite capable of deciding who to vote for and I do believe that being hung up on whether or not some candidates have an emblem or logo is completely a waste of time. But I think, in terms of the focus on voters, it narrowly wins it on my perspective and, therefore, I would go with including the possibility of an emblem or a logo if those who wish it wish to do so.

**9.1.18 Senator P.F. Routier:**

I have to say that I have been rather distressed by some of the comments that people have been making about people with literacy problems and having the ability to recognise things on a ballot paper. The clearest and simplest thing for someone who has a literacy problem would just be to have a plain, bold name without it being cluttered with other things on the ballot paper. I will leave it at that, Sir.

**The Deputy Bailiff:**

Does another Member wish to speak? I call upon Deputy Southern to reply.

**9.1.19 Deputy G.P. Southern:**

I thank everyone who has participated in this now 47 minutes of debate on what is a relatively minor issue but I make no apologies for bringing it because it is a significant one and I will just respond, if I may, to 2 people in particular. Deputy Baudains said I should declare an interest, so I will do. I hereby declare that I have got an interest in promoting democratic participation on the



Island, if that is okay with him. And then Deputy de Faye. Well, we have had fun today, have we not? Deputy de Faye said he was heartily sick of Members coming to the Assembly ill-informed. You should not do with me, surely. I think if he turns to this particular display, he said: "I have voted in the U.K. many times and I have never seen the symbol on the ballot paper." I do believe that was taken from the --

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

I did not say that, Sir. It would be helpful if the Deputy did pay attention to what I said if he is going to comment on it.

**Deputy G.P. Southern:**

Nonetheless, I will persist, and I did not give way. That was taken from the proforma from the Registration of Political Parties Act 1998 in the U.K., so that is the format which is currently used and displayed. And, finally, I wish to come back to, once again - she is going to get heartily sick of praise from me - but, nonetheless, Senator Kinnard brought the issue to its proper end, I think, which is the focus on the voter; not the candidates, not me or anybody else in this room, but the voter. Can we make it simpler for people to vote whatever educational background and whatever the circumstances? I do believe, as I said earlier, this will do no harm and may do some good. I urge Members to vote for it and I call for the appel.

**The Deputy Bailiff:**

The appel is called for in relation to amendment number 4 of Deputy Southern. I invite Members to return to their seats and the Greffier will open the voting.

<b>POUR: 10</b>		<b>CONTRE: 37</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator L. Norman		
Senator W. Kinnard		Senator T.A. Le Sueur		
Senator B.E. Shenton		Senator P.F. Routier		
Deputy P.N. Troy (B)		Senator M.E. Vibert		
Deputy C.J. Scott Warren (S)		Senator P.F.C. Ozouf		
Deputy R.G. Le Hérisier (S)		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. Mary		
Deputy S. Pitman (H)		Connétable of St. Peter		
		Connétable of St. Clement		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. John		
		Deputy R.C. Duhamel (S)		
		Deputy A. Breckon (S)		
		Deputy J.J. Huet (H)		
		Deputy of St. Martin		
		Deputy G.C.L. Baudains (C)		
		Deputy J.B. Fox (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 J.A.N. Le Fondré (L)		
	Deputy D.W. Mezbourian (L)		
	Deputy of Trinity		
	Deputy S.S.P.A. Power (B)		
	Deputy A.J.D. Maclean (H)		
	Deputy K.C. Lewis (S)		
	Deputy of St. John		
	Deputy of St. Mary		

## **10. Registration of Political Parties - as amended (P.73/2007)**

### **The Deputy Bailiff:**

Very well. So we now return to the debate on the proposition of the PPC as amended. Does any other Member wish to speak on that? Does any Member wish to speak on the main proposition? Senator Syvret.

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

If nobody else is going to, I will get things started. While this proposition is a big step forward in terms of bringing some modern functional democracy to the Island, I still think we have got a long way to go, clearly, both in terms of the kind of law and regulation that we are going to need in the future and I think culturally. I think we have seen some of the cultural attitudes displayed here today that are still predominant in Jersey today, even though the year is 2007 that, really, Britain began to move away from towards the end of the 19th century. And if we are really serious about modernising the Island's democracy; reinvigorating it, getting people interested in it, improving voter turnouts and making people have a sense of real ownership of the democratic process, we have got to modernise in more ways than just this. We have to, of course, go down this path but we have got to be prepared to embrace more changes too, for example - and I know that PPC is bringing this forward - a meaningful requirement on election expenses. Whether it goes far enough, I am not sure. There should be a requirement for people to declare who their backers are, the amount of money they are spending on campaigns, whether they are taking donations and support and so on and so forth. Many other respectable jurisdictions have these kinds of regulations and there is no doubt that we should have too. And such regulation would apply to both independent candidates and political parties. It would apply across the board to all candidates. It is absolutely essential that that kind of thing be transparent. And what it has got to do with this particular proposal is because this just enables political organisations that wish to endorse candidates for election to be registered. It enables and it does not compel and that, of itself, could be a problem. We had, for example, the Elect Jersey 2005 grouping which I understand several Members of this Assembly were kind of involved with and worked in and they were quite strenuous in denying that they were a political party during the build-up to that campaign. And, yes, from one perspective, you could say that they were not a party and that they did not have a kind of shared published manifesto or a party whip that the candidates were supposed to adhere to once elected but in many other important respects, it was a party. It was a de facto party. It was an

establishment party put together to try and oppose the JDA. I was never a member of the JDA and I hold no brief for them but that is clearly what happened with Elect Jersey 2005. You have an organisation with a lot of money behind it; a very high powered organisation, resources, et cetera, et cetera, et cetera, a lot of people working for it proactively endorsing, supporting and promoting all of the so-called independent candidates. And I think if we ignore that kind of arrangement, then we have got a problem because, presumably, we want the public to know what it is they are getting for their vote when they go into the ballot box and that is a problem because it enables a great deal of secrecy to take place and I know this firsthand through my experiences with Elect Jersey 2005. At the time of the last elections, they wrote to all independent candidates and invited us all to submit a kind of a brief biographical piece and a brief statement of our policies and a photograph for inclusion on their website. They made this offer to all of the independent candidates only. And I thought: "Well, it is very kind of them. It looks like a reasonable idea." I emailed them and I said: "I would be quite interested in taking up this opportunity. First of all, could you tell me who are the founding members of this organisation, who attended your big meeting you had up at the RJA&HS (Royal Jersey Agricultural & Horticultural Society) up at Trinity, who is funding this organisation, who is paying for it and where are its resources coming from?" And they would not tell me. They flatly refused to answer any of those questions. They would not tell me at all. So I - and I think I was the only one of the independent candidates - said: "Well, I am sorry. I am not contributing any material about my candidacy or my campaign to your website. I do not know who you are; I do not know what you represent; I do not know who is funding you. You could be taking from the BNP, for all I know, and there is just no way I am going to get associated with that kind of organisation." But it does just go to show that these organisations that are effectively wielding very substantial power in the political arena in Jersey are able to do so on an entirely covert basis and are not prepared to be transparent about who their donors are, where their money is coming from, even who their organisers are. So if we are interested in transparency of political parties, as indeed we should be, we have also got to address, I think, organisations that are de facto involved in the political arena. Just briefly, Sir, one other point I would make and I think it was Deputy Ferguson who spoke earlier about efficiency and if you had thousands of members and huge audited accounts and you would be able to publish and so on, that would show that you were a very, very efficient organisation. If you could not show that, then you would not deserve the right to be, kind of, registered and promoted as a party. Well, I can think of one organisation that was especially noted for its immense efficiency and I think you will find it was a political party organisation that became rather prominent in Germany in the 1930s.

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

I find political parties odious, corrupt, dissembling and, in many cases, anti-democratic and I find their activities despicable; the idea of parachuting people into so-called safe seats **[Laughter]** the dubious funding and the powerful external control groups that are the powers behind the throne. They really represent some of the lowlifes of political life and this idea even that you elect party candidates is, frankly, a con. You elect people who have been awarded party political status on an approved basis by local party cliques. It has given us a grim system of career politicians supported by ghastly party apparatus and I have met some and I can vouch for the fact that they are grim and ghastly as human beings. So I have to compliment the Chairman of the Privileges and Procedures Committee and his team for being, in the true Jersey way of hospitality, so generous and courteous enough to allow rabid political parties to be extended an opportunity in this Island for official recognition and I hope it stops there. I am being complimentary of course to Privileges and Procedures Committee to indicate that I am a nice chap and in the hope that they will not be too upset when I am far from complimentary to them in the debate that is soon to follow but, having said that, I entirely support Privileges and Procedures in this particular matter.

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

**[Laughter]** How do you follow that? You do not really, do you? I wish I had had an opportunity to speak before Deputy de Faye because the adjectives that he has used really to emphasise his point that groupings of people who dubiously use large sums of money to get in a position of power and authority are ghastly, and really that was the point that he made well, although jovially, as usual. I was coming to speak in support of what Senator Syvret said in as much as I really do hope that the President and the Privileges and Procedures Committee do look earnestly at the covert collective that is operating within Jersey in making sure that their candidates and their policies are in place. It is no secret that, from among the independent candidates, his nomination papers were signed and supported by other independent politicians and supported on the actual hustings night with other independent politicians wearing their independent rosettes. The groupings of politicians in the last election went as far as collective letters to the electors. I find it remarkable that Deputy de Faye could use so many adjectives in that respect when, to my recollection - although I will stand to be corrected - a letter went out calling for all members of 3 and 4 party to be supported for the fantastic work they were doing together. Well, I stand to be corrected, but I certainly do remember seeing something along those lines and I think I have got it at home. Districts 3 and 4, yes. I think I have still got it at home. Well, as I say, the point I am getting at is all of my speech is on the Senatorial elections. Much to the upset of many, I spoke quite clearly and deliberately on the covert collective and rather than focusing on the covert collective - because it will get me nowhere because so many of them will be upset if I do - I would rather focus where I was going to focus prior to Deputy de Faye's speech on these people who enter into the political arena to support candidates such as Elect Jersey. Now, while it is admirable to give people an edge, technologically speaking from a website perspective and an equal opportunity, I personally had one of their bloggers write - still hanging on to the fact that I was now standing as an independent, albeit a former member of the Centre Party; I could not keep that out - that I had spent 6 months in Russia. And the only reason that I was doing anything now was because I had managed to get some electioneering on the district wires brought up. The fact that I had spent 12 days in Russia while I was getting married - not 6 months - was neither here nor there before they printed that and, even today, I get people coming up to me and saying to me: "If only you had not spent so much time in Russia, Paul." So it did have an affect, albeit perhaps only a marginal one. Certainly, I would agree not enough to have got me elected because of the strong candidacies of the people that were elected and the strong campaigns and the money that was used to promote those. The point I am making is the same point that Senator Syvret made, that if we are going to get into regulating the activities of groups of people that wish to have an influence on our society on how our tax payers' money is spent, on how we are taxed and how we provide for the elderly and the young from the cradle to the grave, if we are going to apply regulations to groupings, then I hope earnestly the President of PPC and his Committee will look at the earliest opportunity at making sure that all forms of political groupings that are actively engaged in supporting financially and, in other ways, materially people to be elected to this Assembly are also regulated because Elect Jersey will be back in 2008. The domain name is preserved. I would not imagine somebody else took it from them. We will see activities like we have seen in the past and, no doubt, we will see inaccuracies as we have seen in the past where, when it suits them, they will allow things that are totally and factually incorrect to be printed to the detriment of any person standing for election in this Assembly.

