

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 28th MARCH 2006

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

PETITIONS

The Bailiff:

Under H, I have notice of a petition to be lodged by Deputy Fox.

Deputy J.B. Fox of St. Helier:

May I say a couple of words?

The Bailiff:

You may, Deputy.

1. Deputy J.B. Fox:

In support of this petition by one of the residents - Judy Beaumont - who has gone around and, with support, obtained 434 signatures, she would like it to be brought to the attention of the appropriate body so that we can ensure that the Department can get the necessary funding and resources to be able to improve the obnoxious smells that are occurring in the Bellozanne area from the current sewerage works. She would also like to bring to their attention that, in fact, although there is a signature on this document, often it represents a family - a whole household. I thank you, Sir. I would like to present the petition right away.

The Bailiff:

Thank you, Deputy. The petition is presented and the proposition is lodged. Would you like that referred to the Minister for Transport and Technical Services?

Deputy J.B. Fox:

Yes, please.

The Bailiff:

Very well. It will be at once referred to the Minister.

QUESTIONS

2. Written Questions -

2.1 WRITTEN QUESTION TO THE MINISTER FOR HEALTH AND SOCIAL SERVICES BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING PROCEDURES FOR THE INDEPENDENT INVESTIGATION OF COMPLAINTS

Question

Will the Minister give the date, if any, upon which procedures for independent investigation of complaints will come into effect?

Answer

The former Health and Social Services Committee agreed to introduce a complaints policy in 1992 which has been effective since 1993. The Health and Social Services Department has reported annually on its number and nature of complaints since 1996. But it was only in 2004 that a dedicated complaints coordinator was introduced to the service so that a formal complaints

procedure could be implemented. This has meant that patients, relatives and carers now have clear access to procedures to register formal complaints and feedback on the quality of services. The Department values the contribution that these complaints make to continuously improving services for patients and clients.

The reality of the situation is that the number of complaints that the Department receives is very low. In 2005 it received 154 complaints for all Health and Social Services areas. When one considers that the General Hospital alone dealt with over 170,000 attendances last year, (actual 174,727 - in patient, out patient, day cases and A&E attendances), that represents less than one complaint for every 1000 patient interactions. This figure becomes even lower when one includes all the activities and attendances for Social Services, Overdale and St Saviour sites.

The Department has just received an independent survey of patient satisfaction at the Jersey General Hospital by the Picker Institute in March 2006. It reveals high levels of satisfaction with the services provided with 96% of respondents reporting that the care they received is good, very good, or excellent. However, just under 20% of respondents reported that they didn't know how to make a formal complaint. Although this performance is better than the U.K. average, we still need to work to ensure that our patients know how to make a complaint. The Picker Institute independently carries out such assessment of all NHS Trusts in the U.K., and benchmarked to their performance, the Jersey General Hospital scored above U.K. average in overall performance across all domains.

We must be aware, however, that Jersey's Health and Social Care service is, largely speaking, a single provider for the people of Jersey. In terms of investigating complaints, one could argue that the Department can act as judge and jury. We must be confident that service users receive a fair response when they make a complaint and we must be assured that the Department acts appropriately on any concerns, and, where appropriate, makes changes to ensure improvements in service delivery.

To ensure that standards are independently inspected, the Department is in discussion with the Healthcare Commission to carry out an independent inspection of Health and Social Services in Jersey in 2007. The Healthcare Commission carry out all such inspections for NHS Trusts and independent healthcare providers in the U.K. They also act as the second stage independent complaints investigation for all of these U.K. providers. Senior Officers from HSSD will be meeting with representatives from the Healthcare Commission in early May 2006 to invite the Commission to provide this function for the States of Jersey's Health and Social Services Department. Such a process of second stage independent investigation of complaints may include the setting up of a local independent panel, guided by a case manager provided by the Healthcare Commission who would be brought in specifically to manage complaints. Although timescales, costs and consultation, both internal and external, are yet to be finalised, the Chief Officer will shortly establish a small, clinically led working group to move this objective forward and it is anticipated that such a system could be in place by the end of 2006.

2.2 WRITTEN QUESTION TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY THE CONNETABLE OF ST. HELIER REGARDING THE INCLUSION OF A NURSERY UNIT IN THE REDEVELOPMENT OF ST. PETER'S PRIMARY SCHOOL AND THE ALLOCATION OF FREE PLACES IN STATES DAY-NURSERIES

Question

Would the Minister confirm whether a nursery unit is being created as part of the planned redevelopment of St. Peter's Primary School and, if so, would he explain the reasons why given his recent admission that the current system of allocating a limited number of free places in States day-nurseries is inequitable?

Answer

I confirm that a nursery class will be built as part of the planned redevelopment of St Peter's Primary School. In 1996 the States approved the strategy of the Working Party on Child Care. This included a recommendation that the former Education Committee continue its programme of developing nursery classes at provided primary schools.

In 2005, the former Education, Sport and Culture Committee declared its intention to continue with this strategy until 2009 when a nursery class at St. Peter's School would be completed.

The inequity in the current system is not caused by the provision of nursery classes but by the fact that there are not sufficient free places across the Island for all three and four year olds.

2.3 WRITTEN QUESTION TO THE CHIEF MINISTER BY THE CONNETABLE OF ST. HELIER REGARDING THE COMMUNICATION OF DECISIONS BY THE COUNCIL OF MINISTERS AND MINISTERS TO STATES MEMBERS

Question

Would the Chief Minister outline his policy, if any, on communicating decisions made by the executive to non-executive members of the States and confirm what measures, if any, have been put in place to ensure that members do not have to hear of the majority of decisions made by the Council of Ministers or by individual ministers through the media?

Answer

My policy is to be open and transparent in communicating decisions made by the executive, and this policy is shared by my colleagues on the Council of Ministers.

Specific measures have been put in place to communicate decisions taken by the executive, and some of these were outlined in my letter of 7th February 2006, to all States members, a copy of which is attached. These measures have included changes to the States of Jersey website, and the website now displays copies of the part 'A' agendas, supporting papers, and minutes of the Council of Ministers. Copies of part 'A' ministerial decisions and supporting papers can also be found on the website under 'Ministerial Decisions'.

More recently, and in response to comments received from members, the Council of Ministers has arranged for summaries of their discussions on all part 'A' items to be circulated to States members on the morning after meetings. The summaries will also include, where appropriate, a record of discussions on individual part (B) items where it is felt that further information would be helpful. These summaries are circulated to States members at the same time as the press conference organised for the local media, thereby ensuring that members are apprised of decisions before they are reported by the media.

I would like to take this opportunity to reiterate the offer that I made in my letter of 7th February 2006, in which I invited States members to contact me if they had any suggestions as to how we

might make further improvements to the sharing of information. I have not received any suggestions to date in response to this invitation, although several members have chosen to make critical comments through the media. Should members have any remaining suggestions, comments or concerns, then I would invite them to contact me directly.

Chief Minister's Department

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Our ref: FHW/JMEH

7th February 2006

To:

All elected States members

Dear colleague,

Information for States members

The introduction of the ministerial system has seen a number of important changes to the way that information is made available to States members and the public.

Firstly, you will no doubt be aware of the improvements that have recently been made to the States website (www.gov.je). I hope that you have found the website to be informative and easy to use, but I would welcome any suggestions that you may have for further improvements.

I am pleased to inform you that the States website will include the part 'a' agendas, supporting papers, and minutes of the Council of Ministers, and these may be found on the website under the heading 'Council of Ministers'. Copies of part 'a' ministerial decisions and supporting papers may also be found on the website under 'Ministerial decisions'.

Another major change has been the introduction of new arrangements for public consultation, as described in the R.C. on 'Public Consultation' that was published in November last year (R.C.82/2005). Major policy decisions, or decisions that will affect a broad cross-section of the community, will be subject to a formal written system of discussion and draft policy papers. An explanation of how the system works, together with a list of current and future consultations, may be found on the States website under 'Chief Minister/ Communications Unit'.

I hope that you will find these changes to be helpful, but please do not hesitate to contact me if you have any suggestions as to how we may make further improvements.

Yours faithfully,

**Senator F.H. Walker,
Chief Minister**

2.4 WRITTEN QUESTION TO THE MINISTER FOR EDUCATION, SPORT AND CULTURE BY DEPUTY R.G. LE HERISSIER REGARDING PLACES FOR HIGHER EDUCATION IN GEOGRAPHICAL AREAS OUTSIDE THE U.K., AND STUDENT LOANS

Question

Would the Minister inform members –

- (a) in the light of his recent investigations into higher education places in Australasia, what other countries and areas, if any, are being investigated for similar possibilities? and,
- (b) given the inability to access the services of the Student Loans Company in the U.K., will the Minister confirm the mechanisms the department will be putting in place, if any, for Jersey higher education students who require student loans?

Answer

- (a) At present students from Jersey may apply for admission to any university they choose although there are restrictions on the financial support offered by the States. With a clearer understanding of the relative values of qualifications within the European Union and with U.K. higher education provision becoming increasingly costly, I am considering the possibility of partially removing current financial constraints on student choice. The criteria most likely to be applied in determining whether grant aid would be available for a student to attend a university outside the U.K. would be:
 - (i) equivalence of qualification;
 - (ii) the level of care and support which would be afforded the student by the institution;
 - (iii) the use of English as the language in which the subject is taught; and,
 - (iv) cost.

I can confirm that the initial discussions I have had with universities in Australasia have been encouraging and the offer of study in this part of the world may prove attractive to some students. I can also confirm that I have been approached by the Icelandic Government to consider higher education provision made there.

- (b) If my proposals for changes to student finance for 2006 are implemented, I intend to open discussions with local high street banks to ascertain what support they can offer to students and their families. Indeed, officers of the Department have already made initial contact with local clearing banks. With regard to the longer term, I have commissioned a full review of higher education support and will consider the recommendations of that report when the work has been completed.

2.5 WRITTEN QUESTION TO THE CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING THE PROPOSED FREEDOM OF INFORMATION LAW

Question

When does the Committee intend to bring the Freedom of Information Law to the States and does the Committee accept the restriction in paragraph 5.1.4 of the draft Strategic Plan, that the Law “will incur no additional cost to the States”?

Answer

The Privileges and Procedures Committee (PPC) has already considered a first draft of the Freedom of Information Law and a consultation document containing that draft will be sent out for consultation very shortly.

The Committee considered the restriction in paragraph 5.1.4 of the draft Strategic Plan and does not believe it is appropriate. PPC advised the Chief Minister of this in a letter dated 14th March 2006, in the following terms -

“PPC was concerned to read Strategic Initiative 5.1.4 which states “Present a Freedom of Information Law which will incur no additional cost to the States for approval by the end of 2006”. PPC is currently bringing forward a draft Freedom of Information Law and we should, in fact, be in a position to circulate a consultation document (including the draft Law itself) very shortly. You will be aware that the matter of resource implications has been one of the most controversial and disputed aspects of the proposed Law. Although estimates of the potential costs vary, all parties involved to-date have agreed that some additional cost to the States is inevitable, if only because there is likely to be a requirement for one additional member of staff in the office of the Data Protection Commissioner (who will become the Information Commissioner). Senator Syvret, who is taking the lead on this matter for PPC, confirmed to us last week that there would definitely be some cost to the States if the Law is introduced. PPC is concerned that if the Strategic Initiative remains as currently worded it might become impossible, at a later date, for the Freedom of Information Law to be introduced. PPC therefore considers that the words “which will incur no additional cost to the States” should be deleted or, alternatively, the entire Strategic Initiative should be removed”.

2.6 WRITTEN QUESTIONS TO THE MINISTER FOR HOME AFFAIRS BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING THE BUDGET FOR H.M. PRISON, LA MOYE, THE PURCHASE OF A RECENT POLICE SPEED CAR, AND THE IMPLEMENTATION OF THE 2001 H.M.I. REPORT OF H.M. PRISON, LA MOYE

Question 1

Would the Minister inform members whether any additional funding was placed in the Prison Budget for each of the financial years 2000-2005 and, if so, how much and how was it allocated?