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

I am faced with a bit of a dilemma this afternoon because I have got an elderly neighbour who lives very close to me and always phones me up when there is a hot issue being debated in the States and the comment was: "Well, I hope they are not going to support this registration of political parties." And I thought: "Oh, blimey. I would not want to upset my favourite neighbour" so I had to sort of explain: "Well, this is something which, by supporting this proposition, does not mean I support political parties because I do not." I sort of turned that around and tried to explain to them that I will be supporting this proposition for registering political parties but please do not think that I

support political parties. I just believe that, if there are political parties, there needs to be some sort of registration so that they can be recognised. So please do not think that because I vote for this, I support political parties.

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

Very briefly, and I thank you for your ability to allow people to range far and wide in this debate. I will not presume upon your loyalties in that way and I think the answer to Senator Routier's constituent is why you vote for this. If there is one thing that is worse than regulated and registered political parties, it is unregulated and unregistered political parties which is why we need this piece of legislation that we are putting forward today. And, yes, PPC are working on other issues and those who bother to ask us would find out and Senator Syvret knows, because he was a member of PPC, they obviously have taken it further forward since he left and we are well on the way with trying to bring a form of regulation of election expenses to the States and of course there will be an opportunity for those who think it is not far enough to amend that. But we are talking today about the registration of political parties and there is a laying out very clearly of what a political party is. It supports and endorses candidates and that they are registered. And I think it is very important that as we see political parties almost come and go and members of the parties standing in election under a party banner then not standing for election without the party banner, I think, for the public, it is very important we have registered political parties so that they know where candidates who purport to be members of these parties and endorsed by these parties stand. And that is why it is better to have them registered than unregistered, Sir.

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

It is always interesting to follow the Minister for Education when he is always looking for reds under the bed. Well, I came today to support this. I am not going to support this. It is looking for one party - according to Deputy de Faye - that meets in a telephone box that are abhorrent but he will support it because he wants to know who they are and so will Senator Vibert support it because it is better to know who they are, what is the political party. Senator Routier is so worried he will support it, but he must make it quite clear he does not support political parties, but I am now totally confused. Well, I am not confused, Sir, this does not do what any party would want to do. It does not recognise a political gathering of like minds as a party or even they have to declare that they are of like minds and that, even if not money, a lot of influence is being brought into the elections, as they were last time by a certain group. And we do not know who that group is. Nobody wants to find out who that group is and everybody who was supposedly talked up by that group have always denied having any connection and, if that is correct, I am sure they would like these people identified. This does not do it and I am very sorry but it is wishy-washy. Any political organisation that wishes to endorse candidates can if they want to. It is the usual PPC wishy-washy proposition and we have got a lot more coming along which we should not be embarrassing ourselves discussing again. We have had this debate and exactly the same speeches were done when Deputy Southern brought a very similar proposition but, no, let us wait for the better one that is coming up from PPC. This does not do it, Sir, and as there are only 2 other Members who are in a party, albeit there was no registration for parties when we stood last time; we could not have called ourselves on the ballot paper a party member and, at the end of the day, we did all stand as independents and, basically, the telephone box party folded until after the elections. But I do not care, Sir, if I am called the "telephone box party". I know who I am, and so does everybody else, and nobody has ever paid for anything for my elections and I have very small banners, not like Senator Perchard, Sir, who had to have his 20 foot by 20 foot banner taken down near his polling station because mine are all A5. And they cannot be seen 200 metres away, Sir. But, no, I am digressing. This does not do it. It is very wishy-washy. It is people who do not want party politics. I respect Jersey and I respect its politics and if people do not want parties, nobody is forcing them to join. Certainly the public know that if they do not want to vote for a member of a party they do not, but this certainly does not do it, Sir, and as I say, I cannot support it because it is

not going to do what anybody in a political party will want. It seems to me, as I say, Sir, that we want to know exactly who are these people representing; what are their policies? Well, as far as I do remember, the JDA when it was, before the last election did bring out a manifesto and some policies; some that have even found their way into ministerial documents and been brought to this House but, of course, not under the JDA name. It was very, sort of, similar wording and how many ways is there to skin a cat? We have all been there. We have all been to these. Somebody along the line is going to come up with a similar policy and, God forbid, poor Senator Routier. I really do feel sorry for him this afternoon because he has got to vote for the PPC but he has got to make it quite clear he is not in support of political parties. Well, nobody is asking him to join. Okay, thank you, Sir. [Laughter]

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

It was just a bit of a clarification really picking on what Deputy Martin was saying. PPC's details as to what constitutes a political party is a little bit weak. Are you going to come back with a bit more definition because it does not really tell me what you regard as a political party?

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

Address it through the Chair please.

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

Yes, Sir. Sorry, I apologise. Perhaps the Chairman and his Committee could come back to the States with more information because Senator Syvret spoke about what were really lobby groups. What is a lobby group? Concern is a lobby group, the TUC (Trades Union Congress) is a lobby group, I.o.D., Age Concern and, yes, I believe Elect Jersey was a lobby group too; a very strong one at the time. I have no problem with the fact that Concern, I.o.D. and so on declare quite clearly their members, their Chairman and so on and I happen to think that Elect Jersey should have done the same. But the fact is, are they political parties? No, they are not really but they do get political and they have a job to do and that is to influence the public about their feelings and thoughts on policies and that is important but they are not political parties. And I do feel that there is not enough strength in here that tells me what PPC, Sir, believe a political party is and I do hope that the Committee will come back with a bit more detail, as Deputy Martin was suggesting, and clarify that point because I think it is a little bit weak at the moment, Sir. Thank you.

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

Thank you. Three amendments brought by me; 2 lost, one taken. Shall I vote for this piece of legislation that is going through from PPC. I am sorely tempted not to. Just to complete the description of what we have in front of us, which was abbreviated by Deputy Martin. You call it a PPC wishy-washy proposition. The correct phrase is a wishy-washy, namby-pamby, airy-fairy proposition again brought by PPC. The problem with this, as some of us have hinted, is that. Let us look at the wording under (a) and (a)(i): "To agree that a system of registration of political parties should be introduced in Jersey and that under the system any political organisation"- note, not party - "that wished to endorse candidates for election to the States should be able to apply to the Royal Court for registration as a political party." What is wrong with that? First of all, it does not state "must" and endorsing candidates is exactly what Elect Jersey 2005 did. Elect Jersey 2008, should it reappear, will be able to do exactly the same, which is to support, in general, independent candidates without naming one or 2 or 3 and without putting their name on a ballot paper, nor wishing to. Wants to stay in the background, wants to endorse, wants to fund, wants to support in general the principle of independent candidates and thereby along the way giving a thorough, good, efficient and expensive kicking to any party that is standing in the 2008 election perfectly unfettered by anything in this. The whole whatever it is, with amendments, without amendments, is absolutely useless because it does not go to the heart of the problem. Wishy-washy, namby-pamby, airy-fairy, fiddling around the edges: this does not work. The bit about the accounts, et cetera, I

have no problem with that. JDA will be filing accounts on the date, absolutely. No problem, if that is what we are required to do. Will Elect Jersey 2008 be doing so? I have no idea. Will it say how much it spent? Will it say how much its website cost? Will it say exactly who got what? Of course it will not. Will it say where it came from, who has put it in the pocket? We will. Will they? No. So it goes. So by all means I absolutely encourage anybody in here to support this proposition, this piece of baffle. Feel free to do so for all the usual reasons because what it does is it constrains and puts regulations around my political party while letting the opposition run absolutely untrammelled and free. When Deputy Martin says it does not do what it says on the can, it does not do what it says on the can. This is a bad piece of legislation. I think I have convinced myself I am going to be voting against it, but if anybody dares call me a member of the Telephone Box Party, they might label Judy Martin that but not me. I will sue. I will sue if they dare. Right, go ahead and vote for it, but I will not.

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

While I do have some concern about this proposition, it certainly needs more work and more legislation to further address the issues that have and have not succeeded so far in amendments, and issues that have been overlooked totally. It just seems to have piecemeal amendments, and it has not stood brought to this House as a whole, which I think something so important as this proposition needed to have done. I would remind Members, Sir, it is the electorate who will decide whether or not to support political parties.

**The Deputy Bailiff:**

Does any other Member wish to speak? I call on the Chairman of PPC to reply.

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

I would like to thank all Members who have contributed to the debate. It is the public that decides whether to support political parties. The object of this proposition really is to give the public notice that there is a political party to support, and really this is the whole aim. One speaker asked: “What is a political party?” We consider it is any political organisation that wishes to endorse candidates for election to the States, and they should be able to apply to the Royal Court for registration. They do not have to; they can. We are not talking about election expenses. That will be covered in a further debate later on in the autumn when candidates will then have to, I think, declare where their funds are coming from and how they spend them. Further, I would just like to draw attention to the opening remarks in Deputy Southern’s amendment. He says, and I will just read this, Sir, if you permit: “As the only fully constituted political party in the Island prepared to endorse candidates, the Jersey Democratic Alliance, of which I am a member, fully supports the Privilege and Procedures Committee initiative to enable the registration of political parties.” It seems that there is a conversion on the way to Damascus: “We believe that the time has come for the development of a party political system and that such a development will have a positive impact on voter participation and electoral turnout. Furthermore I am glad to see that by and large PPC have followed the simple and broad outline contained in the proposition previously lodged by me on 11th January 2007.” Now the JDA seem to have completely changed their mind. I call for the appel, Sir.

**The Deputy Bailiff:**

The appel is called for on the proposition of the Privileges and Procedures Committee. I invite Members to return to their seats, and the Greffier will open the voting.

<b>POUR: 37</b>	<b>CONTRE: 10</b>	<b>ABSTAIN: 0</b>
Senator L. Norman	Senator S. Syvret	
Senator T.A. Le Sueur	Senator W. Kinnard	
Senator P.F. Routier	Connétable of St. Brelade	

Senator M.E. Vibert		Connétable of St. John		
Senator P.F.C. Ozouf		Deputy A. Breckon (S)		
Senator T.J. Le Main		Deputy of St. Martin		
Senator B.E. Shenton		Deputy C.J. Scott Warren (S)		
Senator F.E. Cohen		Deputy J.A. Martin (H)		
Senator J.L. Perchard		Deputy G.P. Southern (H)		
Connétable of St. Ouen		Deputy S. Pitman (H)		
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Deputy R.C. Duhamel (S)				
Deputy J.J. Huet (H)				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (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 D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy of St. Mary				

**11. Draft States of Jersey (Powers, Privileges and Immunities) (Committees of Inquiry) (Jersey) Regulations 200- (P.74/2007):**

**The Deputy Bailiff:**

We come next to P.74, Draft States of Jersey (Powers, Privileges and Immunities) (Committees of Inquiry) (Jersey) Regulations, lodged by the Privileges and Procedures Committee, and I will ask the Greffier to read the citation.

**The Greffier of the States:**



Draft States of Jersey (Powers, Privileges and Immunities) (Committees of Inquiry) (Jersey) Regulations 200- states: In pursuance of Article 49 of the States of Jersey Law 2005 have made the following regulations.

### **11.1 The Connétable of St. Clement:**

Extensive powers were in place under the States of Jersey Law 1966 regarding the operation of Committees of Inquiry, but these lapsed and the law was repealed by the States of Jersey Law 2005. However, the 2005 law does enable powers to be granted by regulation and that is the purpose of this draft. In addition to the power to summon witnesses, these regulations also provide protection to members of the public serving as members of the Committee of Inquiry and to persons giving evidence to ensure that they can speak freely without the fear of legal action. Similar powers were granted by regulation to Scrutiny Panels and PAC (Public Accounts Committee) last year. The drafting of these regulations has taken longer than was originally intended as the Committee thought it appropriate to obtain legal advice to ensure that the provisions provided a careful balance between the need to ensure that the Committee can operate effectively without unduly affecting the rights of individuals who are called to give evidence. The regulations I am proposing today will enable the recently appointed Committee of Inquiry into the Sandybrook matter to commence work with the knowledge that all the necessary powers and immunities are in place. I propose the principles, Sir.

### **The Deputy Bailiff:**

Are the principles seconded? **[Seconded]** Does any Member wish to speak on any of the principles of the regulations? Yes, Deputy Scott Warren?

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

I just want to say, Sir, that I am very happy to give our Privileges and Procedures Committee my full support with this proposition.

#### **11.1.2 Deputy A. Breckon:**

I wonder if the Solicitor General could give an opinion. I was on a Committee of Inquiry a while ago, and when there was an issue of enforcement for evidence and witnesses there was a legal challenge that was never pursued. I wonder if the Solicitor General could give an opinion on how far, under these regulations, a Committee of Inquiry could enforce that, and, if indeed, they could.

### **The Solicitor General:**

Well I think the provisions for challenge in these regulations refer challenges to PPC, as I read it. Is this a challenge to attendance or a challenge to a specific question?

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

It did happen before, Sir, that the challenge was in regard to the gathering of evidence. When a particular party were asked to provide things, they said they were taking legal advice and refused to do so. This was a Committee inquiring into building costs, which Senator Kinnard will remember, I am sure, and that Committee of Inquiry at that time did not pursue it but left it in abeyance. So the outcome of whether the challenge would have been good was not pursued.

### **The Solicitor General:**

Well, Regulation 7 says: "A person appearing before a Committee of Inquiry in answer to a summons may challenge a question put by the Committee on the ground that" and then it sets out various grounds. Once a person has made a challenge they are not required to answer it unless PPC directs that it must be answered, so that it really refers to PPC the question of whether the Committee's question has to be answered.

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

Could I just seek further, Sir? That would be in reference to the person appearing, not the presentation of evidence. Could I explore the fact whether a process is in place to get the evidence?

**The Solicitor General:**

That regulation is not about appearing; it is about someone who has appeared in answer to a summons may then challenge a question that is put. Then, if I can just complete that, Regulation 8 deals with the production of documents. I do not know if I have answered the question which the Deputy has.

**Deputy A. Breckon:**

It was just to inquire if in fact the Committee of Inquiry would be able to obtain the information they wanted by a legal process, and although the Solicitor General has not said that, I would assume that would be subject to an appeal to the Royal Court.

**The Solicitor General:**

Well, PPC either directs that the question must be answered or directs that it need not be answered.

**11.1.3 Senator S. Syvret:**

I absolutely believe it is important that these powers exist for Scrutiny Panels, for PPC and for Committees of Inquiry because sometimes it is the correct business of the legislature to investigate matters that may be, of their very nature, contentious and difficult, but I do just have a few questions. I am not entirely persuaded, Sir, by the PPC opinion which is expressed in the report, which says they hope the regulations would not have to be invoked, and people appearing before them and evidence being adduced before Committees of Inquiry would happen on a voluntary basis. It seems to me that it might be better, in terms of both standard practice and quality of evidence presented to these bodies if, in fact, the administering of oaths were the standard procedure. It does seem to me there is a requirement when you are dealing with this kind of quasi-judicial powers and forums making what might be very important decisions, looking into very important matters. It is not unreasonable to be reasonably confident that the witnesses appearing before us have felt obliged to be fully honest in the answering of their questions. I certainly hope PPC will give some thought to that question. My second point is how are States' Members themselves as potential witnesses to be treated in this matter? I suppose, by extension, the same question applies to members of the public too. I am sure the answer to the question is parliamentary privilege, but it does seem to me that if somebody is summoned to a Committee of Inquiry, and PPC do not agree with their appeal to not comply with the summons, it could be argued that PPC is, in fact, an agency of the same body that has established the Committee of Inquiry and not, in fact, an independent and impartial tribunal of the kind people have a right to appeal to, in terms of their civil and criminal rights under the European Convention on Human Rights. I do wonder if really the powers here in this particular set of regulations could be said to be human rights compliant because it does not seem to me to be sufficiently impartial avenues of appeal, not only from the requirements of a Committee of Inquiry itself but indeed appeal from the Privileges and Procedures Committee and what it may wish to do or the conclusions it may come to. It could be argued, I think not unreasonably, by any number of people under easily imaginable circumstances, that the Committee of Inquiry voted for, presumably by a majority of this Assembly, and, likewise, the Privileges and Procedures Committee, likewise put in place by a majority of this Assembly, are de facto politically approved bodies of this Assembly and therefore are not really accurately able to be regarded as independent and impartial tribunals, given the nature of the powers they wield here. If they are administering the oath, for example, and somebody lies, they are committing perjury, with all that entails and the potential penalties that come along with that. I just wonder about whether there is sufficient power and sufficient ability or appeal from what are quite significant powers here. Certainly I would also be interested to know, when he sums up, if the Chairman could explain to us any requirements upon either the Committees of Inquiry

themselves or the States Assembly, when establishing the Committees of Inquiry, to put in place a kind of consistency of methodology, consistency of approach because it is by no means clear that Committees of Inquiry, certainly those I am familiar with in the past, have acted in the same way, have gone about their business in the same way, operated with the same methodology. Again, it does seem to me that could be problematic. I well remember one particular occasion where I had a summons served on me one night at my flat to return here to the States Assembly after being slung out for 6 months, even though I had already made it perfectly plain I was quite happy to come back on the occasion. Nevertheless, the summons was served on me. I do wonder if there are sufficient safeguards in here that will stop that kind of intimidating political abuse of the system from taking place.

**The Deputy Bailiff:**

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

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

Thank you, speakers. As far as the questions Senator Syvret has raised, I think they are all legal matters I am not competent to address. I do not know whether the Solicitor General would like to address the legal implications.

**The Solicitor General:**

Yes, well, I am not sure I can remember them all, in fact. One was about uniformity of procedure. Article 147 of the Standing Orders of the States of Jersey says that a Committee of Inquiry may regulate its own procedure so that the Standing Orders which have been put in place leaves that in the hands of the Committee of Inquiry itself. I wonder if the Senator would mind reminding me of what the other questions were?

**Senator S. Syvret:**

I suppose, just to try and focus it down on the key issue, it is whether these kind of powers, whether they are used by a Committee of Inquiry or a Scrutiny Panel or PPC for that matter, are human rights compliant because of what would appear to be the absence of any appeal mechanism to an independent and impartial tribunal?

**The Solicitor General:**

That would be Article 6, as I take it, that the Senator has in mind, which is the right to a fair trial when a civil or criminal right is being determined. Firstly, it would be necessary to identify a civil or criminal right which was in issue, and it is difficult to think of a Committee of Inquiry determining somebody's civil rights because a Committee of Inquiry, by definition, is simply inquiring into something, and they do not make orders. They do not make decisions which are then put into effect. They simply hold inquiries and give reports.

**Senator S. Syvret:**

If I could just expand on that point, is it not the case that by its very existence and operation, summoning people, requiring the handing over of private documentation from an individual, material that may then be reproduced and published in reports and discussed in here, that is, in effect, an interference to somebody's civil rights, their right to privacy, for example?

**The Solicitor General:**

So far as a right to privacy is concerned, it is not one of the rights which cannot be interfered with in any respect. It is one of those rights which can be interfered with in the public interest, and I think that generally it would be considered that the right of the legislature to have inquiries into matters of public interest was sufficient public interest to justify obtaining information which might otherwise be thought private. There are obviously grounds upon which individuals can object to

answering questions so that there is scope for someone to object if the information sought is outside the scope of the Committee of Inquiry or anything of that nature.

**The Connétable of St. Clement:**

I have nothing further to answer.

**The Deputy Bailiff:**

You maintain the principles? Will all those in favour of adopting the principles, kindly show? Those against? The principles are adopted. How do you wish to proceed, Chairman, in relation to the Regulations?

**The Connétable of St. Clement:**

This regulation states that the expressions used in the regulations have the same meaning as defined by Standing Orders. This means, for example, such terms as “Committee of Inquiry” and “Privileges and Procedures Committee” in these regulations are as defined as set out in Standing Orders. I propose the regulations.

**The Deputy Bailiff:**

Is this proposal seconded? [**Seconded**] Does anyone wish to speak on Regulation 1? Will all those in favour of adopting Regulation 1 kindly show. Those against? Regulation 1 is adopted.

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

Regulations 2 to 9, Sir: These regulations set out the procedure that is to be followed when a summons is to be issued. Regulation 2 makes it clear a voluntary process must be followed before the powers are invoked. The regulation sets out the voluntary procedure which is the Committee requests a person to appear. There they must be reasonable at finding a suitable time for the person to appear, and they must give undertakings about confidentiality where required. Only if the person does not co-operate do powers apply. Regulation 3 sets out how a summons is served. The Greffier prepares the summons, giving details of time of appearance and the type of evidence sought. The summons is accompanied by information about how to challenge it and what penalties there are for failure to comply. Note that documents must be or might reasonably be relevant to the review being undertaken, and 10 days must elapse between service of the summons and appearance. Regulation 4 sets out the method of challenge. PPC receives advice if a mechanism for review of service of summons must be available if human rights and compatibility is to be achieved. There are several grounds for challenge, which are set out in 4(1), 2 of which are relevant, I think, in this case. Evidence or documents not relevant to the matter being investigated, prejudice: these are the challenges the evidence or the documents are not relevant to the matter being investigated and the prejudice to the witness might so outweigh the usefulness of the evidence that it would be unreasonable for the summons to be complied with. Regulation 5 sets out how PPC will review a challenge. It must do this as soon as practicable. These words mean exactly what they say. It is not as soon as the Committee wants to. It must be done as soon as it is practicable to do so. PPC will have to give these matters a high priority and meet quickly to sort out the process. The regulation also prevents any member of PPC who have personal involvement in or connection with the inquiry taking part in the review. Regulation 6 refers to the ability of a Committee of Inquiry to require a witness to give evidence on oath. The purpose of an oath is to ensure the witness is aware of the importance of giving accurate and truthful evidence. It would also assist in the prosecution for perjury if someone gives false evidence. Regulation 7 sets out that a witness can challenge a question asked during a hearing. The grounds are similar to the grounds for challenging a regulation summons, and the review procedure by PPC is identical. Regulation 8 gives important protection to persons appearing before a Committee of Inquiry. They are effectively protected against legal action in respect of what they say or in relation to any document they produce. This is not dissimilar to the protection given to Members of the States in the Chamber or in a Panel or a Committee meeting. The provision is intended to ensure that witnesses

can speak freely and openly to give evidence without fear of legal proceedings. There are, however, exceptions, which can be seen in (3). If a witness deliberately gives evidence he or she knows to be untrue. Regulation 9: Members of the States are protected from legal proceedings in relation to their work in the States, on the PPC, on a Scrutiny Panel or the PAC. They also have similar immunity if they are appointed as members of a Committee of Inquiry. However, most members of a Committee of Inquiry are not now States' Members, and this regulation extends legal protection to such people. I propose regulations 2 to 9, Sir.