Answer

Additions were made to the Prison budget amounting to £300,000 in 2000, £1.1 million in 2005 and £348,900 in 2006. In 2000 the funds were used to supplement the staff budget. In 2005, the funds were used to meet the costs of Prison Officer overtime and of sending prisoners to the United Kingdom and also to supplement other areas of the budget associated with increased prisoner numbers. In 2006, the additional funds have been used to meet the increased cost of Prison Officer overtime.

In 2003, a permanent reduction in the budget for U.K. Prisoners, amounting to £200,000 resulted from the Fundamental Spending Review process. However, a reduction in prisoner numbers did not occur and, therefore, the saving could not be achieved, resulting in a deficit.

One-off funding has been made available to the Prison to meet overspends in each of the years 2003, 2004 and 2005 amounting to £370,800, £1.7 million and £500,000 respectively. These sums have been used primarily to meet the cost of Prison Officer overtime, the running costs associated with the operation of 'H' wing after its construction, and of sending prisoners to the United Kingdom.

A table, detailing the Prison budget for the period 2000-2006, and the number of prisoners detained in La Moye between 2000 and 2005, is attached.

Question 2

Would the Minister inform members from what budget area monies came from for the recent purchase of a new police speed car?

Answer

The funds for the acquisition of the vehicle and its equipment came from within the 2005 budget for the States of Jersey Police, and this budget's targets for the year were met. The budget heading used was the Vehicle Replacement Programme. A lot of research was undertaken prior to acquisition as to the type of equipment available on the market and the best value for money options before opting for this particular item.

It should be noted that the car is not solely a speed detection car. It also carries cameras which have the ability to record details of registration plates, which can be downloaded at the end of a tour, and used for investigative and intelligence purposes.

Question 3

What specific group, if any, was set up to progress implementation of the 2001 Report of the Prisons Inspectorate and, if so, are its minutes accessible to members?

Answer

No group was set up to progress implementation of the 2001 report by HM Chief Inspector of Prisons on La Moye Prison. Details about progress and impediments to future progress were reported by the Prison Governor during his attendance at normal monthly Committee meetings. Many items under discussion at these former Committee meetings impinged on matters raised in the Inspection report and so the former Committee continued to be kept abreast of the problems facing the prison. I was not surprised at the content of this latest report because it had become increasingly clear that overcrowding, staff shortages and the hopelessly inadequate resources available to the prison were making it extremely difficult to implement and sustain the 2001 recommendations.

In the face of such adversity, the broad strategy was to prioritise the achievement of adequate levels of staffing and the prison building programme, these being essential to the underpinning of very many of the recommendations.

The progress that was made was notified formally in the following ways:

The Governor at the time of the publication of the report, Mr. Mike Kirby, submitted an initial response to the report to the former Committee in February 2002, after he had been in post a matter of a few months. This response identified actions that he and his senior team intended to take forward to address the 147 recommendations that were made. It was clear that many of these required additional resources, both capital and revenue.

The former Committee noted the progress made and agreed to discuss the capital proposals with the former Finance and Economics Committee. Approval was subsequently received to commence the redevelopment of the prison by building a new accommodation unit for 40 prisoners.

In May 2002, the Governor submitted an update on progress to the former Committee. It was clear from this report that much work was taking place to try to address the recommendations across a wide front, although at that stage most of the work was 'work in progress' rather than completed actions.

Immediately after Mr. Kirby's departure in July 2004, a written question was submitted by the then Deputy Bridge concerning progress on the recommendations and she was informed that Mr. Kirby had stated that 122 of the recommendations had been completed by that stage.

Soon after the appointment of the new governor, Mr Guy-Gibbens, the position was reviewed again.

In a written response to a question from the then Deputy Bridge in March 2005 it was stated that 70 of the original recommendations had been completed with work on-going on a further 11. The remaining recommendations would either be completed following the next phase of the building programme or required additional resources to complete.

This apparent disparity between the two views of the Governors involved is explained by Mr. Kirby reporting work that was in progress and that it was hoped would come to fruition, whereas Mr. Guy-Gibbens has reported the actual state of play when he examined the report. Unfortunately, daily pressures at the Prison, including the steady rise in prisoner numbers, meant that many of the plans that Mr Kirby identified as necessary were unable to become established at the Prison.

It is against this background that I have welcomed the recommendation in this latest inspection report of a plan which will have clear milestones and will identify any additional resources that will be needed. The Prison Governor will report progress to me on a regular basis in a far clearer manner than occurred previously. This will be done through the Chief Officer, Home Affairs, who has an important rôle in performance monitoring under the ministerial system. The Home Affairs Department did not have a Chief Officer until October 2004.

I will also ensure that the targets set are realistic and achievable with the resources allocated. The governor is clear that he is responsible for achieving these agreed targets and will be held to account should he fail. There is clearly a great deal of work remaining to be done. Work has started to address the shortcomings. Since the Inspection Report, work has begun on all the

recommendations except for the 49 which cannot be achieved due specifically to a lack of resources. I recognise that there can be no 'quick fix' if we are to achieve improvements which are sustainable.

H.M. PRISON FINANCIAL STATEMENT 2000-2006

YEAR	Opening Budget	Growth	Savings	Year End Budget	Year End Expenditure	Year End Over/Underspend	One-off funding	Home Affairs Dept Funding	Number of Prisoners	
	£	£	(incl efficiency savings) £	£	£	£	£ (3)	£	Jersey	UK (7)
2000	4,520,000	300,000	-45,000	5,080,200	4,460,300	619,900	-	-	(6)	-
2001	4,884,000	35,000	-46,000	5,596,100	5,355,700	240,400	-	-	164	20 (15)
2002	5,083,400	53,000	-107,300	5,029,100	5,176,300	-147,200	-	147,200	158	33 (15)
2003	5,024,600	-	-200,000 (2)	5,707,700	6,392,400	-684,700	370,800	313,900	187	49 (28)
2004	5,220,600	1,113,000	-78,400	5,328,200	7,370,700	-2,042,500	1,700,000	342,500	195 (4)	76 (43)
2005	6,255,200	-	-	6,466,500	7,122,000	-655,500	500,000	-	182	66 (25)
2006	6,572,200	348,900	- (5)	-	-	-	-	-	-	-
		1,849,900	-476,700				2,570,800	803,600		

Notes

2.7 WRITTEN QUESTION TO THE CHIEF MINISTER BY DEPUTY R.G. LE HERISSIER OF ST. SAVIOUR REGARDING COMING INTO FORCE OF THE LAW SOCIETY OF JERSEY LAW AND ANTI-DISCRIMINATION LEGISLATION

Question

Will the Chief Minister inform members –

- (a) when the Law Society of Jersey Law will be brought into force? and,
- (b) whether anti discrimination legislation will be brought to the States and, if so, when?

Answer

- (a) The matter currently rests with the Law Officers' Department, and I am advised by that department that it is not possible at this stage to give an indication of when the Law Society of Jersey Law will be brought into force.

Members will recall from my previous answer to Deputy Le Herissier that the Law Society of Jersey Law has not yet come into force because there are potential difficulties on the possible application of the Law to the Law Officers and the lawyers in the public service.

I understand from H.M. Attorney General that discussions have taken place and agreement reached with the Law Society on a proposal that the terms of the Law should not be extended to public sector lawyers. I shall be referring this proposal to the Legislation Advisory Panel that is shortly to be appointed by the States, and will be asking for its views on the proposal.

I can assure members that this is being dealt with as a matter of the highest priority.

- (b) The subject of anti-discrimination legislation is referred to in the periodic report on the 'International Convention on the Elimination of all forms of Racial Discrimination', a copy of which was recently posted on the States of Jersey website under 'Ministerial Decisions/ Chief Minister'.

The answer to the question is contained in the following extract from the report –

'The States of Jersey decided in 2002 to introduce new primary legislation to address the issue of racial discrimination. It was subsequently decided to extend the remit of the drafting programme to include protection from discrimination in a number of other areas including sex and disability discrimination.'

A draft Discrimination (Jersey) Law is in the final stages of preparation. Once finalised, it will be published for consultation in the Island so that organisations and individual members of the public can all comment on the proposals. The authorities hope to commence consultation early summer of 2006 with a view to a final draft Law being presented to the States as soon as reasonably possible after the consultation replies have been considered.

.....The draft Law is designed to be an enabling law. In other words, the provisions of the legislation will allow the States to adopt separate sets of Regulations in phases which will progressively extend protection from discrimination in different areas. The intention is to achieve conformity and consistency of treatment in relation to different areas of discrimination, because the underlying provisions of the Law will deal with all types of discrimination in a similar way.'

2.8 WRITTEN QUESTION TO THE MINISTER FOR HOME AFFAIRS BY DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT REGARDING MATTERS RELATING TO FIREARMS

Question

Would the Minister advise -

- (a) how many M2 Brownings are currently held in the Island by individuals, and the weight of each of those guns?
- (b) whether there are any other firearms held in the Island that could bring an aircraft down and, if so, what are they?
- (c) when the concerns recently reported in the media regarding the licensing of firearms were first raised?
- (d) the date when the matter was raised with her and who briefed her?
- (e) whether she briefed the media and, if not, is she aware who did, and the reasons why States members were not notified beforehand?
- (f) what research has been undertaken, if any, into the correlation between gun crime and legitimate gun ownership in Jersey? and,
- (g) what changes, if any, will be made to current firearms legislation and how will this be achieved?

Answer

- (a) From Central Firearms Index records, there are three deactivated Browning heavy machine guns currently held in the Island; it is not known if they are the M2 version but they would look very similar. The one weapon actually held, and of concern, is a Steyr bolt action rifle that fires the .50 BMG (Browning machine gun) round. The potential effects are similar; a devastating performance against light armoured vehicles at a range of a mile, and three miles in the case of unprotected targets. The Steyr can in fact fire the .50 round more accurately and further than the M2 Browning. The unloaded weight of the weapon held in the island is approximately 9kg.

- (b) It is not possible to give an accurate answer. There are over 500 different types of calibre of ammunition licensed in the Island, many of which have the capability to bring down an aircraft. Whether such consequences would ensue depends upon many factors such as the size of the aircraft, the range of the firing, the impact point, the trajectory and so on.
- (c) Specific concerns about the presence of weapons such as this in the Island were raised in January 2006 to the Chief Officer, States of Jersey Police, who promptly raised this with me and the Assistant Minister. The seriousness of the concerns was recognised by all parties and a number of actions were initiated. These included the instigation of a States of Jersey Police report on the issue, (which has only just been completed), together with an internal States of Jersey Police Force Inspectorate review on local compliance with the Cullen recommendations, which were established following the Dunblane massacre. Contact was also made at this time with the Education, Sport and Culture Department which consequently commissioned a U.K. expert to inspect their shooting facilities and to report back on various issues. This report would include the suitability of local ranges for the use of high velocity firearms with a view to establishing whether or not reasons given for the possession of such weapons would be invalid, hence perhaps providing grounds for weapon deactivation and recall of ammunition. This report has yet to be completed.

At around the same time, albeit not initiated by such specific concerns, the Comité des Connétables had requested guidance from H.M. Attorney General on the implementation of the Firearms (Jersey) Law 2000. The Comité is awaiting the Attorney General's response.

- (d) The Chief Officer, States of Jersey Police, met with me and the Assistant Minister on the 25th January 2006, where actions were initiated, as detailed in (c) above.
- (e) The media were not "briefed" as such. Questions had been put to the Deputy Chief Officer, States of Jersey Police, by the Jersey Evening Post following the 10th anniversary of the Dunblane massacre, and such interest in firearms on this anniversary was not unexpected. Guided by the Freedom of Information codes introduced by the States, subsequent legal advice, and guidance from the Data Protection Registrar, following further requests for details the Deputy Chief Officer, States of Jersey Police considered he was obliged to answer the questions and provide the information which had been requested of him.

Other information was withheld on the basis that it would hamper the prevention of crime and endanger public safety, and also because it was personal data. The answer to part (c) shows that a great deal of background work was already underway owing to the seriousness of the concerns that had been raised in January, and that at the time of the press interest not all of this work was complete. As such, I was not in a position to bring the findings and recommendations before the States and would not have wanted to present the Assembly with incomplete information.