**The Deputy Bailiff:**

Is this proposal seconded? **[Seconded]** Does any Member wish to speak on any regulations 2 to 9?

**11.1.6 Deputy R.G. Le Hérisier:**

I want to see if the Chairman could, under 4(d), tell us whether indeed if any evidence or document is privileged, this excuses the person? Will he explain how discretion will be exercised in that regard? I want to see if he could also, under 4(1), outline whether if a person has a fear that a Committee of Inquiry is engaging in a fishing expedition for evidence and has no specific direction in which it is going, that amounts to good grounds for objecting to the service of the summons? Have we got to 12, Sir?

**The Deputy Bailiff:**

No, we are only up to 9. Does any other Member wish to speak on the regulations? Senator Syvret?

**11.1.7 Senator S. Syvret:**

I was just wondering if the Chairman or the Solicitor General could just elaborate on this subject. Looking at Regulation 8: "Privileges and immunity of persons appearing" et cetera, it says: "A person giving evidence or producing documents before such a Committee of Inquiry will be protected from self-incrimination" and so on. What if, in the course of some detailed and lengthy Committee of Inquiry investigation, it was revealed that somebody might have murdered somebody or paid an assassin or carried out some kind of dreadful crime? If this then gets explored by the Committee of Inquiry, what happens then? Does that person have a cast-iron defence against prosecution because of this immunity clause, given they gave this evidence and it was drawn from them or out of their documentation or whatever in front of the Committee of Inquiry?

**The Solicitor General:**

No, the privilege against self-incrimination means that if the Committee of Inquiry says: "Have you committed a dreadful crime? Have you murdered someone?" you are entitled to say: "I am not going to answer that question." I mean, you can say: "No" if you have not murdered someone, but if you have murdered someone you can say: "No, I am not going to answer that question."

**Senator S. Syvret:**

Do not the regulations, though, require people to answer questions that are put to them?

**The Solicitor General:**

No because this paragraph creates exemptions to the requirements. These are the privileges. So someone who is asked to give evidence can claim privilege against self-incrimination.

**Senator S. Syvret:**

Then a person might say: "I am not going to answer any questions on this subject" and then they would have to say why. Then the Committee presumably asks them: "Why should you not want to answer any questions on this particular subject?" The person then has to say: "Well, there is a risk that it might incriminate me" and that step, of itself, kind of reveals there is a potentially criminal issue there.

**The Solicitor General:**

The privilege against self-incrimination is a concept which has been in existence for a considerable period, and it does work.

**The Deputy Bailiff:**

Does any other Member wish to speak on Regulations 2 to 9? Mr. Chairman, do you wish to reply?

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

There was a question raised by Deputy Le Hérissier which I think, again, is a legal matter which I would like to ask assistance with.

**The Solicitor General:**

Sorry, I would like to be reminded of it.

**The Connétable of St. Clement:**

The Chairman must be referring to 4(1)(d), Madam Solicitor, that the evidence or document is privileged. Upon whose definition will the defence of privilege turn?

**The Solicitor General:**

There is established case law on what is privileged and what is not, and it should not be difficult in any particular case to decide whether something is or is not privileged. As I say, there is case law, there are textbooks. There is a wealth of authority.

**The Deputy Bailiff:**

Will all those in favour of adopting Regulations 2 to 9 kindly show? Those against? Those regulations are adopted. Before I ask you to move on, Chairman, I must apologise. I forgot to ask the chairman of the relevant Scrutiny Panel whether he wished to have this matter referred to him. It is Deputy Ryan of the Corporate Services. Is there anyone else here from that --

**Senator J.L. Perchard:**

No, we have no plans on scrutinising.

**The Deputy Bailiff:**

Thank you very much. I am sorry not to have done it earlier. Regulations 10 to 13?

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

Personal service is possible under Regulation 10, and this could be done by an officer working for the Committee concerned, or if more formal service were deemed to be necessary, perhaps because of perceived resistance to attend, through the Viscount. Ordinary service under regulation is undertaken by leaving it at an address or by post. Whichever method is used, the important consideration is to ensure a proper record is kept of the method used, and in practice there will be some contact between the Committee and the potential witness to ensure the summons has been received. Regulation 12 sets out the offences for failure to comply with a summons. PPC hopes it will not be necessary to get to the stage of prosecution, but the ultimate sanction needs to be available if a Committee's requests for information are to be taken seriously because of the need for Committees of Inquiry to get all required evidence. There is provision for imprisonment of up to 2 years or for a fine up to a maximum of £5,000, level 4, although any amount up to that amount could be imposed. It is important to note that prosecution and payment of the fine is not an alternative to complying. It is not like in the Monopoly game where you pay a £10 fine or take the chance. If a potential witness is prosecuted for failure to comply, the Committee can simply summon the person again. On the second occasion, one would imagine that compliance would happen. If not, a second prosecution would take place, and so on. Regulation 13 is the normal citation and commencement clause. Those are regulations 10 to 13, Sir.

**The Deputy Bailiff:**

Are the regulations seconded? [**Seconded**] Does any Member wish to speak on any of regulations 10 to 13? You wanted to speak, Senator?

**11.1.10 Senator S. Syvret:**

Again, just on a similar theme, looking at Regulation 12: “A person shall be guilty of an offence if he or she, without reasonable excuse, disobeys” and so on: “Could be liable to imprisonment for a term of 2 years or for a fine of level 4 on the standard scale.” Again, the possibility, and it is a theoretical possibility, and I know, of that kind of criminal penalty does seem to me to perhaps not be human rights compliant, in the absence of an appeal mechanism in all this to an independent and impartial tribunal.

**The Solicitor General:**

For the person to be found guilty of the offence, he or she would have to be tried by a court and convicted by a court, and the court would be the arbiter of, firstly, whether the offence had been committed and, secondly, it would decide whether it was without reasonable excuse, because if there was a reasonable excuse there was no offence. So the body which decides whether there has been an offence is a convention-compliant body.

**Senator S. Syvret:**

Does the court, then, in the event of such a prosecution, not have to consider the evidence and the discussions and the proceedings and whatever that went on before the Committee of Inquiry, thus negating the privilege?

**The Solicitor General:**

I am sorry. I really do not follow that question.

**Senator S. Syvret:**

The possibility of somebody being prosecuted in the court exists here. The decision to prosecute, taken by the Law Officers’ Department presumably, will be based upon what was said or adduced before the Committee of Inquiry and possibly any failure to comply with or attempt to mislead that Committee of Inquiry. Then, of its nature, if the court is to inquire into all that, it has to look at and get into the internal proceedings and procedures of the Committee of Inquiry and what was said and done before it.

**The Solicitor General:**

Firstly: “disobeys any requirement of a summons” could simply mean not turning up, and I do not think that involves looking at what went on in the Committee of Inquiry because by definition nothing will have happened. The individual will not have replied to the summons. The second is: “refuses to comply with a requirement to be examined before or to answer any lawful or relevant question.” Yes, if it is alleged someone was asked a lawful and relevant question and did not answer it, then obviously you cannot prove the offence without demonstrating it has happened.

**The Deputy Bailiff:**

Does any other Member wish to speak? Do you wish to reply, Mr. Chairman? Will all those in favour of adopting Regulations 10 to 13 kindly show? Those against? Regulations 10 to 13 are adopted. Do you propose the regulations on the third reading, Mr. Chairman? Are the regulations seconded? [**Seconded**] Does any Member wish to speak on the third reading? Senator Syvret?

**11.1.11 Senator S. Syvret:**

I am afraid I am probably going to have to vote against, after this discussion. It does seem to me the last answer given by the Solicitor General appeared to run against the concept of people being protected from self-incrimination. I am just not sure the situation is particularly clear. I also think

that, in respect of Regulation 8, there is a question about a person, by admitting that they have committed some kind of offence, potentially a very serious offence, gaining for themselves some immunity to it. If you look at 8(2), an answer given by a person to a question put to that person or a written statement before a Committee of Inquiry: “shall not, except in the case of proceedings for the offence of perjury or for an offence under these regulations, be admissible in evidence against that person in any civil or criminal proceedings.” So if somebody before a Committee of Inquiry appearing under oath could explain in detail, à la O.J. Simpson or something, how they committed a murder, and it seems to me that Regulation 8(2) would then give them immunity from criminal proceedings.

**The Deputy Bailiff:**

Does any other Member wish to speak? Will all those in favour of adopting the bill in third reading kindly show? The appel is asked for. I invite Members to return to the Chamber, and the matter before the Assembly is the third reading of P.74. The Greffier will open the voting.

<b>POUR: 33</b>		<b>CONTRE: 2</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Senator S. Syvret		
Senator W. Kinnard		Deputy S. Pitman (H)		
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 J.L. Perchard				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. John				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy of Grouville				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				



Deputy S.S.P.A. Power (B)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. Mary				

## 12. The Social Housing Property Plan 2007-2016 (P.74/2007)

### The Deputy Bailiff:

We come next to the Social Housing Property Plan, P.74. Deputy, yes?

### Deputy A. Breckon:

I wonder if I can seek clarification from the Minister. On setting this agenda a couple of weeks ago, the Minister was fairly insistent he wanted to start this debate on Tuesday, and he gave a number of reasons. One was he wanted to see people over the weekend. Also when it was discussed being set down for a special sitting on the 10th, it was said the Chief Minister would be out of the Island, and I note the Chief Minister is out of the Island today. It was decided, in my understanding, that it would be slotted into Tuesday at a convenient time, and I just wonder if this has been agreed somewhere else, or if there has been a change of mind, or what the reason was for it, Sir. The other thing is that today the Constable of St. Martin, who is a member of the Sub-Panel, is *défaut excusé* on States' business, so he is not here today. I pointed out, Sir, the Chief Minister is missing, but I do not know about other Members' understanding, but my understanding was this would be debated tomorrow, Sir. Perhaps somebody could explain.

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

If there is something we can take in the interim, Sir, we have only a short period, have we not?

### Senator T.J. Le Main:

I am quite happy now to take it now because I can make my delivery speech, and I am sure we will have all day tomorrow for the Constable and the Chief Minister and anybody else that may have had pre-appointments today. I was particularly keen to make sure I had enough time over the weekend when I was asking for the Tuesday in case I would have had to have some time to do some further deliberations. I am very happy to continue now to talk on this now.

### The Deputy Bailiff:

Deputy, are you asking the Assembly to put this back to Tuesday?

### Deputy A. Breckon:

I do indeed, Sir, because I respect what the Minister has said, but having said that, that is news to the rest of the House. It is certainly news to me, and the Minister did make a particular fuss about having it debated on Tuesday for a variety of reasons. Now I can well understand he is now comfortable it is debated now, but having said that, I certainly, and perhaps other Members, were not aware this was going to happen.

### The Deputy Bailiff:

Is that proposition seconded? [**Seconded**] Unless any Members want to say anything particularly, it is simply a question of choice for Members as to whether they are happy to proceed today, given what has been said before. The appel is asked for on the proposition of Deputy Breckon that this particular debate be deferred and not start until tomorrow or some time after tomorrow, and in the meantime, we will proceed with other business. The matter is therefore for that or against that. I invite Members to return to the Chamber, and the Greffier will open the voting.

<b>POUR: 19</b>	<b>CONTRE: 21</b>	<b>ABSTAIN: 0</b>
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Connétable of St. Mary	Senator S. Syvret		
Connétable of St. Brelade	Senator L. Norman		
Connétable of St. John	Senator W. Kinnard		
Deputy R.C. Duhamel (S)	Senator T.A. Le Sueur		
Deputy A. Breckon (S)	Senator P.F. Routier		
Deputy P.N. Troy (B)	Senator P.F.C. Ozouf		
Deputy C.J. Scott Warren (S)	Senator T.J. Le Main		
Deputy of St. John	Senator B.E. Shenton		
Deputy J.B. Fox (H)	Senator J.L. Perchard		
Deputy J.A. Martin (H)	Connétable of St. Ouen		
Deputy S.C. Ferguson (B)	Connétable of St. Peter		
Deputy of Grouville	Connétable of St. Clement		
Deputy G.W.J. de Faye (H)	Connétable of St. Lawrence		
Deputy D.W. Mezbourian (L)	Deputy of St. Martin		
Deputy S.S.P.A. Power (B)	Deputy G.C.L. Baudains (C)		
Deputy S. Pitman (H)	Deputy R.G. Le Hérissier (S)		
Deputy A.J.D. Maclean (H)	Deputy of St. Ouen		
Deputy K.C. Lewis (S)	Deputy of St. Peter		
Deputy of St. Mary	Deputy J.A. Hilton (H)		
	Deputy P.V.F. Le Claire (H)		
	Deputy J.A.N. Le Fondré (L)		
	Deputy of Trinity		

**The Deputy Bailiff:**

So the next matter, therefore, is P.6. This, again, is a long proposition. Are Members content to take the proposition as read? Then I invite the Minister to propose the proposition.

**Deputy J.A. Martin:**

Before the Minister speaks, I have taken advice from the Bailiff, and I think he has copied you in. I am concerned with the advice because when I asked the Bailiff whether I could participate in the scrutiny of the plan, he said he found my position was quite close. I agreed with the Bailiff because on page 14 of the Property Plan, they mention the estate I live on and selling 20 houses, so I have distanced myself. Now the Bailiff says -- obviously it is down to me, Sir, but he feels I do not have a direct pecuniary interest. Given this is a plan that could go either way, and then that would obviously change my interest, I really do feel uncomfortable in staying in this debate, so I would like to leave.

**The Deputy Bailiff:**

Thank you. It is always open to Members, of course, to say that from their own perspective they just do not feel comfortable and to withdraw, and that is always perfectly understood.

**Deputy J.A. Martin:**

On a slightly different note, Sir, just on a lighter note, I have noticed, and I know you are big enough to stand up for yourself, Sir, but this has been happening a lot lately. When people are addressing you, even if it is a yes or no, they are not even bothering to stand up from their chairs. It

has happened 3 times today. I will not mention who they are, but if they do it again, Sir, I will. Thank you.

**The Deputy Bailiff:**

The Chair is always grateful for any assistance it can get. Thank you very much. Yes, Senator, over to you, Sir.

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

What I am going to say is a very, very good news story. What I am proposing today, Sir, is about real people with real issues. It is about giving people certainty and no more excuses like we have done in the last few years. That is why, Sir, I am delighted to introduce to Members the Social Housing Property Plan. It has been a huge amount of work. A great deal of hard work and research has gone into this document. It has all come about, Sir, from the new management team of the Housing Department, under the leadership in the last 18 months of our new Chief Officer, Ian Gallichan. Sir, I was Housing President for a number of years, and during that time a great deal had been achieved with successful Committees, many with several Members in this Assembly today that took part in many of the deliberations and issues that have made people's lives so much easier today. We have a housing trust playing a crucial role in providing social housing now and for the future. As I say, Sir, we have had many successes under our belts; 80 per cent of our rental stock is of very high quality, in fact, far higher than in much of the U.K.. Indeed, Sir, it generally far exceeds the U.K. minimum standards. When we do get visits from people involved with social housing in places like Guernsey, whom we visit and they visit us on a regular basis, and local authorities and trusts in the U.K., they are impressed with our stock in comparison with what they administer themselves back home. Sir, as I said a minute ago, we have made real changes in this Island in the last few years. We have reduced real hardship in the unqualified sector by encouraging and putting in place decent standards for registered lodging accommodation, although there is still much to do. We have encouraged the private sector to provide much high quality qualified and unqualified accommodation. All in all, Sir, my Assistant Minister, Deputy Hilton, and myself are very much hands on with our clients and to all the users of our department, be it the Housing Department or the Population Office. Although we will never satisfy everyone's needs and demands, we believe we have a very contented client base, and in particular our very valuable client pensioners, some 2,000-plus of them. Let me just say, Sir, that had we not been doing it right, we would have had Mrs. Minihane and her Age Concern group and senior citizens' associations on to us. We have worked in partnership with all these groups, with Mrs. Minihane and her people, and we will continue to do so. Sir, one of the main reasons to be before you today is to put one further piece in the jigsaw, and the final piece to come in the form of a complete social housing review to be undertaken later on this year. This Property Plan, Sir, is about putting our own house in order. It is about making us fit for the purpose. It is about being ready and able to meet the future challenges and the needs of our people in regard to social housing. It is about being ready for the challenges that will come about after our thorough look into social housing in Jersey. Sir, by approving this Property Plan, Members will be able to make a far better judgment and decisions when they finally debate and set the future strategy for social housing in Jersey. It will take quite a while to produce this social strategy in the future. You will all have, as I say, Sir, there will be green papers coming out. There will be consultation. I would expect all Members of the Assembly, every one of you, to contribute to it because it is for your people. It is the people you represent in this Island. All of you, all Members of this Assembly, have a duty of care. Many of you, and all of you practically, have social housing and low income families and issues in all of your parishes, so you have a duty of care. The people out there, Sir, have confidence in the Members of the Assembly who they have elected. All you people, just like my Assistant Minister and I, are all hands on. You are all available at the end of a phone. You are all available in your homes to meet people. This is a wonderful thing to be able to do in a small democracy, the way that you can reach out to your people. So the future strategy and the way that we go forward is a

part that you will all play in this delivery of this mechanism. As I say, Sir, this will start later on this year. This part of the jigsaw is all about putting what we have been trying to do for years in order. At long last, we have a plan that is robust and will work. Let me just go back to the past. Various attempts have been made over the years to grapple with the numerous issues facing States' rental accommodation. I can remember years ago. I have been a Member of this Assembly, Sir, for nearly 30 years, and I can remember our tenants of the States of Jersey were often treated like second-class citizens, very much so. They were treated with little respect. They were treated with - they did not have a say. They were just given something. They did not have a say in anything which affected their lives. Someone's home, Sir, their home -- it is something special to everyone, and we have been, quite honestly, awfully disrespectful to good ordinary people for the last 40 or 50 years. Sir, as I say, we have been faced with this problem about the maintenance, to balance the need for greater maintenance expenditure with that of community aspirations for continued improvements in health, education and social care. So that was the past, Sir: Committees, States of Jersey decisions were made, political decisions were made issues. So I have to say we are where we are now. We passed on to a new form of government, a ministerial system and a great opportunity to bring forward a new plan for Jersey, a strategy for the next 5 years. Of course I am talking about the States' Strategic Plan of 2006 to 2011. That is a new mandate from the people of Jersey. As many colleagues know, and indeed as I have mentioned, I did feel, Sir, that I had unfinished business and wanted to continue in my job in Housing in order to see that the States' rental accommodation was brought up to scratch and that the department was able to play a full and equal part in the provision of good quality homes long into the future. Sir, I wanted to take on and continue in the role of Housing Minister and therefore I put myself forward in the last selection for the position of Senator to secure an Island-wide mandate. I was of course humbled by the amount of support I received, with some 12,000 votes behind me, and I felt ready to take on the new challenge in ministerial government of Housing Minister. Together with my Assistant Minister, Deputy Hilton, and a new team at Housing, we settled down to produce new proposals for inclusion in a new Strategic Plan for Jersey, proposals that would see the issues facing States' rental accommodation and its long term future settled once and for all. Members, Sir, voted in favour of the Strategic Plan on 27th June last year. The aims contained in that document would enable the department to bring forward proposals to deal with matters which had been delayed simply too long. The Strategic Plan of 2006 to 2011, the 5-year plan, tasked the Housing Department with producing 2 major pieces of work. The first is a Social Housing Property Plan. It is an estate management plan that puts our house in order. It deals with the refurbishment of stock, the creation of new homeowners from among States' tenants under a shared equity scheme. It deals with a shortfall in the maintenance budget once and for all. It deals also and gives a great opportunity to work with a regeneration of certain parts of St. Helier and there is no reason why we are not able to work in other parishes. I can think of the discussions I have had with Deputy Power and the Constable of St. Brelade and Deputy Troy, who is not here, over Clos de Quennevais, an old worn out estate, alongside all the facilities of Red Houses. A wonderful opportunity now that this Assembly very wisely allowed us to sell the property at St. Catherine's, so we are now going to move ahead and refurbish it, make it an over-50s place for people to live and a wonderful opportunity to create some lovely gardens in the front with some features that can be part of the regeneration of the Red Houses area. We are going to be working with the Parish Deputies and the Connétables, and that is going to be soon taking place. That is what we call real opportunities to make a change for people's lives. Finally, Sir, the next item was a realignment of our stock to cater for an aging society. Sir, moving on, I know the Scrutiny Sub-Panel have commented there were too many issues being covered in our Property Plan. As I have just explained, Sir, there are only 5 major points. It seems to have confused the Sub-Panel quite a bit, but you know, Sir, it is really quite simple. The problems faced in the Property Plan are complementary. In combination they have the potential to provide a solution for each other, rather than an attempt to deal with each of these issues separately or to identify a quick fix. The Housing Department has therefore produced a holistic, a sustainable, long-term rather clever plan for action, the Social Housing Property Plan.