- (f) Thankfully, crime in Jersey involving real firearms is extremely rare. Owing to this, an attempt at any correlation would be very difficult and any results obtained would be statistically inconclusive.
- (g) I have initiated a review of Article 33 of the Firearms (Jersey) Law 2000, which lists weapons and ammunition which are prohibited in Jersey, in order to assess whether adding other categories of weapon and ammunition will enhance public safety.

The Firearms Law Liaison Group, under the chairmanship of the Assistant Minister, will also be reviewing whether, in the light of experience of administering the Law, there are other provisions which should be tightened up.

2.9 WRITTEN QUESTION TO THE MINISTER FOR TREASURY AND RESOURCES BY SENATOR B.E. SHENTON REGARDING APPLICATION OF FRS17 IN ACTUARIAL REPORTS ON PUBLIC SECTOR PENSION SCHEMES

Question

Following the publication of the actuarial assessment of the Public Employees' Contributory Retirement Scheme, would the Minister confirm whether the assessment was in accordance with Financial Reporting Standard 17 (FRS17), and would the Minister provide members with the most recent actuarial assessments of the Teachers' Superannuation Fund pension as calculated under the same Standard?

Answer

The actuarial assessment of the Public Employees Contributory Retirement Scheme has not been published in accordance with FRS17 because it would be inappropriate to do so. This is because actuarial valuations take a long term view in order to determine the funding requirements of a pension scheme whilst FRS17 is merely a snapshot at a single point in time, so subject to major fluctuations from one year to another.

The most recently published FRS17 statement for the Teachers Superannuation Fund was in the 2004 Financial Report and Accounts. This will be updated in the 2005 Financial Report and Accounts which will be published in May 2006.

2.10 WRITTEN QUESTIONS TO THE MINISTER FOR TREASURY AND RESOURCES BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING MATTERS RELATING TO TAX REFORMS, THE IMPACT OF GST ON FEE-PAYING SCHOOLS AND HIS POSITION AS A GOVERNOR OF ONE SUCH SCHOOL

Question 1

- (a) Has the Minister considered or consulted the contents of the PriceWaterhouseCoopers (PWC) report of 31st January 2006, entitled "*Analysis of the responses to the second consultation document on the States of Guernsey future economic and taxation strategy*", and, in particular, section 5.4 on the taxation of Guernsey resident shareholders?
- (b) if so, what consideration, if any, has he given to the evidence presented in the report by PWC that look-through, or attribution provisions -
- *requiresubstantial policing and anti-avoidance legislation..... an unprecedented level of disclosure by Guernsey taxpayers..... (and) are likely to prompt a major change in the culture of tax compliance...*
 - *there are significant legal obstacles that could potentially render attribution unworkable and expose the States to judicial challenge. Our understanding (based on discussions with legal experts) is that an attribution regime is potentially very vulnerable to challenge under both company law and human rights law.*

- *it is likely that enforcement of the attribution rules would require provisions forcing the company to act as agent for the resident shareholders in certain circumstance. It is doubtful that such provisions would comply with the (EU) Code of Conduct (on Business Taxation)?*
- (c) What legal advice, if any, has the Minister received concerning the vulnerability of “attribution” to legal challenge and non-compliance with the EU Code of Conduct on Business Taxation and if he has not sought any, the reasons why; if he has received legal advice, what did it state?
- (d) In the light of the Guernsey decision to abandon attribution for a distribution-only system to recover tax from local shareholders, will he also reconsider and review the proposals for look-through?

Answer

- (a) Yes.
- (b) Over the past few months I have been reviewing the detailed proposals relating to the implementation of the 'look-through' arrangements, and this has led me to consider carefully the fundamental principles for the attribution of profits. A consultation paper will be published in April 2006, setting out in some detail the proposed arrangements, which represent a significant refinement of the originally agreed policy, to reflect the practical considerations of implementing a scheme to recover some or all of the profits which will no longer fall to be taxed directly onto companies following the implementation of 0/10%. The consultation paper is based on detailed analysis of the options and takes into account the views of expert practitioners such as those expressed in the PWC Report to which the question refers.
- (c) The Code is an internal EU mechanism and a political process of peer review with which we have agreed to co-operate voluntarily. It does not have a legal form and agreement within the meaning of the Code is reached by consensus of Member States and parties associated to it. We reached such an agreement with the EU in June 2003, with the full engagement of the U.K. Government which has clearly indicated its support for our proposed arrangements, including the 'look-through' mechanism. Furthermore, the proposed 'look-through' arrangements are in the realm of the personal tax base, and Jersey has a right to consider ways of safeguarding that tax base as a response to the unintended consequences of 0/10 which might otherwise allow for tax avoidance opportunities to Jersey resident shareholders of companies.
- (d) See (b) above.

Question 2

Will the Minister inform members what progress, if any, has been made in reviewing the “20 means 20” proposals and when he intends to bring fresh proposals to the Assembly?

Answer

I am currently in the process of reviewing the options for implementing the agreed principle of raising more tax from those on higher incomes in the light of more up-to-date income forecasts and further detailed analysis. Revised proposals will be presented to Members for their consideration before the summer recess.

Question 3

- (a) What consideration, if any, is the Minister giving to the protection offered to fee paying schools from the impact of GST on school fees and will consideration also be given to how this compares with medical bills and prescription fees?
- (b) What conflict exists, if any, for the Minister as a governor of one of the private schools in considering the matter outlined in (a) above?

Answer

- (a) I am well aware of the valuable saving to States expenditure provided by the fee-paying schools which educate a significant proportion of our pupils. GST, even at 3%, does slightly increase the burden on parents who are already making sacrifices to provide that education for their children. It is not strictly comparable with medical bills and prescription fees, but, as with the latter, there may be a need to see how any potential corresponding recompense or delivery can best be provided.
- (b) I have made my position as Governor/Trustee of two Church schools quite open in the Members' Declaration of Interests. I have made it clear to the two schools that I adhere to the agreed States policy of implementing a 3% rate of GST with as few exemptions as possible, and the schools concerned have both acknowledged this. Should the matter come up for debate in the States I would again make clear my possible conflict of interest (even though I would receive no direct pecuniary gain) and would withdraw from a debate on that aspect.

Question 4

Appendix IV of the PriceWaterhouseCoopers (PWC) report of 31st January 2006, entitled "*Analysis of the responses to the second consultation document on the States of Guernsey future economic and taxation strategy*" shows a table illustrating the schedules of the Isle of Man proposed taxation rates. Will the Minister produce the equivalent table showing his proposals for Jersey corporate tax rates, and where differences occur, will he explain to members the reasons for such differences?

Answer

The rates for the Isle of Man shown on the PWC document have not been fully reflected in their actual budget proposals. However, the consultation document to which I referred in answer to Question 1 will contain the most up-to-date tax rates available for other similar jurisdictions.

2.11 WRITTEN QUESTIONS TO THE CHIEF MINISTER BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING COMMUNITY INVOLVEMENT INITIATIVES AND MATTERS RELATING TO THE DRAFT STRATEGIC PLAN 2006-2011

Question 1

- (a) Would the Chief Minister inform members what involvement, if any, Scrutiny Officers had in the meeting of 35 senior and front line civil servants to discuss community involvement initiatives in January 2006 referred to under A1. of the Council of Ministers Minutes of 28th February 2006?
- (b) Following the adoption by the States of P.16/2006 (Establishment of a Citizens' Panel: Approval by States Assembly), will the Chief Minister indicate whether he still intends to establish an "Oversight Panel" or use expert witnesses to survey the opinions of Islanders and, if so, how will the appointments process operate independently and without duplication of the legitimate aims of scrutiny?

Answer

- (a) The minutes of 28th February 2006, relate to the half-day workshop on 11th January 2006, that was attended by officers from a range of States departments. Letters of invitation were sent to all Chief Officers, with a request for nominations of officers with an active involvement in community engagement. No nominations were received in respect of the Scrutiny Officers, but they would be welcome to participate in future events.
- (b) The Council of Ministers is indeed still considering the establishment of a Citizens' Panel, as noted in its comments on P.16/2006. Deputy Southern may recall that this subject was discussed on 9th March 2006, at a joint meeting of the Council of Ministers and the Scrutiny Chairmen's Committee, when it was agreed to explore the notion of a Citizens' Panel serving both the executive and scrutiny functions. As agreed at that meeting, this is something on which the Council of Ministers and Scrutiny Chairmen's Committee will need to work together, and I look forward to further discussions on this point. These discussions will, I am sure, address jointly the issue of how appointments would be made to the panel.

Question 2

Will the Chief Minister state whether the actions outlined in paragraph 5.2.8 of the draft Strategic Plan 2006-2011, namely "to meet, where possible, international standards set through the extension of international treaties and conventions" extends to include the International Labour Organisation conventions 87 (on freedom of association and protection of the right to organise) and 98 (on right to organise and to bargain collectively)?

Answer

The actions described in the draft Strategic Plan "*to meet, where possible, international standards set through the extension of international treaties and conventions*" includes all the international agreements and conventions which currently apply to Jersey or may be extended to the Island in future.

The Island Authorities have reported to the International Labour Organisation on conventions 87 (on freedom of association and protection of the right to organise) and 98 (on right to organise and to bargain collectively) as recently as August 2004, outlining the measures that have been taken to fulfil as fully as possible their obligations under these conventions. The report was copied to the TGWU and the Chamber of Commerce, and information on the report was also included in the

periodic report on international conventions and agreements laid before the States on 21st December 2004.

Further information on these Conventions has also been presented to the States on 21st March 2006, by the Minister for Social Security ('Employment Legislation: Petition – comments', P.214/2006)

Question 3

What measures does the Chief Minister envisage to correct "the deficiency in the Teachers' Pension scheme" as noted on page 11 of the draft Strategic Plan 2006-2011?

Answer

Following on from the Strategic Plan, the States will be asked in the Business Plan later this year to agree that additional funding should be made available to reduce the deficiency in the Teachers' Pension Scheme. This additional funding would consist of an increase of £1.3 million a year in the employer's contribution to the Pension scheme over the period 2007 to 2011, and would be added to the budget for Education, Sport and Culture.

In addition, a review of the teachers' pension scheme is currently under way, and this review will identify whether any further measures are needed. The States will, of course, be kept informed as to the outcome of that review.

Question 4

Based on the target for 2% economic growth over the 5 year period of the draft strategic Plan 2006-2011, how much revenue does the Chief Minister estimate being placed in the "Stabilisation Fund" proposed on page 11 of the Plan?

Answer

As noted in the Strategic Plan, it is envisaged that budget surpluses will be paid into the Stabilisation Fund at times of economic growth and that withdrawals will be made from the Fund at times of recession. The actual amounts to be paid into the Fund will, therefore, depend on the performance of the economy.

The Treasury and Resources Minister is currently working on more detailed proposals for the establishment of the Stabilisation Fund. This work will address such issues as when the fund should be established, what the size of the fund should be, how it should be financed initially, and what rules should apply in relation to contributions and withdrawals.

2.12 WRITTEN QUESTIONS TO THE MINISTER FOR SOCIAL SECURITY BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING MATTERS RELATING TO THE DRAFT STRATEGIC 2006-2011, THE CALCULATION OF GROSS AND NET REPLACEMENT RATES FOR JERSEY AS RELATED TO PENSIONS, INCOME LEVELS RELATING TO THE LOSS OF HIE, THE UPDATING OF THE INCOME DISTRIBUTION SURVEY, AND THE REFURBISHMENT OF OAKFIELD INDUSTRIES

Question 1

Under commitment 3.6 of the draft Strategic Plan, one of the success indicators is a “*Reduction in the number of children/pensioners living in relative low-income households*”. Will the Minister inform members –

- (a) which of the actions outlined in sections 3.6.1 to 3.6.6 under the heading “*What we will do*” address this target?
- (b) what specific targets will the Minister set and be judged on for reducing both child and pensioner poverty from their current level of 33%, and in what timescale?
- (c) in the light of the U.K. government’s inability to meet its 1999 target for the reduction of child poverty by one quarter from 4.1 million to 3.1 million by 2005, what difficulties, if any, have to be overcome if the Minister is to be successful in meeting the targets set?