This is what we intend to do. The action plan is about putting our house in order, about meeting all those items. Sir, let me say something about the other major piece of work the department has been tasked to deliver, the review of social housing. This will be a fundamental review of the organisation and structure of social housing provision in Jersey. This will, as I said before, commence later this year. Now, Sir, the Scrutiny Sub-Panel have indicated a desire to wait for this piece of work before any decision can be made on the Social Housing Property Plan. In fact, they have changed this in their final report to suggest the review of all Island housing. It is quite unbelievable. It would produce nothing but a rather vague document making generalised statements. This is wrong. It is wrong. The review of social housing is an organisational review which will tell us absolutely nothing at all about the most urgent issue facing us right now, that is of the condition and fitness for purpose of the current housing stock. Further delay, Sir, is not an option. We have to tackle this issue now. It has to be done now. It has to be done firstly. We have to make sure, as I said before, that our tenants -- and I do not like calling them tenants. I like to call them our clients because I think we are duty-bound to call them our clients. To make sure our clients are assured, at long last - and heaven knows they have waited long enough - that their homes are in a properly financed programme of refurbishment. Sir, by approving this Property Plan today, Members will know there is a programme to repair the stock and put into place a programme to put into place the new life-long homes we need to house an increasing aging population. In other words, Sir, an organisation fit for purpose with an assured future. Then, and only then, can we as an Assembly consider at a later date a new strategy for social housing and a long-term future for States' rental accommodation apart from other housing issues. It will be in the sure knowledge that it can play a full, active and equal part in the provision of social housing and not continue to be the poor relation held in the straight jacket. We have to put our house in order first. You might call me a cynic, Sir, but I reckon if we listen to Scrutiny, we delay this Property Plan with more investigations, more reports. Add it all together. Have the review of the whole housing situation all together with what we are trying to achieve today. Sir, their suggestions seem to change on a regular basis. Then, oh, a decision: oh, no, no, no! Best to wait and conclude the review of the Island Plan before we can take any real decisions. Oh, we have to wait for something else! So it is more delay, delay, delay, and this is what Scrutiny -- I know what Scrutiny are going to play at, and this is what they are going to say.

**Deputy R.G. Le Hérisier:**

On a point of information, could the Minister identify the delays?

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

I am not giving way. I have to have my time on this. You will have your time later, Deputy. No, Sir, it is time to come off the fence and make decisions and vastly improve the lives of many of our clients and tenants, who deserve nothing less. It is high time. We have messed about for years and years and years. As I have said, Sir, this review of social housing will take place later this year. It is a separate issue. It will take into account the number of stakeholders, and the scope of the report will require the documents released as a green paper. Consultation, as I said before, will be widespread and comprehensive and will take plenty of time. All of you, as I said, Sir, will play a full part in determining the future of social housing in Jersey. You see, Sir, a methodical, professional approach to the issue we face in social housing neatly falling into place. So, Sir, what about the problems we face right now? Eighteen per cent of our stock fails the decent home standard. Sir, this is a basic standard which the U.K. Government has dictated that all social housing providers should meet by 2010. We will need, by 2016, to lift all stock above the standard, and a lift that will be well in excess of the decent home standard. In fact, Sir, many of you will have seen some of the developments that have taken place in the flats we are building at Les Marais and Les Squez. They are far in excess of the decent home standards. We have people there who are absolutely delighted with their new homes. Sir, when we talk about percentages, we forget there are real Jersey people, people who have worked hard all their lives, raised their families,

behind the figures. So, in terms of people, this means we have some 800 families or individuals and families living in substandard accommodation. If we do nothing by 2010, there will be 25 per cent more, some 1,100 individuals or families, in unsuitable accommodation. This is just not acceptable. Sir, to bring them up to the required standard will cost some £75 million at today's prices. Yes, we have been very lucky, and for 3 or 4 years, while awaiting the low income scheme, discussions have taken place with the Treasury Minister and the department, and it was agreed that once ministerial government was in place the Housing Department and the Minister, whoever he or she would have been, would receive a cash injection at long last, and £30 million has been approved, over the next 5 years. I have to say, Sir, we do need another £45 million to finish the job. Let us be realistic. In view of the calls on States' funding, there is no chance at all of securing additional monies, bearing in mind the demands for understandable increases in health, education, social care, home affairs and other very important, front line services. Frankly, Sir, why should the States give more money when the solution to the problem lies in the imaginative use of our own property portfolio, 4,600-and-some properties, probably worth, conservatively, £700 million or £800 million? One of the comments from Scrutiny was that we have £30 million. There is no hurry for the rest, then. Just get on while we deliberate and contemplate our navels for a little bit longer. I ask you, Sir, what complete misunderstanding and ignorance of the concept of project management. The department have been working on a project plan for some time. Not just building but importantly people. You just cannot stop and start such projects and just add on a bit of cash when it just happens to be approved. The whole refurbishment plan will be affected by such a myopic really rather timid approach. This has been the problem over the years. I can remember Senator Norman, when he was Housing President, complaining about the stop start, stop start; no forward planning. At long last any business, any man in business, any business would have a proper plan and this is a 10-year plan which is sustainable, which will deliver what we are trying to achieve for the people of this Island. The issue was raised; I was asked to go to meet the Scrutiny Panel. In virtually 6 months of deliberations I did not spend 2 hours with them. I find that incredible; I did not spend 2 hours with them. I can remember one member was talking about housing subsidies, and they have raised this, and about the low income scheme, completely misunderstanding what we were talking about because quite honestly, Sir, housing subsidies, low income scheme, has been decided by this Assembly and in fact I had to remind them that they were going away from the actual business of what we were there for, which was an internal property plan. Sir, another issue, which this plan seeks to redress, is the current stock profile. It is not fit for purpose or adaptable for future demand brought about by an aging society. Only this morning I had a call from a lady who has been promised a ground floor flat, a flat somewhere where she can go with an 80 year-old lady and she has been promised now for 18 months by the Housing Department; or somewhere with a lift, and they have told her it is going to be another 2 months and I had to say to this lady this morning, unfortunately the way we are situated at the moment it could be another 18 months or 2 years. We just cannot realise the duty of care we have to clients because of the current situation we are in. I was going through the market at lunchtime when an elderly chap stopped me: "Oh" he says: "I always vote for you, can I have a word with you?" Another one. He wanted to know when we were going to re-house him, and it is like that on a daily basis. It really is, Members, becoming very, very serious. This plan seeks to redress the stock profile. The whole plan, as I say, the 5 objectives in the plan, allow us to realign our stock. It allows us to put into order the issues of refurbishing people's homes. We know, Sir, that I am working very hard with the Planning Minister, working very hard with the Connétables and we will be going back to see the Connétables again because all Members will have received in the last few days, or the last week, another update on what I consider to be the finest, best, robust figures on lifelong homes that we can get. It is robust, the figures are there, we are now talking at this time 544 units that are required for people with disabilities or with issues with regard to lifelong homes, 544 units. Now, we have a real opportunity, Sir. As I say I have been working very hard, and my Assistant Minister, we have been working hard with a very, very co-operative Planning Minister and officers on delivery and on the delivery of further lifelong homes. I have done a survey of the procedures to

get homes ready for people to live in and if the Planning Minister, as he intends to do in the next week or so, comes forward with a revised proposition that was withdrawn for lifelong homes in conjunction with several of the Connétables to produce more homes there will not be one home finished until a minimum of 2010 or 2011. Remember that, think about that very carefully. It will be 3 to 4 years by the time the procedure is in place about lodging, debating, consultation. It will be 3 to 4 years before one person moves into those homes. Only 2 years ago, Sir, we were looking at 250 homes we needed. That has doubled already. That has doubled. Now, of course, it is going to get worse if we have to wait for another 3 or 4 years. So, this plan gives us a wonderful opportunity to realign, to get the capital so that we can in fact move forward with creating, at least within our own stock at the moment, a realignment of stock for particularly the issues on homes for the elderly. Of course, as you will have all seen with the questions that I responded to Deputy Southern, I sent a copy in email, you all had a copy this morning, was that the huge amount of blocking that is taking place at the moment which is stopping us moving our people out of 3-bedroomed homes into lower, and what have you, and we have a huge problem with that. The department administers what we call non-core, high-value homes, mainly based in the St. Catherine's area. We list some 26 in the plan, they are expensive to maintain, they do not fit into a social housing portfolio and make a return to the States of about 1 per cent. We have 26 properties there probably worth about £10 million plus and we are getting a rental return of about £700,000 a year and we just get about 1 per cent. This makes nonsense. These properties are very, very expensive to maintain, they are traditionally many of them old granite. £70,000, sorry, Sir, I made a mistake. It was not £700,000. It is a 1 per cent return. In short, Sir, they are a drain on resources.

**Deputy S.C. Ferguson:**

If you get £700,000.

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

No, I made a mistake. More like £70,000.

**Deputy S.C. Ferguson:**

Thank you.

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

Age is creeping up on me and I do not always get my figures right, but it is 1 per cent of around £70,000. In short, Sir, they are a drain on resources, these properties, and as such should be sold within the lifetime of the plan. Of course many of you will know there are some long-term residents who were upset by this proposal. All homes were visited by officers of the department and some were subsequently visited by myself. Out of the total of 26, although there are several vacant at the moment, 4 of our clients have been given assurances that they could remain in situ until such time as they wanted to move. I had a question from the Connétable of St. Peter last evening in regard to my assurances that these people have received my letter about not having to move and I can assure this Assembly that the assurances that I have given stand. When the next Minister takes over he could not just change that decision. It is a binding decision, which is binding as an agreement so it cannot be changed and I gave that assurance. We have had legal advice on this that it could not be changed if another Minister came along and said: "Well, they have to get out" that is not the case. As I say, Sir, 4 clients were given categorical assurances they could remain in situ until such time as they wanted to move. Although all have accepted the need to consider alternatives and readily accept that it is highly likely that they will move at some time to sheltered-type accommodation as and when their gardens, et cetera, become too much for them to handle or when situations change. They will have an opportunity, these good people, to choose where they want to live, what part of the Island they want to go, and they will be treated, as I have said on many occasions, these people will be treated as if I was dealing with my mother and father or somebody's mum and dad. They will be treated with utter respect and utter consideration. None

our clients will be treated with anything other than utter respect and consideration. Sir, the important decision that this Assembly, you Members, have to make is that they are sold and vacated for the full value. You need to support us on that. We believe this will yield some £10 million circa although I appreciate this will take a full 10 years to yield in its entirety. However, this sum of money from so few properties can ultimately be used to benefit many more. We can, with £10 million, make a huge impact in realigning our stock, absolutely. At the end of the day it is for the greatest good of the greatest number. So, we sell a few properties and we can do an amount of good for a huge amount of people. Let me assure this House, Sir, that nobody has anything to fear or concern themselves with these proposals. Nobody will be evicted and everyone will be treated with respect and compassion as I explained. I would not want it any other way and I can assure Members that Deputy Hilton and I have been doing for a number of years housing surgeries at Communicare, housing surgeries at Age Concern, which allows people to attend upon us at any time with any concerns. We are completely hands-on with our clients. It is amazing how people come in often with what, to us, many of you would probably just smile and think it is nothing. To elderly people and to some people it is a great issue and often it is nice just to have a little chat with someone they know and to give them some assurances. We do that, as I say, Deputy Hilton and myself very regularly. In fact, often when we have an hour on a Friday and if it is about 1.45 p.m. and there is nobody else there then we will go and quite often people will come after that time and the Age Concern or Communicare do call me, leave a message at home and the following day I am knocking on their door, I go and see them. That is what it is all about. It is about dealing with people with respect. The other issue, of course, many of you will know that my home is open to anyone at any time. I have my current office at home and people call me all the time but they also visit me regularly. Open house to all our clients and all my constituents and all the electors. Sir, I would not have it any other way. That is the way that one has to deal with good, ordinary people. That is the way that we have to respect and work with these people, to try to improve their lives and to make them feel that they are someone special. It is not easy sometimes, you have to say no sometimes, and government is all about difficult decisions and this is one of them. I can assure you, Sir, that it is in the best interests of the majority that we carry out our duties the way we do. Now, the other end of the spectrum I want to mention some other properties that also do not fit into the social housing portfolio. Indeed they fit as easily in Val Plaisant. I am of course referring to Convent Court and Caesarea Court. Sir, what about them? They suffer from serious concrete degradation issues. Yes, they have both had concrete repairs but no, that is not permanent; and yes, they will need work again in a little over 6 years' time. They leak badly, they are cold, they are tired and yes, regrettably they suffer from persistent incidents of anti-social behaviour. They are an awkward mix of one and 2s and bedsits. Yes, Sir, we have now decided because of the end quarter coming up the top of the list, and the EDAW plan, we have delayed what originally was an idea that we would see this as a priority for next year if approved today and now put it back for another 4 or 5 years. Of course, Sir, we could save both buildings if we were minded to do so but at some cost, in the region of around £5 million each. You would certainly have to empty both buildings for the extensive modelling that would be needed. At the end of that exercise you would still be left with 2 buildings which fit awkwardly into the location and which would be seriously under-occupied from historic levels. What the plan is saying is let us bring them down, let us be visionary about their replacement, and let us give something back to the area after we, the States, made such a disastrous decision by demolishing the beautiful old Convent FCJ building some years ago. Those of you that have attended, many of you have attended the presentations we have held at Housing, it really was something else to think that anybody of this Assembly, even 30, 40, 50 years ago could have made such a decision. It was absolutely criminal. Well, we cannot bring the old property back. I do not suppose we could even find the granite, Sir, but we could leave something to be proud of, which is fit for purpose, which residents in the area want and which plays a meaningful part in the States' rental stock. But, let me just give this Assembly some assurances. I have had concerns from Deputy Duhamel, I have had concerns from Deputy de Faye about the issues of whether we should refurbish them or sell them and this plan, although I have just done this



explanation of the way we would like to see it, the plans are not cast in stone. I have given assurance to the 2 Deputies and any other Member that I will work with those Members if there may be an alternative. I do not know but if there is an alternative then I am very happy to look at it. In fact, Deputy Duhamel has apparently seen interesting developments that have taken place on high-rises in the U.K. and I have spoken to my Chief Officer about the meeting I had with Deputy Duhamel on Saturday, and spoken to my Assistant Minister that in all accounts we probably will need to go and have a look at some of these developments. Amazingly I have never been to the U.K. to look at any some of the housing developments because I always felt that it is public money and you have to be careful about jaunting around but I think in this instance I can honestly give some assurance to Members that this is such a serious issue, and some Members are seriously concerned, and I know that the issue is going to come up very much about Le Marais, and I know that Le Marais is wonderful for people. We have E block in Le Marais where we have put people in there, couples and single people into 2-beds, made it an over-50s and we have a waiting list for Le Marais. Mind you, there is a bit of a difference. When we let them a property we give them a pair of binoculars as well so they can watch the boats go by. It is a wonderful, wonderful view and, of course, we refurbished Le Marais not so many years ago at a huge cost and we have some great tenants who are working together on the tenants' association down there and we have a lot of improvements yet to finish. We have the Le Marais second phase, the low-rise, where we are going to be providing some more sheltered-type accommodation housing. I would like to see Le Marais, and I have said to my officers, I would like to see the entrance to Le Marais to have a lovely archway. We need to spend a little bit. Having this Property Plan will allow us to recoup some cash. We need a proper recycling facility at Le Marais somewhere down that way. The finest recycling facility for recycling issues. We need perhaps a nice archway with nice hedging. It is a mishmash at the moment. It is absolutely terrible. So, we need to put some money back in it and this Property Plan will allow us, and I ask to use some imaginative schemes in some of these developments. I have spoken on several occasions to the Connétable of my Parish, St. Clement, and the Deputies and I intend to work with them on all these issues and the next phase. We are all going to work together for the benefit of the people that live in these areas. Not only for the people that live there but the people that pass up and down the road and for all the issues. The Scrutiny Panel, I think, had an architect make his views known on Convent Court, but do we really need a feasibility study or an architect's view as to whether it is advisable to bring Convent Court down or not? You see, Sir, making an informed judgment should not take someone too long; I suggest without the need for costly studies from consultants. Sir, I have heard in this House many times that we know the cost of everything and the value of nothing. Now, I am accused by Scrutiny of ignoring the bottom line. Pick and mix is a sweetie shop, Sir, and should not be used when considering policy. It is easy really, you do not want me to spend £10 million on Convent. Do you want me to spend £10 million on Convent or Caesarea Court or spend the same or less working with residents of the area and the Connétable of St. Helier and the Parish Deputies of St. Helier number 2, 3 and 1 if they want, all of them, to create something different, fitting and imaginative? As I say, it is not cast in stone, but this is an opportunity now that I can get together with the Parish Deputies, with Deputy Duhamel and Deputy de Faye, who have some very strong views on it and we are going to work together. We are going to work together to see what we can achieve in those areas and other areas, as I say, in St. Clement. Some comments have been made by the Scrutiny Sub-Panel that the department's approach to high-rise building is inconsistent. That is rubbish. Our rebuttal to this statement is there for all to see, but just to reiterate our approach is not inconsistent. It is a condition which is a motivating factor in our decisions. Sir, we have 11 such high-rise buildings. Le Marais by 4; La Collette, The Cedars, Hue Court by 2; De Quetteville Court, Convent Court and Caesarea Court. We are keeping 8 of them and our proposals are at this current stage - as I say not cast in stone - we are proposing the demolition of 3 based on condition and the huge opportunity for regeneration. Nothing inconsistent with that. So, Sir, that is the problem that the States' rental accommodation faces. So, what are the solutions? Sir, the solution is this carefully crafted, well-researched and evidenced estate management plan because it delivers.

Sir, it delivers the strategic aim of increasing home ownership among States' tenants. The complete refurbishment of the stock over 10 years or later. The complete realignment of the stock to meet the future challenges. The regeneration of parts of St. Helier and other parts of St. Clement, what other areas you want to, and the retention of sufficient monies to meet future maintenance requirements. Now, that is what I call an imaginative, businesslike plan. We know where we are going for the first time for 40 years. It has taken us a long time, it really has, and we have gone from crisis to crisis to crisis to crisis over the years and I know that the Planning Minister over the next period of years will, with our assistance, have to deliver homes on a non-stop-start situation. We cannot continue stop start, stop start. Build 500 this year, none for 10 years and ending up in a real pickle. All of this can be achieved without the need to call on the States for additional funding. That is what I call imaginative. It really is brilliant, come on, why do you not agree with me? It is brilliant, Sir. We do not have to go to the Treasury Minister. We do not have to go through the sagas of years ago when we had to compete for funds. We have an opportunity now to create all this from within our stock. In short, Sir, this Property Plan delivers everything that we were charged to deliver in the Strategic Plan with regard to this work. The plan provides a solution and therefore the proposition asks the States to agree the sale of 26 non-core high-value properties on the open market for full market value over a period of 10 years. Nobody has to get out, but we know that we have made commitments to 4 tenants. The sale of 800 homes to existing tenants on a shared equity basis, and this Assembly have already approved the sale of 208 at Le Squez and Le Marais. So, it is not uncharted territory for housing for our officers and ourselves. The third issue is to permit the retention of the receipts we received to fund the balance of our refurbishment programme; 4 is to invest the remaining funds to provide additional income to offset the rentals lost; 5 to invest in the acquisition of additional sheltered housing to meet the growing needs of an aging population. A very, very serious state of affairs at the moment; a very, very serious state of affairs. I cannot say any more than that. Please, please believe me. When you have elderly people with severe medical, physical problems knocking on your door on a daily basis and very soon we are saying to them: "We cannot house you and we are going to be unable to house you." Well, in this wealthy Island of ours without the need to call, as I say, on extra funding we can do it within our stock, it has to be, please, it has to have your approval. Finally, we intend to cease the further transfer of block units to housing trusts. Sir, I would like to highlight 4 particular areas. One, why we feel 800 homes can be sold to existing tenants; 2, the shared equity scheme we are recommending; 3, the need to invest in sheltered housing stock; 4, why we feel it is time to call a halt to any further transfers to housing trusts. Let us go on to the sale of 800 homes. Quite honestly, Sir, we have far too much social rented housing. Too many people renting in the sector that, with some assistance, could become home owners. The evidence then is Jersey's level of home ownership, Sir, it is low, very low. Hovering at about 51 per cent of the total number of households in the Island. The U.K. is over 70 per cent, Guernsey very similar and slightly higher for the Isle of Man. We need to improve on this figure and help those that can realistically afford it to move into the property owning sector. Why should we continue to create dependency when government does not need to? I can remember, Sir, when I think it was Deputy Van Der Vliet who was the President who came to this Assembly; rent rebates. It was going to assist and it has assisted thousands of people over the years, at a cost. It has assisted a huge amount and is still assisting people today. But we are now up to nearly £9 million and in 2005 we managed to claw back some of it and I believe that this year we will reduce it again by £1.6 to £1.7 million from 2006. So, it is reducing and for those of you who have read the Scrutiny Sub-Panel's allegations that it is out of control, the rent rebate is out of control, is absolute rubbish. It is not out of control. It reduced considerably in 2005 over 2004 and in 2006 my department will make a further saving on private rent rebate of at least £1.6 million. That is what is anticipated at the moment. So, it is not out of control and to be told by the Scrutiny Sub-Panel without any evidence at all, did not come and talk to us or ask us the question, they make these absolutely absurd allegations. Let us look at the current position with social housing tenants. Yes, Sir, 20 per cent at the moment. Recently it was 22 per cent, it has gone down to 20 per cent receive no assistance with their rent.