Answer

The Strategic Plan is a draft and I am happy to receive comments on it from any person. As far as section 3.6 is concerned members will see that there is a timescale built into what we intend to do which allocates time for further priority setting, describes existing activities and importantly through the Chief Minister’s Office identifies how performance might be measured on a more regular basis.

In general terms, the aim over the next few years is to improve the system overall, in terms of equity, fairness and easier access under the Income Support proposals. Once the new system is up and running, there should be better data available on which to establish the actual position and set targets for the future, depending on the economic circumstances that might prevail at the time.

In response to the specific points:

- (a) all but 3.6.1 and 3.6.6. will impact on relatively low-income households;
- (b) specific indicators and targets will be set at a later date as mentioned above. The 33% mentioned in the question is not a measure of child and pensioner poverty. It is only one figure from the Income Distribution Survey based on 2001 incomes; and,
- (c) until the new Income Support system is up and running and targets and measures are agreed, there is little to be gained in comparing the Jersey with the U.K. Government’s target set in 1999. This does not mean that Jersey cannot learn from the U.K.’s experience or any other country. However, the starting point is very different, for example, Jersey has maintained higher Social Security Contributory Benefit and Pension Rates.

Question 2

With regard to success indicators under commitment 3.6 of the draft Strategic Plan, namely -

- “*Reduction in the proportion of working age residents needing income support during each stage of the economic cycle*”
- “*Increase in proportion of working age residents with long term health problems in paid employment*”,

would the Minister inform members –

- (a) what the proportions currently are, and which of the actions outlined in sections 3.6.1 to 3.6.6 under the heading “*What we will do*” address the first of these targets?
- (b) what specific targets will he set and be judged on, if any, in terms of his own success?
- (c) of the mechanisms to be used to develop support for working age residents with long term health problems outlined in 3.6.5 to address the second of the indicators above, along with the additional resources and funding required?

Answer

As I answered above, the information on which to base targets is not yet available but will become apparent during the life-cycle of this strategy. I have to point out that the income support system will not be in place until 2007 and from that we will be able to measure success. At this stage I cannot answer questions (a) and (b).

- (c) The mechanisms are in place, as the Deputy is aware, namely the employment services available in the Social Security Department and the Jersey Employment Trust. As with all programmes, they will continue to be assessed and developed to provide the best possible support to people with special employment needs. Resources, as I have already answered in a previous question, will be monitored.

Question 3

Under commitment 3.6 of the draft Strategic Plan, one of the success indicators is:

- “*Increase in the employment rates of disadvantaged groups*”

Would the Minister inform members –

- (a) what disadvantaged groups this refers to?
- (b) what employment rates currently exist in these groups?
- (c) what improvement in employment rates is targeted and to be judged upon, and
- (d) what mechanisms he intends to use to achieve improvement?

Answer

- (a) In any discussion on social exclusion there are certain groups within the population that are at greater risk of exclusion. The classic examples are lone parents, pensioners and people with disabilities. However “disadvantaged groups” is somewhat of a generic term which may have to become more focused on different groups of people during the lifetime of the strategy.
- (b) and (c) I refer to my answer above.

(d) See answer to question 2 (c) above.

Question 4

Will the Minister undertake to provide a calculation of the gross and net replacement rates for Jersey to enable accurate comparison with the data revealed in the 2005 OECD report entitled "Pensions at a Glance: Public policies across OECD countries"?

Answer

I answered a similar question on the 14th February 2006, and the answer remains that I will not be undertaking a calculation because as I said at the time it would be misleading. I have asked the Statistics Unit to comment on the replacement rate comparison.

Question 5

In his reply to my question on 14th February 2006, regarding income thresholds relating to loss of HIE, the Minister pointed to over 60 possible low income thresholds depending on household type. Would the Minister inform members whether a single person paying a weekly rent of £23.24 loses HIE if their income rises above £172.92 and, if not, would he provide evidence in support of this?

Answer

I cannot confirm this as, in this hypothetical case, it is necessary to know how the £172.92 a week is made up (£8,991 per annum). This figure is at the 5% discretion allowed in the HIE system but with benefit disregards, the figure could be higher without affecting HIE entitlement.

Question 6

On 14th February 2006, (section 2.2.5 of Official Report), the Minister undertook to provide a written answer on the means of updating the income distribution survey this year. When will he do so? Similarly, in response to a question on supported employment, (section 2.6.1 of Official Report), he referred to the sum of £600,000 to be spent on refurbishment at Oakfield Industries. Can he confirm that this sum will increase the number of people employed there and supply figures in support of this?

Answer

The Department is currently working with the Statistics Unit to update the income distribution survey from more recent information collected in the Household Expenditure Survey. I cannot, at this stage, give any timescale but the aim is to work towards establishing the starting rates for the different components by the end of this year.

The refurbishment of Oakfield Industries supports the strategy agreed by the States, (P.16/2000), namely to provide more training and development facilities to help individuals with very special employment needs enter the job market. The intention is not to employ individuals but to give development and training support so that more can become 'work ready' and, therefore, have a better chance of obtaining work.

2.13 WRITTEN QUESTION TO THE MINISTER FOR HOUSING BY DEPUTY G.P. SOUTHERN OF ST. HELIER REGARDING ESTIMATED RENT REBATE IN RESPECT OF 'LE COIE' DEVELOPMENT AND THE TOTAL COST OF THE DEVELOPMENT TO THE PUBLIC

Question

In part (b) of his answer to my question on Le Coie funding on 14th March 2006, the Minister suggested that rent rebate for the 95 flats "*could not be forecast*". Would the Minister inform members –

- (a) why the estimate for rent rebate on the site was stated as £415,000 per annum by the then President of the Housing Committee in P.161/2003?
- (b) what the total estimated cost in terms of capital expenditure, interest subsidy and rent rebate expenditure of this project to the public will be over the 21 year period of the purchase of this project by the Jersey Homes Trust?

Answer

(a) In P.161/2003, the figure of £415,000 per annum for rent rebate was an 'estimate' based on the likely number of claimants of rent rebate on completion of the site, some three years later. Fair rents for social housing have not increased for two years. This will affect the level of rebate to be paid. The development will be completed in July 2006 and, therefore, a precise figure for rent rebate will be available shortly.

(b) In respect of capital expenditure, this is currently as follows:-

- Site Cost £4,200,000
- Demolition £319,902
- Brook £98,557
- Main Contract £12,798,318
- Fees £837,249
- Other Costs £418,439 (feasibility studies, specialist sub-contractors)

Total £18,672,465

A final figure will be produced when the project is completed

In respect of the interest subsidy:-

The Jersey Homes Trust (JHT) will fund the purchase by commercial loan. The States, through the Housing Development Fund, will meet the Trust's interest charges above 4%. As the loan is based on a margin above base rates, the cost to the States will vary as base rates move. At the current base rate of 4.5%, the annual States interest subsidy will be some £152,000 in the first year, reducing as the outstanding loan balance diminishes, giving a total sum in the order of £2 million over the 21 year period. Allowing for a reduction in the time value of money over the 21 year period at a rate of 3% per annum, the net present value of the estimated interest subsidy is some £1.63 million.

In respect of rent rebate:-

Any rent rebate payable will depend on the individual circumstances of the tenants. The cost will be the same whether realised as rent rebate payments or foregone rent abatement, if the property were retained by the States. The introduction of the Income Support Scheme in 2007 will see the distinction between rent rebate and rent abatement disappear.

3. Oral Questions -

3.1 Senator B.E. Shenton:

Can I ask for Standing Orders to be suspended to allow time for questions to be answered?

The Bailiff:

I am sorry? You want ...

Senator B.E. Shenton:

The time limit removed so that all questions can be answered today.

The Bailiff:

Is the proposition of Senator Shenton seconded? [**Seconded**] I put the proposition. Those members in favour of adopting it, kindly show? Those against? The proposition has been carried.

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

Sir, a point of clarification. Is your normal guideline per question going to be adhered to despite the fact of the extra time given?

The Bailiff:

I think so, Senator, because the Standing Orders provide that members should be concise in their answers and so I take it that that Standing Order has not been suspended.

3.2 Deputy J.A. Martin of St. Helier of the Chief Minister regarding evidence in support of balance between the delivery of better services and the maintenance of a sustainable level of spending:

On Page 4 of the draft *Strategic Plan 2006-2011*, it states that a balance has been made between delivering better services while maintaining a sustainable level of spending, and that the Plan is both achievable and affordable. Have any financial studies or business plans been undertaken in support of this statement and, if so, will the Minister guarantee to provide copies to all States Members ahead of the States debate?

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

The draft *Strategic Plan* has been developed on the basis of the most recent financial forecasts. These were contained in the *2006 Budget Report*, copies of which have already been provided to Members. Later this year the States shall be asked to approve the States Business Plan and this will set out cash limits for 2007 together with projected expenditure for the period 2008-2011. These expenditure targets will need to comply with the parameters to be established by the strategic plan, including the overriding principle that expenditure should be sustainable throughout this period.

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

The Chief Minister refers to the word “achievable”: can I draw his attention to other letters from the word “smart”, which are “measurable” and “timed”. When, if at all, are these targets - outlined in

the *Strategic Plan* - going to be refined by measurable measures and timing? When are they going to occur?

Senator F.H. Walker:

The *Strategic Plan* is, as its title suggests, basically an overview of the major policies. The measurable targets together with the timescales for their achievement will be included in the *Business Plan* when that is brought to the House later this year.

3.2.2 Connétable A.S. Crowcroft of St. Helier:

I am aware that the Chief Minister has invited comments on the draft *Strategic Plan* from Members and indeed from the public. Could he confirm whether the *Strategic Plan* will be capable of amendment by Members when it is brought to the house?

Senator F.H. Walker:

Sir, not only can I confirm that but I would also confirm - as I have said publicly on a previous occasion - that the Council of Ministers themselves will not hesitate to bring amendments to the *Strategic Plan* if they feel it appropriate, given the response to the consultation process.

3.2.3 Deputy G.P. Southern:

Notwithstanding the Chief Minister's previous answer, is he aware that many, if not most, of the targets set out in the *Strategic Plan* are so vague as to be unvisionable and that this requires a heavy degree of work to bring it to "smart" targets. Is he committed to doing that heavy amount of work?

Senator F.H. Walker:

Sir, I think I have already answered that question, the answer is yes.

3.2.4 Deputy J.A. Martin:

Can I be quite clear, will we get the *Business Plan* - the figures - before we debate the *Strategic Plan* in this House?

Senator F.H. Walker:

The answer is yes.

3.2.5 Deputy G.P. Southern:

As part of his written answers, he refers to additional funding already, on the back of this *Strategic Plan*, of £1.3 million to take care of the Teachers' Pension Fund. Can he confirm that this already is additional funding to that outlined in his achievable and affordable *Strategic Plan*?

Senator F.H. Walker:

No, Sir, this is included with the achievable and affordable *Strategic Plan*.

3.3 Deputy A. Breckon of St. Saviour of the Minister for Social Security regarding the adequacy of the minimum wage rate:

In the light of evidence produced from cost of living comparisons between the U.K. (United Kingdom) and Jersey, is the Minister satisfied that the rate at which the minimum wage has been set is adequate?

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

I do not believe you can compare Jersey and the U.K., or indeed any other country in this particular way. Countries with a minimum wage in place devise their own system and set their own rates based upon particular national and economic circumstances. When countries introduce a minimum

wage system for the first time, they do so cautiously, monitoring the economic impact at each stage and working with the low pay industries to raise the level gradually over time. The U.K. started with a low minimum wage rate in 1999 and increased it gradually over the years. It is only recently, after the minimum wage had been in place for over 6 years, that the Low Pay Commission has recommended greater increases and also rates for 2 or 3 years in advance. I would hope that when the minimum wage has had time to settle down in Jersey that the Island would follow a similar route and we would then see a higher rate.

3.3.1 Deputy A. Breckon:

The Minister has mentioned being cautious but what I asked the Minister was, was he satisfied that the rate, where it is set, is adequate, bearing in mind that it will be £4 a week less than the U.K.? I know about comparisons, but is he satisfied that that is a healthy situation to have here?

Senator P.F. Routier:

The plain answer to the question is, yes, I am satisfied that the rate is suitable for Jersey. The Deputy did comment that ours would be £4 less than the U.K. but you really cannot make those comparisons because people are paid at a rate for the number of hours that they work and people work different hours and what we have seen, even in the most recent uprating of the minimum wage, is that businesses will adjust the number of hours that people work and I can actually quote a couple of businesses, I would not name them by name, but certainly that they have actually reduced the hours that people are working so their overall wage bill has not been increased. So, I think it is a very difficult balance to strike. We also need to consider that the U.K. system is totally different to Jersey because what they have are different rates for different ages. They have 16-17 year old at one rate, they have 18-21 at another rate and then it is only at 22 that people will get a full minimum wage. So if we want to reflect, perhaps, what the U.K. rates are, we need to perhaps again think about what was rejected by the States, the introduction of a youth rate.

3.3.2 Deputy G.P. Southern:

The Minister steadfastly refuses to answer the question. Does he believe that the rate is adequate? Does he not accept that the cost of living in Jersey is at least 20 per cent higher than in the U.K. in terms of food prices, as recently shown in the survey, and in terms of rental, certainly?

Senator P.F. Routier:

The Deputy obviously did not hear my answer. I said that the rate, I believed, was adequate for Jersey. But you cannot make the link between what the cost of living in Jersey is with the minimum wage, they are two different mechanisms - they really are - because people work for a different number of hours. Even comparing the U.K.'s rate with ours, we are actually in a leapfrog situation, our rate is uprated in April and the U.K.'s rate is updated in October, so we will find that when April comes around we will leapfrog the U.K. rate. But there are other issues which also come into this. In the U.K. they actually have to pay a higher social security rate deduction off their wage, so it is a different situation completely to the U.K. and, as I say, I would like to see the rate be higher than it currently is.

3.3.3 Deputy P.V.F. Le Claire of St. Helier:

I wonder if the Minister could give us an answer in relation to his suggesting that a leapfrog process is going to occur? In April, does that mean Jersey will be in a better position as far as the minimum wage is concerned, financially in terms of pounds and pence, than the U.K. and also whether or not, in accepting that there are different comparators in relation to these arguments, will the Low Income Support set a level of income based upon someone's minimum wage? If so, do not these levels of comparators need to be examined in the round and will he provide Members with the formula for the comparators that he is using at the moment to derive the amount?

Senator P.F. Routier:

I am afraid, again, that linking the minimum wage to income support is again going to be an extremely difficult thing to do because there is no link between those 2 issues. People will be out in the workplace earning a wage and then their wage will be taken into consideration as to whether they receive income support, so that link really cannot be made. As I say, I have said it several times now and I said it, I think, a couple of sittings ago about the minimum wage, I want to see it as high as it can possibly be but we have to be careful because we have seen that the business community will react and I would not want to see situations whereby youth unemployment becomes higher than it currently is, because it is a major concern for us at the present time, and with Jersey not having a youth rate, I am sure if we were to have a youth rate it is quite possible that the Employment Forum who recommend to us could actually suggest to us that the main rates should actually be higher.

3.3.4 Deputy A. Breckon:

Would the Minister agree with me that there are proven higher basic living costs, which have been shown, therefore the proposed minimum wage in Jersey is not adequate?

Senator P.F. Routier:

Again, the link between the higher living costs in Jersey is a link which I am unable to make - I really am - but I find it very difficult to make that link because of the different mechanisms that people use to pay the eventual take home wage; it is not a link I can make. With regard to the question of it being adequate, it is a rate that is adequate for Jersey circumstances.

3.3.5 Deputy G.P. Southern:

In maintaining such an artificially low rate, is the Minister not storing up problems for himself in actually enforcing what is, in effect, a poverty wage and that the bill for that poverty will come back to his own Department in Income Support when it eventually arrives, and that will be taxpayers money subsidising employers.

Senator P.F. Routier:

I have difficulty getting the message through to Members about the hours that people work. The number of hours that people work does relate to the amount of money they take home and obviously the amount of money they earn. We see a big cross-section of people working from 20 hours to 50 hours and we will find in the agricultural industry it is quite common for people to work 50 hours; in the hotel industry it is something around 45/47 hours and it is very difficult to actually make that link between the minimum wage and what the take-home pay is, so I really am unable to take that any further.

3.3.6 Deputy G.P. Southern:

The Minister has failed to answer the question and failed to address the question. The question is, does that not put an increased load onto Low Income Support?

Senator P.F. Routier:

If people are earning a low wage and they need a top-up, the system will have to be there and we will have to be prepared for that, certainly, but what we have to also take into consideration is that the businesses have to actually be able to afford to pay the minimum wage.

3.3.7 Deputy S.C. Ferguson of St. Brelade:

Can the Minister give us an idea of how many people are on minimum wage and has he any evidence that wages are being forced down to the minimum wage or is it bringing them up?

Senator P.F. Routier:

I have not got the figure with me with regard to how many people would be affected but I think at the last count it was about 8,000 people - mainly seasonal workers who come to the Island - who would benefit in the minimum wage going up. What was the second part of your question sorry?

Deputy S.C. Ferguson:

Was there any evidence that the effect of the minimum wage is to force wages down in any of these less well-paid sectors?

Senator P.F. Routier:

I have not been told of that. The Employment Forum who carried out the consultation process, in their report, do not comment on that, certainly; but I know it has obviously had an effect in raising the wage for up to about 8,000 people, but I am not aware of the reverse of that happening.

3.3.8 Deputy J.A. Martin:

Very early on in his comments, I am sure the Minister for Social Security suggested that he knew of a few employers who have actually reduced people's working hours because the minimum wage was raised a few months ago. I really am not interested in these employers. If they are paying the minimum wage, it is not for us to be protecting employers: the minimum wage was brought in to protect employees and is he actually saying that he has taken notice of employers when he is setting a minimum wage for Jersey?

Senator P.F. Routier:

The Employment Forum, who actually do the consultation, take into consideration the views of employees, employers and independent people. But the Employment Forum is made up in that way and it gives a good balanced view of what the minimum wage should be and, I have to say, they have carried out that task very responsibly and they have to have notice of all sections of the community and I believe they do that very fairly.

3.3.9 Senator J.L. Perchard:

Does the Minister agree that there is likely to be a direct correlation between minimum wage rates and unemployment levels, not only in Jersey but in other jurisdictions?

Senator P.F. Routier:

It has been suggested that certainly that is the case; certainly with regard to youth unemployment that is something we are currently concerned about - the fact that we do not have a youth rate as they do in other jurisdictions. As I said, it is only when you get to the age of 22 that, in the U.K., people are paid the full rate. At ages 18 to 21 they are currently paid £4.25 and 16 to 17 year olds are currently paid £3.00, so we do not have that. We have the full rate going across all the age ranges, so I am sure that does have a reflection on the setting of the main minimum wage.

3.3.10 Deputy P.V.F. Le Claire:

The Minister, when answering my question, appeared to have lost, or never received, the thrust of the question, which was in three parts. The first one was - and he did not answer although it was specific - will Jersey leapfrog the U.K. in terms of pounds and pence and be ahead of the U.K. in April? That is a specific question. Will they be better off in terms of pounds and pence and will the formula used to derive the low income that is being proposed be circulated to members so that an evaluation can be assessed among the comparators to determine what actually is, in the first instance, a low income, so that Low Income Support can be judged when it comes to the States?

Senator P.F. Routier:

Certainly, the experience we have had with the uprating of the minimum wage does work out that we do leapfrog the U.K. What happened in the last year was the U.K. was £5.01; then we are now

introducing ours at £5.24, to come into effect from April this year; and they have announced their's in October would be £5.35. So, in October this year the Employment Forum will let us know what their consultation process is recommending and I am convinced that it will obviously leapfrog the U.K. yet again. The Deputy was asking about whether the information will be circulated to Members. Certainly, the consultation process that the Employment Forum will be starting - usually in July - will be in time for them to make the recommendation in October. I would suggest that because we like to keep it at arm's length from a political issue - although it is a very political issue, because we want to have an even-handed approach to the assessment of what an appropriate rate is - contact should be made by any Member with the Employment Forum to put their views across and I am sure the Employment Forum will share with them the information that they have. The third part of the question, I...

3.3.11 Deputy P.V.F. Le Claire:

The third part of the question, based upon the answer, could change to: "Are we going to have an Employee Forum?" Because, in determining a low income and assessing whether or not a low income support system coming to the States to replace a vast array of social services that support people in low income at the moment, will have to be judged upon whether or not people in Jersey are receiving adequate income to pay for the services and the costs of living that are incurred by them at this time.

Senator P.F. Routier:

I believe I have attempted to try and answer that several times, about the link between the minimum wage and the amount people actually have to take home. It is impossible to do that because the amount of hours people work vary so much. So what people will be paid in their wages, the States will obviously have to - if someone needs income support -will need to give them that support. What we have to do is to encourage people to work as much as they possibly can to support themselves and that will be what will be the situation.

3.3.12 Deputy A. Breckon:

Does the Minister acknowledge that the States, through benefits, are subsidising employers paying low rates of pay, therefore if wages go up, benefits will go down?

Senator P.F. Routier:

Yes, I do.

3.4 Connétable A.S. Crowcroft of St. Helier of the Minister for Education, Sport and Culture regarding the delay in the formation of detailed options for early years education:

Would the Minister account for the delay in fulfilling the pledge contained in the draft proposals for early years education, entitled *Investing in Our Future*, that following the consultation period, which ended on 30th September 2005, all the responses received would be used to assist in the formation of more detailed options for the future which were to be published later in 2005? Or even the Assistant Minister?

Deputy J.B. Fox of St. Helier (Assistant Minister for Education, Sport and Culture):

The Connétable is accurate in drawing attention to the fact that proposals have not yet been published. *Investing in Our Future* clearly indicated that significant additional funding would be necessary to make early years education and care more affordable, particularly if the option to provide free access for all nursery children 20 hours per week, 38 weeks per year was chosen. As the Constable will appreciate, this is a complex piece of work, partly because it involves predictions based on significant uncertainties, including the availability of additional States funding, but also because any resultant model needs to be dovetailed with a new income support system due to be

introduced in 2007. Discussions are underway between the Department of Education, Sport and Culture and the Social Security Department to develop proposals, which will be presented to the States in due course.

3.4.1 Deputy G.P. Southern:

It appears from that answer that this represents a substantial delay because Low Income Support is not due to be in place until 2007. Is that the timescale he is actually working on for childcare?

Deputy J.B. Fox:

Not at this particular time, that is one ingredient. As I said, it would be in due course that the States would be considering it. We intend it to be brought to the States and discussed this year.

3.4.2 The Connétable of St. Helier:

Can I first of all just explain for the record, Sir, that I do have a child in private nursery and I could be said therefore to have a direct pecuniary interest in the outcome of this debate. However, I have so little hope [Laughter] that anything will be done by the Minister about it that I do not think there is any real conflict there, certainly not in the lifetime of my family. Would the Assistant Minister not confirm that the current inequitable system forces parents to make difficult and painful choices about nursery places for their children, lacks transparent or equitable criteria for the expenditure of taxpayers' money and is frustrating the efforts of private sector nurseries to provide their more flexible and more family centred services?

Deputy J.B. Fox:

That was a long one, was it not, for reply? The answer is probably yes, but clearly Education, Sport and Culture, when it was at Committee, recognised that and took it on board and hence the very complex process that we are now going through with the other Ministries, which obviously include the Social Security Department. It will also involve the Treasury Department and the Minister and will involve Health and Social Services, so it is a bit like - on a Parish level - trying to sort out residents' parking: it takes longer than we would all desire. [Laughter]

3.4.3 Deputy J.A. Martin:

In my former life, when I was on Education, Sport and Culture with the Assistant Minister, the 'Investing in Early Years' was going to look at the provision of new nurseries and I also see here, Sir, that the Education Department is steaming ahead with a new nursery at St. Peter. I really cannot square the 2 together because I want to know if the people out there in the nurseries or child care facilities do want the 20 hours, 38 weeks a year that everyone gets at a States nursery. Now, this is what Early Years is promising. It will be done through - I was told - a service level agreement. Can the Assistant Minister answer us why we are then still carrying on building States nurseries in St. Peter, with the lack of money we have, when we do actually have enough places. But we need to look at the funding differently and who gets the education for that amount of hours and it should be for everybody. Could the Assistant Minister answer that please?