They claim no abatement. Amazingly housing trust tenants, 51 per cent no assistance with their rent. They claim no rent rebate. In terms of numbers what does that mean? Well, Sir, I can tell you that as of today 1,800 people or families, yes, could I just put that in perspective? 1, 800 tenants are paying the full fair rent for their homes. Are we seriously saying that we should deny these people an opportunity to move into home ownership if they want to? Surely the time is right, it makes sense to enable those that can the opportunity to come out of the rental market and into home ownership. Absolutely crucial. We cannot continue to be spending the kind of subsidies and housing components that the Social Security Minister is going to have to do for ever anymore. We have to do like other countries and increase the home ownership. This gives us a great opportunity. Just look at the allocation criteria for acceptance on the States' rental waiting list. The income limits are very generous indeed and are for ever being increased. Why? Without, you would say, we would effectively end up with such a reduced list we would be left with empty properties. We have had to raise the levels to be able to find people to take up some of our properties. We are missing the point here, you know. Do not let us create demand manifested as need and then set about creating more rental supply. I listened to a gentleman who was giving evidence to the Scrutiny Sub-Panel. He was talking rubbish. He was saying: "We want more homes, create, we want more 3-bedroom homes" without any facts, figures. Sir, as I say, the answer lies in encouraging and promoting independence and home ownership. Around where I live in Rue de Maupertuis it is unbelievable the difference it has made to people's lives becoming homeowners round there. The behaviour has changed, the issues have changed; they are working now with tenants in Le Marais. The tenants and homeowners are now part of the teams that are working. They have their homes, they are homeowners, they are now working, they have some pride, they are now taking part in debates. They come to me and say: "Look, we do not want this, we want this" and they are working with our clients and the tenants. Absolutely wonderful. The first time ever that we are going to be able to make some real changes because we are going to have now a mixture of homeowners and tenants in our estates where they are all going to be working together for the common good. Great news, I think. We need to encourage and promote independence and home ownership. When I talk about renting and people coming on the list do you know you can now be earning £43,000 a year, join our waiting list and qualify for an allocation of a 3-bedroom house and you would still qualify for a subsidy, that is how it is. You would still qualify for a subsidy. The levels have had to be raised because we would not have been able to let the properties. Indeed, you would need to be earning £46,800 per annum to be on the maximum rent living in a 3-bedroom house. I can tell you I have had some nightmares when I have seen the figures, and who has been getting what over the last few years. If that is not enough evidence, Sir, just look at the sales at Le Squez and Le Marais, oversubscribed and some purchasers were receiving assistance with their rent. Think about it. Homeowners that were recently being helped to meet their rental payments now own their 3-bedroom houses. We were helping people in rental accommodation and now they are buying their own homes. What do we do? Leave that situation to continue? Then you are creating a dependency culture that we cannot sustain. I have been waiting, Sir, for years for this low-income scheme to take it out of our department. It has been a nightmare. It has been a headache. The first discussions on low-income was in 1995. It has taken 12 years before it will come to fruition. I know I am going to get criticised, particularly from probably Deputy Southern who is going to say: "What have you done over the years?" There was no way out of the situation we had with the fair rents and the alignments in the private sector. We had no way out of this at all, and we have been waiting and waiting and waiting. At long last I am going to be able to sleep once this low-income scheme is into being. If you do not give the opportunity for purchase like we are asking you to today, which is in the Strategic Plan, this is all a plan, the Strategic 5-year plan is all a plan that you have approved. I am only coming back to you today, Members, asking you to support us, please, because you have agreed in the 5-year plan this is what we have to do. You gave it your unanimous support. There have been no amendments today, nothing, you just said: "Get on and do it and come back" and I think you have to say we have not done a bad job. We are not asking Senator Le Sueur and his Treasury to give us a load of

cash. We can do it, we can work with you and we can achieve our aims. Let me go to the next point. I will need a gin after this, I can tell you. Talk about demand, Sir. Scrutiny failed miserably, as did their advisers, to consider the planning for homes research. The definitive guide to demand in the Island. They did not consider the housing needs survey or, frankly, the department's waiting list. That was in my view a very bad mistake, and in my view calls their findings in this particular area into question. Can I remind Members, Sir, that this is a 10-year plan? At all times we will be monitoring demand and supply through the revisions of planning for homes through an additional and ongoing housing needs survey, and of course our own waiting list, and I promise faithfully to come back once a year with a full update of what we have been doing in achieving these aims. All Members will have an opportunity to see what we are up to, how we are achieving our aims as we go through the years. To illustrate this point let me quote page 27 of our Property Plan which states: "Sales will be carried out in a managed, sustainable way without imposing unnecessary strains on the wider housing market and related at all times to current levels of supply and demand within social housing. It is believed essential that decisions on sales to the open market and to tenants should be balanced against the delivery of new social rented housing and the needs reflected in the States' rental waiting list." That is the crux of the matter. That is your safeguard. That is the issue that I would like you all to really think about. Now, Sir, if we were proposing a right-to-buy scheme then we would lose any form of control on what is sold and when, and no means to address any unforeseen problems. That would be totally the wrong way to proceed. Some of you will say: "Why just States' tenants we are going to sell?" and I certainly know that Deputy de Faye has been concerned about this issue and I have given Deputy de Faye some assurances, with the Planning Minister, that the private sector will be catered for very soon with some very bold, imaginative shared equity plans coming forward between the Planning Minister and myself to meet the need on a shared equity basis, particularly for low-income families, single earners where a single person is working and maybe the wife has to stay home with a disabled child and so on. Various issues like this. Hopefully within those schemes we would like to encourage, as education, very much hope that we can encourage local graduates; 62 per cent at the moment of local graduates come back from the U.K. and the remainder, the biggest problem they have is the cost of housing in Jersey. We need to address that point as we need to address key workers and issues like that, and that is something that in the social housing future plan I would hope Deputy de Faye and Deputy Duhamel and all of you that have shown a great interest in this Property Plan by discussing issues with us, that we can all get together and we can really make something that is going to work. We need, as I say, Sir, to have these objectives in place so that we can meet the needs of our young people that are coming back from university, who are coming back to take on highly-qualified jobs, that we need to replace them; we need to give them those opportunities to stop the onward march of bringing in people as the easy option. We cannot continue to do that and this plan, as I say the future for all this, will be addressed in the future. So, I have given a categorical assurance to Deputy de Faye and Deputy Duhamel on some of these issues. So, why just States' tenants? If this was the end, if this was the only contributing factor to homeownership, I could understand some of the feeling that this was just the lucky few. But this is not the position at all. The strategic aim of increasing homeownership will not be met alone by the sale of these 800 homes over the 10-year period to States' tenants, no, Sir. However, I can assure Members this is just a start. I am in continued close talks with my friend and colleague the Planning Minister. He will shortly be bringing proposals to this House in respect of the remaining H2 and H3 sites and with a view to creating opportunities for first time buyers with shared equity schemes similar to the one I am shortly to describe. In fact, Sir, proposals are nearly ready for this Assembly to consider a change of social housing content on all rezoned sites to shared equity, including Goose Green. I can assure Members of this Assembly that the future will be exciting for those Island residents who can realistically afford to buy a home with some initial assistance. Sir, make no mistake about it, Senator Cohen and I will give every opportunity through shared equity schemes on these sites to make that dream of homeownership a reality and this includes the States' tenants at the moment. So please, Sir, I ask Members today to hold on to that commitment. That is

a firm commitment that the Planning Minister and I are making to you today and we can only do it, as I have said on several occasions in this Assembly, we can only do it with your help and assistance. It does not matter how small the point, it does not matter what the issue is, I respect all your individual views and your point of view and valued advice. I will be working, I promise you, that if you give us approval to start this my Assistant Minister and officers will be working with all of you to produce these plans to come forward, all of you. Not just one of you. Nobody will be ignored. Returning to the 800 sales to tenants; think of it as a realignment of our tenure among our 4,600 tenancies. Taking 800 families or people out of rental and into homeownership over a 10-year period, 800 over a 10-year period, 208 virtually going on now and half way through means roughly 60 a year over 10 years, 60 a year, that is what it is. We have 208 approved now. These people, Sir, have contributed to their homes in rent over many years and in many cases their immediate community. The benefits of homeownership will be felt for several years to come and ultimately will save the Island money. Money that can be targeted to assisting those who really need it. I have referred to the Property Plan as an “estate management plan” and please remember this is an estate management plan realising the 5 objectives I gave you before. I know, and I am pretty certain that Scrutiny are going to come afterwards with Deputy Power and his bunch of merry men, and are going to try and delay it. They are going to try and delay it. Why not? “Delay it, delay it, we need another investigation, we need this, we need that.” **[Interruption]** “Keep your cool” it says, Sir. **[Laughter]** I have another 2 hours to go, Sir, do you want me to continue? As I say, I have referred to it as the Property Plan. It is about putting our house in order. Do not get sidetracked, please, do not get sidetracked by Scrutiny who gave us loads of issues with no thought behind it, no investigation or come back and ask me about them, absolutely what they call anecdotal evidence. Well, I ask you. I need this Assembly so that I can go out after this is debated, and you have given us your consent, I can say to the people that I represent what a wonderful bunch of people you all are. Because you are looking after the ordinary people. But, do not please get sidetracked with Deputy Power and his merry men who are going to try to delay it. I know - I know the game plan. He is not going to oppose it. When I gave Deputy Power and the Sub-Panel our Property Plan on 16th January wonderful words he said to me: “Oh, I am on your side” he said. “I am on your side and we are going to deliver all this by March.” That is what he told me. I made a note of it. “We will deliver by March and I am going to work with you.” Well, I had a 2-hour session with Scrutiny apart from one little meeting we had for 5 minutes with his Scrutiny Officer about organising the survey and another hour meeting with these so-called advisers from the U.K.; nothing. Nothing. Did not come back, did not ask us to come back, just made anecdotal evidence that they had, guesswork, everything. Well, some of you have already told me. I can see Members that have told me there is nothing in the Scrutiny, it was a whitewash. Scrutiny got nothing there of any substance and I know, I have been told that by several Members. As I say, this is an internal document designed to deal with the real issues about real people in States’ rental accommodation and that is exactly what it is. Do not get sidetracked: “We want to get the Auditor General to look back 20 years to see what the accounts were” you know. Scrutiny wrote to the Auditor General last week asking him to write to us. He wrote to us on Friday. I had Deputy Power wanting to go back and look at 20 years accounts in the Housing Department and I told him to get lost. I said: “No.” Quite honestly my staff did not have the time. The decisions have been made, political decisions have been made for 20 years. There is no one in this Assembly that does not know what went wrong over the 20 years. We paid out money upon money for rent rebates. We did not keep any money for refurbishment and maintenance and that is what went wrong. But this is a new era. This is a new era for my people of Jersey I can assure you. We need, Sir, to repair homes. We need to invest in new homes. We need lifelong homes to meet the aging society, which is and will be such a significant ongoing issue. The answer? Well, Sir, we are fortunate to have a number of tenants who can with some assistance buy their home or a vacant home on an estate. We can therefore take them out of the rental situation by giving them the opportunity to purchase a home and to take the proceeds of sale to invest back into the public assets. Preparing and improving the public stock and realising of course that with a reduced stock, it probably will not be a reduced stock because over

10 years although we will be selling 800 we intend to buy back and provide another 400 sheltered units. So, our stock will not be very much reduced. It is a case of realigning, and of course we will get more rent now because we are going to do up our properties. Some of our properties are on fairly low rent because of the condition and we are going to be able to get more rent, and with the low income scheme Senator Routier is going to pay me fair rent for every unit of accommodation I get, wonderful.

**The Deputy Bailiff:**

Are you coming close to the end as we are past our adjournment?

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

Not quite yet no, Sir, not quite.

**Senator L. Norman:**

In that case, Sir, as we are now past the time when we normally adjourn, we set aside 4 days for this sitting, I think it would be appropriate if we adjourn now and let the Minister continue tomorrow. I propose the adjournment, Sir.

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

I would oppose that. I think it is only out of courtesy to the Minister. He clearly only has about 5 or 10 minutes left. I really think it is just a matter of politeness that we should hear him out.

**Senator J.L. Perchard:**

Can I just add a little bit to this debate? I am concerned that the Minister holding the papers in his hand is putting the paper on the bottom of the pile and has started his speech again twice. [Laughter]

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

I would be quite happy to start back tomorrow morning again.

**The Deputy Bailiff**

Does the Assembly agree to adjourn?

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

I am very happy to adjourn to tomorrow morning because I do not want to put Members off.

**The Deputy Bailiff:**

Let me put it to the Assembly. All those in favour of adjourning now please rise. Those against. I think those in favour of the adjournment have it. So, we will adjourn until 9.30 a.m. tomorrow when you will continue.

**ADJOURNMENT**