Deputy J.B. Fox:

I do declare that the Deputy already knows the answer as she was on the Committee. It is the fact that we are following, at the current time, the continued States policy that was made years ago. There are 15 nursery provision schools at the moment and as was quite rightly said, in 2006 there will be a new one at St. Clement and 2009 will be the last one in the States policy for the new St. Peter's. There are not any planned intentions for the other 5 remaining schools that do not have such nurseries and in relation to the equity of it, part of this process that we are going through at the moment - with the discussions with Social Security and obviously with Treasury - is to find a way forward to bring to the States recommendations that will bring parity through the public and private sectors in the various things, from the education of early years to the childcare wrap-around care, et

cetera. But this is in a process at this time and, as I say, my information is that it is intended to come to the States this year where it will be fully debated and discussed with all the alternatives.

3.4.4 Deputy P.V.F. Le Claire:

The Assistant Minister has just answered quite in depth, the ongoing process in regards to achieving parity. Will this process, in an ongoing method, take into account that everybody's lives are different, everybody's needs therefore are different for their children and that possibly a way forward would be a means-testing system to provide places where children and parents want them to be - whether private or public - so that private places can be subsidised where the means are not sufficient, and where public places can be charged for where the means are more than sufficient?

Deputy J.B. Fox:

Yes, this was part of the 130 responses to the original Jenny Spratt report and yes, this will be part of the options that will be brought to the States, subject to, obviously, the discussions that are currently taking place with Social Security, Treasury, et cetera., but I believe that that type of option will be included. I have got no doubt that, if they are not, a Private Member will be making an amendment anyway, so I would imagine we will be including them. But, at this present time, I obviously cannot speak for the Minister.

3.4.5 The Connétable of St. Helier:

Would the Assistant Minister not agree that the Department of Education, Sport and Culture could do well to follow the example set by the Parish of St. Helier in keeping in touch with people who have responded to consultation documents such as the one published last year. I would remind the Assistant Minister that the residents' parking people who have been consulted have all had more than one letter from the Parish telling them about the progress that has been made towards that nirvana of residents' parking across town that we all hope to see. Would he not agree therefore that his Department, at the very least, should provide some feedback with some timetables to all of those who have responded to the *Investing in Our Future* document?

Deputy J.B. Fox:

Yes, well one of your employees is actually on a steering group and certainly, I have been involved with feedback with the Parish Finance Officer and, indeed, the submission submitted by the Parish is 6 pages long and goes into great depth and detail. I would suggest to you at the moment that having looked through this in-depth document that there are still things that cannot be answered because they are still in the process and once that process has been afforded and considered, I am quite sure that the Minister will be able to respond. There have been responses made, I would suspect, more of a direct nature as opposed to that going via the Connétable, because of having representations on the working group, et cetera. Thank you.

3.5 Deputy A. Breckon of St. Saviour of the Minister for Economic Development regarding the cost and appropriateness of involvement in recent visit to the Middle East:

Would the Minister inform members of the total cost of his part in the recent visit to the Middle East and explain the reasons why he considered it appropriate to attend?

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

I am grateful for the opportunity to answer this question. I think it is important that Ministers are held to account for their overseas travel and I checked with Standing Orders and I do not actually have to make a declaration within Standing Orders when travel is paid for out of my own departmental budget, but the costs for my travel and arrangements in the Middle East was £4,900. In addition, I am advised that Jersey Finance, which is also part of our budget, their total budget cost was approximately £50,000 for their part of that trip. This was my first official trip to the

Middle East. We estimate currently that there are between £15 billion and £20 billion worth of deposits from the Middle East in Jersey. The Middle East has a number of developing economies: there is the high oil price, there is a huge amount of revenue flowing into the region and we already have some presence in the Middle East, but we need to do more. Certainly, if we are to meet our economic growth targets, then the Middle East is an absolutely vital part of that economic growth. During the trip we had meetings with senior officials, Central Bank Governors, the Chief Minister met with the Prime Minister of Bahrain and many other Assistant Ministers. Not only am I persuaded of the importance of these trips in the past, but I am absolutely persuaded of the importance of them in the future, not only with the existing countries, but other countries too, if we are to meet our economic growth targets. I probably was a sceptic when hearing about these trips in the past, but having been part of them and seeing the enormous trade delegations that are associated with them - 250 private business meetings - they are absolutely vital.

3.5.1 Deputy A. Breckon:

I wonder, Sir, if the Minister could tell the House if there is anything in what he said that is measurable?

Senator P.F.C. Ozouf:

I think that that is a very important question and that is a debate that I have to have with Jersey Finance, about how we actually measure results from the amount of money that we are giving to them, and I am having that debate with Jersey Finance. We can measure results of total deposits; we can measure results from total business activity; we can measure the number of business partners that come on these trips, that pay for them by themselves; we can measure, for example, the fact that there were about 250 other meetings that happened as a result of this trade delegation going just to the United Arab Emirates. In addition to that, I would measure the success in future about whether or not we get any banking licences from banks that fulfil the top 500 requirements in the future. Yes, we can measure them: I am determined to do so. I want to measure the success of growing Jersey's economy in the Middle East.

3.5.2 Deputy J.A. Martin:

I think the Minister just gave us a very good reason why Jersey Finance were in Dubai. I really do not understand when the Minister says that he does not have to check his own budget when spending money for official trips abroad. When, actually, himself and the Chief Minister were excused, *absent de l'Isle*, I questioned that they actually were not on official States business. As I say, the answer to the question is Jersey Finance do a job - they go out looking for work. The Jersey Financial Service Commission, which we had to distance ourselves from... Does the Minister really think it is the job of our top politician, i.e. the Chief Minister, and himself to be going out on fishing trips to get more money into our coffers, Sir?

Senator P.F.C. Ozouf:

It is a very good question and I am pleased it is being asked [**Laughter**] because I think that we are almost sometimes sceptical when Ministers... and there are a few Ministers who have been engaged in doing trips overseas and it is important that we are accountable for that. Can I say that it is absolutely vital in this particular region to actually have politicians and Ministers going in order to open doors with other Ministers, Governors of the Central Bank, meetings with Director Generals of the Financial Services Commissions of those areas. It is absolutely vital and if there was not a Minister going - and it could have been either Senator Walker or myself... I think we could have both achieved that, although having the Chief Minister there meant that I do not think we would have met with people such as the Prime Minister of Bahrain. If you do not have Ministers, effectively the trade delegation does not have the importance; it is almost as though it is not important enough for Ministers to go. And our competitors are doing it. It is vital for us to

understand what the Isle of Man, what Guernsey and other places, and Switzerland and all the rest of it are... It is vital that we do as much in developing markets as these other places, so yes, the Chief Minister did open doors: open doors for trade partners, open doors for Jersey, and as I said on Radio Jersey when the interviewer asked me if I was mixing business with pleasure, if pleasure is winning business for Jersey, I was having pleasure.

3.5.3 Deputy G.P. Southern:

Will the Minister explain to the Members why he asked a Member of this Assembly to ask this particular question of him? Was it to attain the opportunity to make a nice little speech and does he believe he has succeeded in his aim?

Senator P.F.C. Ozouf:

I did, and I think it is important that Ministers, when spending public money, are grilled and held to account for that expenditure. I did check in Standing Orders to see. I was expecting to have to put the costs of my trip down in Standing Orders under the declarations of interest, but I read the provisions carefully and they are that when it is out of your own department, you do not have to; it is only when a third party pays. My department paid for me, the Chief Minister's department paid for him. We should stand accountable and, yes, this sort of thing should be discussed in this Assembly.

3.5.4 Deputy P.V.F. Le Claire:

Whilst many Members, including myself, support the trips away to support our finance industry in Jersey, could I ask a serious question? It is all well and good and we support you in going out and getting business: what did the Minister learn? You have learned about the money: what did the Minister learn about the regulation? How does the regulation in those places differ from here and where are the opportunities in regards to those?

Senator P.F.C. Ozouf:

It is a fair question that actually 2 senior Ministers went to the Middle East. I have been told - and the Chief Minister has told me - that in future we will not be going together on these trips. We will effectively divide our time and in future I am expected to go and lead the delegations in the Middle East, and frankly, I needed the learning experience of understanding how the culture is, how you are supposed to behave, who you are supposed to speak to and learning something of the culture, and I did that. I was absolutely amazed at the business prospects that exist for Jersey in places such as Bahrain - I did not visit Bahrain, but Qatar and the United Arab Emirates. There is, I think, approximately \$150 billion of excess revenue coming, at current oil prices, from that region, which will be invested in other places, as all jurisdictions invest in multi jurisdictions. Jersey must secure a small part of that revenue and we do that by encouraging our Trust companies, our lawyers, our banks, to go out to the Middle East and win business. We do that by effectively asking the Financial Services Commission to sign Memorandums of Understanding so that we have reciprocal arrangements with them and we encourage business and we go out and say: "Jersey is a great place, Jersey is a well regulated place, and come and see and come and think about investing in Jersey and using Jersey as your preferred offshore location". So I learned a great deal about that, about how to achieve that, and I will be holding Jersey Finance to account to now evolve their business plan, not only in the U.A.E. (United Arab Emirates), but in other places such as Kuwait, Oman, and other wealthy areas in the region. There are huge opportunities for Jersey and it makes Jersey no longer offshore the City of London, but offshore the world.

3.6 Deputy G.P. Southern of St. Helier of the Minister for Treasury and Resources regarding progress on the package of tax measures in the fiscal strategy:

Will the Minister inform members what progress, if any, has been made towards finalizing the package of tax measures that constitute the fiscal strategy and, if not, when progress will be made?

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

Within the fiscal strategy there are specifically 3 tax measures aimed at raising between them up to £60 million a year to help fill the deficit caused by the move to Zero/10. In addition, we were charged with developing a policy in respect of the environmental taxes and working with Employment and Social Security to develop an income support system. Finally, we were charged with producing detailed proposals to see how the tax foregone on company revenues could be apportioned to individual shareholders through some form of look-through process. Work is now underway in all these areas with an agreed timetable and I will now comment on various key aspects. The first tax-raising measure was the Income Tax Instalment System (ITIS). I am pleased to say that that is now up and running and, despite a few initial teething problems, that seems to be running well. Second strand was the introduction of proposals to ensure that those with higher incomes contribute a greater proportion of their income towards the overall tax burden. Those proposals were withdrawn from the last budget for economic and social reasons and that has given me the chance to review and update the proposals in the light of more recent statistics. I hope to present updated proposals on 20 per cent means 20 per cent for consideration within the next 6 weeks. The third agreed tax-raising measure was that of a broad-based goods and services tax (GST) and I am pleased to announce that a paper on a draft law for its implementation has been issued today for consultation over the next 12 weeks. Finally, I am pleased to announce that proposals for the implementation for the Zero/10 tax model, including the look-through provisions, are now being finalised and a detailed consultation paper on that should be available next month.

3.6.1 Deputy G.P. Southern:

Would it not be true to say that the look-through proposals have been abandoned for the following reasons, and I would like the Minister to comment on these three reasons; (1) that they require substantial policing and anti-avoidance legislation; (2) that they are very vulnerable to challenge under both company law and human rights law; and (3) that such provisions would not comply with the *E.U. (European Union) Code of Conduct On Business Taxation*. Is it not true that his original proposals should be and have been abandoned?

Senator T.A. Le Sueur:

No, Sir, they certainly have not been abandoned and the principle remains totally intact. What we are doing is revising them and refining them in the light of further discussions - further consideration - and those proposals will be available to Members for discussion in the near future. As far as anti-avoidance legislation is concerned, that is potentially quite a large issue. We have tried to ensure that the proposals that we are going to bring forward will minimise the impact of anti-avoidance legislation and it is clear that some additional legislation in that area will be necessary. I am absolutely convinced that our proposals will indeed be E.U. compliant, as the written answer previously indicated, and all the indications I have from sources elsewhere on an informal basis confirm that they are indeed E.U. compliant. So I have no hesitation, no worries on this score whatsoever.

3.6.2 Deputy G.P. Southern:

Despite the assurances from all sources, I understand that the Minister has read the PricewaterhouseCoopers report recently submitted to Guernsey, which suggests, and the words I chose were that: "It is doubtful that such provisions would comply with the *E.U. Code of Conduct on Business Taxation*." On business taxation and on human rights and company law challenges, is it not true that the method he was proposing - of attribution - risks being challenged seriously on those 2 grounds?

Senator T.A. Le Sueur:

As I have already indicated, the original method of attribution has been modified slightly - more than slightly - and when the proposals are published the Deputy will then be able to assess whether our new proposals still raise the concerns he mentions now. But until that stage I think it is premature for him to comment on proposals that have not yet been published.

3.6.3 Deputy G.P. Southern:

Is it not true that the major reassessment of look-through amounts to moving from an attribution system to a distribution-only system, and that entails a substantial loss of revenue to the tax collection; is that true?

Senator T.A. Le Sueur:

No, Sir.

3.7 Deputy J.A. Martin of St. Helier of the Chairman of the Comité des Connétables regarding cessation of firearms licence-issuing by the Connetables pending review of the Law:

In view of the recent attention surrounding the possession of firearms under the Firearms (Jersey) Law 2000, would the Chairman advise whether the Constables will voluntarily cease issuing licences under the Law until a full review of its provisions has been undertaken and, if not, the reasons why?

Connétable K.P. Vibert of St. Ouen (Chairman of the Comité des Connétables):

The Connétables cannot consider the question of ceasing issuing licences under the Firearms (Jersey) Law 2000 because under this Law they have no power to do so. In fact, the discretionary function for the granting or refusal of licences, having been conferred by Statute on the Connétables, they are obliged under Article 3(4), in part 2 of the Law, to grant a firearms certificate providing they are satisfied that the conditions under this Law have been adhered to. The Connétables are of the understanding that they would be acting outside the Law should they determine to refuse each and every application put before them. If an application is properly made, the Connétable is obliged, under the terms of the Firearms (Jersey) Law 2000, to consider such an application and failure to do so could leave the Connétable in question vulnerable to appeal in Law. Connétables are satisfied that they have, since the law was introduced, made every attempt to consider licences strictly according to the terms of the Firearms (Jersey) Law 2000 and I assure the House that they will continue to do so. Nevertheless, the Connétables, without the need of the 10th anniversary of the Dunblane incident to remind them, have sought advice from the Attorney General in January of this year to ensure that the Law was being correctly administered.

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

In light of the comments, which have been attributed to the Constable, could the Constable enlighten us as to what particular action he seeks with a view to the gun laws, because it has been reported that urgent action is required on the gun laws and the Parish Constables have given their unconditional backing to that. Could the Constable - the Chairman of the Comité - firstly assure us that he is aware that a working party has been working on reviewing the gun laws for the last 5 years and has turned up nothing of any moment and therefore, would he advise us what his main concern is?

The Connétable of St. Ouen:

I am aware that there has been a working group of firearms users, which was set up by the Comité following the introduction of the Law in 2000, because in fact I chaired that for the first 3 years of it. I think that every law needs revision at times and I think that this is possibly an opportunity for

us to look at the Firearms (Jersey) Law 2000 and if anything can be identified within it, which needs revision, this is the moment to revise it.

3.7.2 Deputy S.C. Ferguson:

Does the Chairman of the Comité des Connétables consider that, as implied in the interview published in the Evening Post, that they have been careless in their issue of licences to people who are unsuitable?

The Connétable of St. Ouen:

No, Sir, I would not agree with that article. Every firearms application has been duly considered on its own merits, as is requested by the terms of the Law.

3.7.3 Senator S. Syvret:

So, is the Connétable then saying that in his view it is satisfactory, upon application, for somebody to be issued with a firearms licence even though they might have convictions for firearms offences and drugs offences?

The Connétable of St. Ouen:

No, I would not say that, Sir, but I would point out that there is a set of guidelines that have been issued by the Home Office for Chief Officers on the Mainland, who do the licensing firearms applications, and, if I may be allowed to quote from it, it says that: "Decisions on applications and revocations should be made on an assessment of all the relevant information and must be made on the individual merits of each case. Evidence of previous convictions or intemperate behaviour, for example, might not result in an automatic refusal if, since the conviction, the applicant has led a law abiding life and shown the capacity to be entrusted to be in possession of a firearm."

3.7.4 Deputy J.A. Martin:

I am grateful the Constable has explained why he cannot, and hopefully if he could, he probably would. **[Laughter]** I will follow that, Sir, as all 12 Constables are very reasonable men and I find it hard that this Law... All I can find out is that we have 28 gun clubs in Jersey. Nobody needs to keep a register of who shoots at these gun clubs. There are really major issues here and I really do not have a problem with the Constables issuing the licences but the Law - and I am sure the Constable will agree with me - is very deficient. I heard on the radio today we only have 1,500 people licensed but we still have 11,000 guns on the Island. Now, as I say, there are many questions, and I am sorry that he cannot stop under the current Law.

The Bailiff:

You must come to one of them, Deputy. **[Laughter]**

Deputy J.A. Martin:

Yes. Would he not agree that even not knowing where these guns are being used and by whom is a real cause for concern for the Constables, as responsible men?

The Connétable of St. Ouen:

The application for possession of a firearms certificate: part of it does ask the question where the firearm is to be used and for what purpose, so every firearm application does have that information on it. As far as club licensing is concerned, which was not part of the question from the Deputy but was something that she referred to, the licensing of gun clubs is down to what was the Home Affairs Committee, which is now the Minister for Home Affairs, and yes, I agree that maybe there is some deficiency in the licensing of the clubs. Nevertheless, I would say that the clubs are very well run and have a history of being well run and I would like to take this opportunity of congratulating the Assistant Minister for Home Affairs this morning when he tried to make a

reassurance on the radio that the *bona fide* club members have nothing to fear from a review of the Law.

3.7.5 Connétable D.J. Murphy of Grouville:

Could the Chairman of the Comité des Connétables confirm to this House that in fact every application for a firearms certificate is processed through police headquarters in Jersey and that their comments are obviously taken into account prior to the issue of this licence?

The Connétable of St. Ouen:

Yes, Sir.

3.7.6 Deputy A.D. Lewis of St. John:

I just wanted to ask the Constable whether he thought it was appropriate, with modern day compliance process in mind, that Constables should be issuing licences to people that quite often they know very, very well and would he not think that maybe an impartial adjudicator would be the way that we should be progressing?

The Connétable of St. Ouen:

No, Sir, I actually see no advantage in that. Whatever adjudicator you are going to use is going to come up against someone that he will know in an Island of this size.

3.7.7 Deputy G.C.L. Baudains:

In order to allay public concern and give reassurance, could the Chairman of the Comité des Connétables assure us that, to the best of his knowledge, none of his fellow Constables has issued a licence for machine guns to be owned on this Island? As far as I am aware, under Article 31, only the Home Affairs Minister is allowed to issue authority for the ownership of a machine gun and as far as I am aware, there are none on the Island, unless that is the police have any.

The Connétable of St. Ouen:

I would just say that the Deputy has correctly read the Law, Sir.

3.7.8 Deputy F.J. Hill of St. Martin:

Could the President inform the House, once a licence has been issued, what monitoring system, or who is responsible for ensuring that those weapons are kept in safe places and what system is in place to ensure that there is a monitoring system to ensure that those guns are kept in safe places?

The Connétable of St. Ouen:

The responsibility for ensuring that the guns are safely kept rests with the Connétables and I cannot speak for my other Connétables because I have not actually asked them the question, but I can say that as far as the Parish of St. Ouen is concerned, that we do do regular checks of individuals' premises.

3.8 Deputy R.G. Le Hérissier of St. Saviour of the Minister for Education, Sport and Culture regarding policy options relating to the cost of top-up fees for higher education:

Would the Minister outline the policy options that were considered in relation to the extra monies required to meet the cost of top-up fees for higher education and why was the eventual decision not announced earlier?

Deputy J.B. Fox (Assistant Minister for Education, Sport and Culture):

Four policy options were considered regarding the cost of top-up fees. These were; absorbing the entire cost within an overall provision made for student grants; Number 2, adding the new cost to

the overall student grants budget and then apportioning the cost to parents according to their income; Number 3, passing on the cost to students supported by a schedule of student loans and Number 4, passing on the full cost to students or their parents. It was the fourth of these options which the Minister proposes. Negotiations with the United Kingdom Universities was concluded in October 2005. In December 2005 a meeting was held between the Minister and officers of the Department for Education, Sport and Culture and Treasury and Resources to consider this and other financial issues. During the same month we were advised by the UK Department of Education and Skills that the scheme for student loans managed by the UK Student Loan Company could not be developed. It was early February 2006 that having considered the outcome of these negotiations the Minister, following further discussions with our Minister for Treasury and Resources, brought forward this proposal. The proposal should have come as no surprise to parents with children seeking admission to university in September 2006.

The Bailiff:

I am sorry you are time expired now.

3.8.1 Deputy G.P. Southern:

Could the Assistant Minister give details of the discussion that has taken place with the Treasury and Resources Minister over the overlap between the new '20 means 20' proposals and this additional burden on middle-earning taxpayers?

Deputy J.B. Fox:

The answer is I would love to but I have not been privy to such detailed conversation. I would be happy to find out the information and relay it to the Deputy, or to the House, if desired.

3.8.2 Senator B.E. Shenton:

Did the Minister make his decision after full consultation with his Assistant Ministers and if not, why not?

Deputy J.B. Fox:

Yes, we had a meeting at the department where the various options were discussed. As a result of that the proposals were taken to the Council of Ministers who arranged an urgent meeting due to the fact that the Minister was going away. Also I understand there was discussion between the Minister and the Minister for Treasury and Resources in relation to this issue. So, yes, we were advised and gave our views as Assistant Ministers to the Minister.

3.8.3 Deputy R.G. Le Hérissier:

Would the Assistant Minister concede that this decision was made precipitously - there was very little forewarning given to parents - and will he now say that he is advising the Minister to withdraw it so a rethink can occur?

Deputy J.B. Fox:

I think the first part of the answer is that in the United Kingdom this question of additional top-up fees has been in the public arena for over 2 years, and certainly has to my knowledge. Certainly in 2005 all parents in relation to their students due to go to university in the United Kingdom in 2006 had information given to them about this potential top-up fee at parents' evenings, given out at higher education fairs in February, and in other supporting documents. As far as the last part of the question - the decision - as far as I am aware it has not been made yet. It is still subject to discussion and will be subject to the Council of Ministers meeting of 8th April when my Minister will be bringing his proposals and his considerations forward. It will be discussed with the Ministers and then, no doubt, my Minister will make a decision. As regards the views of the

Assistant Ministers, they have already been given to the Minister as can be confirmed by my fellow Assistant Minister.

3.8.4 The Deputy of St. John:

I wonder if the Assistant Minister could advise as to whether proper consideration has been given to a student loan scheme? He did suggest before that they had difficulties in securing an agreement with a loans company in the UK. We do have substantial funds here in funds such as the student reserve - has it been considered to borrow funds from that on a temporary basis to bring forward more quickly a student loans policy?

Deputy J.B. Fox:

At the current time - since the announcement in February that we would not be able to tap into the existing student loan company scheme in the United Kingdom - the Department of Education, Sports and Culture is negotiating or having discussions with local financial institutions in order to find a way forward as soon as possible in the interests of our students that are going away this September.

3.8.5 Deputy G.P. Southern:

Is it not true to say that in fact the Minister has made his mind up and following making his mind up and making his decision he called his Assistant Ministers in to inform them of his decision?

Deputy J.B. Fox:

Yes, Sir, but I was pleased to see that the Minister listened to his Assistant Ministers and we are now going forward and hopefully will find a resolution within due course.

3.8.6 Deputy R.G. Le Hérisier:

Could the Assistant Minister comment on whether constitutionally it might be very unwise to use a UK government agency, i.e. the Student Loan Company, in order to secure a loan service, albeit one that has now been abandoned? But would he think that was constitutionally a very unwise move? Secondly, would he convey to the public the fact that there is now a rethink going on with education? This was a precipitous decision, and could he give comfort to parents sending their children away in September that the whole thing is now in suspension and is going to be fundamentally reviewed?

Deputy J.B. Fox:

The answer to the question is that the UK Student Loan Company is already set up and it is accredited and, yes, it might very well have political differences, and therefore may be one of the reasons why it was not permitted to continue. That certainly set us back. It was regretted that this was a tripartite between the Isle of Man and Guernsey - if you recall, from the question 2 weeks ago - and it was a pity that this was not made clear to the tripartite Island legislators and departments so that we could have advanced far more quickly in looking at alternatives that were going. Sorry, what was the second part?

Deputy R.G. Le Hérisier:

Could the Assistant Minister give comfort to parents of students and to students that the whole issue is going to be rethought and that the whole thing was too precipitous?

Deputy J.B. Fox:

The question of the whole of the higher education and funding is currently being reviewed and it is hoped that this review will be published or brought to the States during this year. Certainly on this particular subject, as already stated, the review is taking place and has been since December, and

will be subject to the meeting with the Council of Ministers on 8th April. By then, hopefully, we will have a much more positive way forward that we can bring to the House.

3.8.7 Senator J.L. Perchard:

Since Education, Sports and Culture's unacceptably late announcement to pass on costs of student top-up fees to students and their families, the Minister for Treasury and Resources has announced some budget surpluses. Will the Assistant Minister, through his Minister and department, be targeting some of these budget surpluses to solve this unfortunate, immediate short-term problem and situation?

Deputy J.B. Fox:

As far as I am aware, and if I take the minutes of the previous Committee of 25th October, the decision at a meeting then which was looking at costs was that the Committee was mindful that student grants budgets was always a broad estimate and impossible to determine in advance and agreed that urgent discussions should be held with the Finance and Economics Committee to seek retrospective adjustments to the student grants budget similar to that placed for employment and social contributions supplementary budget, and the Act also went to the Economic Development Department. As far as I am concerned this subject is still live. Some decisions, I understand, relating to surpluses were made at the Council of Ministers last week where some of this money was utilised, especially for topping-up shortfalls because of increased students and costs, et cetera, in higher education. I understand - although this is hearsay evidence - that this did not include this top-up fee but that the Council of Ministers have noted the concerns by my fellow Assistant Minister who brought up the subject, and so we await the return of the Minister and the discussions that will take place at this meeting on 8th April.

3.8.8 Deputy G.P. Southern:

May I seek a point of clarification on the Assistant Minister's previous answer to the question did he believe that the action was precipitated? Did his answer mean yes or did it mean no? Which word was he looking for?

Deputy J.B. Fox:

Sorry, you have confused me.

Deputy G.P. Southern:

Your previous answer to "Was the decision precipitated"; were you looking for the word "yes" or were you looking for the word "no?"

Deputy J.B. Fox:

I was looking for the word yes.

3.8.9 Deputy D.W. Mezbourian of St. Lawrence:

The House will be pleased to know that this question requires only a yes or no answer from the Assistant Minister. The question is, will the Assistant Minister assure the House that no students will be precluded from attending university in 2006 due to the introduction of top-up fees?

Deputy J.B. Fox:

I cannot answer that for my Minister. **[Laughter]** But if you want my personal reassurance the answer is a simple yes.

Deputy G.P. Southern:

Can I ask a point of procedure, Sir? When the Assistant Minister stands-in for the Minister does he not speak in the Minister's place, and he can actually answer for the Minister? Is that the case?

The Bailiff:

I hesitated, Deputy, because I thought I saw the Greffier's head shaking. But, in fact, the Greffier's head was nodding, which is the right answer. Assistant Ministers who stand-in for the Minister certainly hold the Minister's portfolio and they reply for him. Now we come next to a question by Deputy Southern of the Minister for Economic Development.

3.9 Deputy G.P. Southern of the Minister for Economic Development regarding the impact on Jersey Post revenues of revised fulfilment policy:

Will the Minister inform Members what further consideration has been given, if any, to the potential impact of the revised fulfilment policy on the industry, and particularly on the revenues of Jersey Post?

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

On the instruction of the Assistant Minister, who has responsibility for Jersey Post, the Connétable of St. Lawrence, and the Treasury and Resources Minister, Jersey Post has conducted financial analysis on a number of scenarios that might impact on its future profitability. Such analysis not only included the potential impact of the revised fulfilment policy, but also other potential actions by the U.K. government in the E.U. (European Union) that might affect the current application of the low value consignment relief (LVCR). In the very worst case Jersey Post still remains profitable. In all scenarios Jersey Post remains a viable and profitable concern though progressively over time, with the worst case scenario indicated, profitability of Jersey Post does - or would be expected to - return to the much lower pre-fulfilment levels. On the basis of the analysis performed I am content that Jersey Post remains profitable in any plausible scenario. I am joined in that assessment by my Assistant Minister, but also importantly by the Treasury and Resources Minister, and as a consequence we wish to move forward with the plans for incorporation.

3.9.1 Deputy R.G. Le Hérisier:

Would the Minister outline what the relationship is between the price of a local and a U.K. stamp and the profit from the fulfilment industry?

Senator P.F.C. Ozouf:

I am not sure that I actually understand the question and so maybe the Deputy can try again?

Deputy R.G. Le Hérisier:

To what extent, Sir, is there cross-subsidisation from one service to the other, and were there to be a diminution of revenues what would happen to that cross-subsidisation?

Senator P.F.C. Ozouf:

Cross-subsidy is a difficult and perhaps not the correct word. Let us be clear: the fulfilment industry and the Jersey Post involvement in that means that Jersey Post's revenues are more buoyant than they otherwise would be, and so the fulfilment industry benefits Jersey Post. The scenarios that have been run have been on the basis that the fulfilment industry would not continue to provide such buoyancy. There is an issue of profitability but there also is, of course, an issue of the price of stamps. But perhaps the most important thing is that this debate seems to be - in the question - on the basis of incorporation. These things happen whether or not Jersey Post is incorporated or not.

3.9.2 Deputy G.P. Southern:

Will the Minister release details of these calculations from worse case to best case scenario and, in particular, will he undertake to answer question 7 submitted to him on 14th March which he refused to answer on the grounds of confidentiality?

Senator P.F.C. Ozouf:

The Scrutiny Panel has asked for and commenced a review of the fulfilment industry. I welcome that. I welcome the fact that the policies that we put in place a few weeks ago are going to be scrutinised. There are financial issues and financial scenarios that have been done and Scrutiny will have those made available to them with, of course, the normal procedures in terms of confidentiality. There are incredibly sensitive commercial issues in those arrangements and in those reports because Jersey Post, of course, is not only a postal undertaker but they also are operating as a fulfilment company in their own right, and there are competitors in that market. So Jersey Post must, of course, maintain the confidentiality and have the assurance of confidentiality. But Scrutiny Panels with all of their powers has access to all of that information. But that is an important issue and it is important issue for the Scrutiny Panel to look at but it does not change whether or not Jersey Post is going to be incorporated. Action by the U.K. - action by myself as Minister dealing with Regulation of Undertakings - will have impacts on Jersey Post. We want Jersey Post to be set up as a separate incorporated body regulated for the first time by an independent regular, the JCRA (Jersey Competition Regulatory Authority), and blocking Jersey Post's incorporation stops us achieving that prize which has been the wish of this Assembly for 2 years. I just do not understand why Scrutiny is using their precious powers to block a piece of regulation which, in any event, are not achieving any objective at all.

3.9.3 Deputy G.C.L. Baudains:

Can I just pick up on the question previously asked by Deputy Le Hérissier about the correlation between fulfilment and the price of a local stamp? Could the Minister assure us that the fulfilment industry is no longer going to cause an imbalance between the incoming and outgoing mail? It is my understanding it is that imbalance which is causing the local stamp to be held at the price it is because the imbalance requires negotiation between us and the Royal Mail, and that agreement hinges on the price of local stamps.

Senator P.F.C. Ozouf:

I think it is important for me to scotch a rumour straightaway that somehow the fulfilment sector is causing the increase in the price of stamps. The fulfilment industry is a benefit to Jersey and it is a benefit to Jersey Post, and that is why we must do everything that we can legitimately to protect it subject to, of course, the maintenance of our reputation to ensure the Island is not being in any way used inappropriately. But the fulfilment industry is good for Jersey Post. That must mean then that it is good for effectively the consumers of Jersey Post. I am not sure that I can add any more to the basic answer than that.

Deputy G.C.L. Baudains:

I wonder if he would try answering the question?

Deputy G.P. Southern:

I want to try and deal with the questions that the Minister referred to as to why Scrutiny should choose to investigate the incorporation of Jersey Post, except to say that it is an issue whereby we are supposed to be holding the Minister to account and not accepting bland assurances. So I am firm on that. However, he did not answer whether he was going to answer question 7 under confidentiality. Does he accept that we are all part of government and that confidentiality rules equally apply to the Scrutiny side of things and does he accept my assurance that confidentiality will be treated with proper respect? But, secondly, does he accept that the questioning process - question time in this House - is also part of the process of holding Ministers to account and he

cannot hide behind the fact that Scrutiny investigation is going on in order not to answer questions in this House?

Senator P.F.C. Ozouf:

Very happy to answer all of those questions and to get this straight. Yes, confidentiality is respected between Economic Development and the Economic Affairs Scrutiny Panel. Yes, question 7 will be answered. I have been attempting to answer all the questions as soon as they come in. Question 7 is a much more detailed question; it is currently being answered by Jersey Post and the answer will be with Scrutiny in the next few days. And I hope that the Scrutiny Panel chairman will confirm that Economic Development are bending over backwards to ensure that all their questions - of which there are many - are answered in the most timely and complete way. I would also say that the answers that come through for the Scrutiny system are going to be, by their definition, much more fully answered than any question that I am allowed to answer in a few seconds on the floor of this Assembly, and that is quite right too. But we are somewhat confused as to the way in which we are being asked questions. I am being asked written questions, I am being asked oral questions, and there is a whole swathe of information coming from Scrutiny. I have no problem with it but I just want Members to be aware and that we are doing our best to answer all of these questions. I did not answer - perhaps I should have done - the question that Deputy Baudains says about inbound and outbound mail and, I am sorry, I should have done that. The issue of Jersey Post's increased costs is due to Royal Mail becoming more - as the previous Postal President addressed this House and the previous Postal President before him - keen in its pricing. They have put their prices up. That is nothing really to do with the fulfilment industry. Royal Mail are becoming more commercial and attempting to ensure that they are getting sufficient revenue to provide the services, and that is why there has been a crown dependency joint negotiation on the issue of postal arrangements with the UK.

3.9.4 Deputy G.C.L. Baudains:

It is not the case that if our incoming mail is greater than our outgoing mail they will be paying us instead of us paying them?

Senator P.F.C. Ozouf:

Yes, of course that is right. But, of course, then it is on a unit basis and that is quite right. If, in fact, the old days when there was just simply a switch-over in that virtually the amount of incoming mail was the same as the outgoing mail, then there would just simply be a set-off. But in a world in which that balance is either one way or the other there is going to be some sort of correction and that, of course, is at the heart of some of the negotiations that go on with Royal Mail. But these are commercial organisations: Royal Mail is becoming more commercial and the price is going up. That is why we have to ensure that Jersey Post is as lean and efficient as possible. That is why we want independent regulation - done by the JCRA - no longer being a States department.

3.10 Deputy R.G. Le Hérissier of the Minister for Health and Social Services regarding the future provision of cardiology services:

What decisions, if any, has the Minister made regarding the future provision of cardiology services?

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

Last summer I announced that the Health and Social Services Department would undertake a review of cardiology services with the intention of determining the best form of cardiology service for Islanders. Specifically, the terms of reference examined what cardiological services could be provided in Jersey and which specialist services would be most effectively provided from a major tertiary centre in the United Kingdom. The working party consisted of managers, clinicians, nurses and technicians, and included Dr. Andrew Luksza, Consultant Physician at the General Hospital.

The working parties report was produced in early February 2006 and I have accepted its recommendations and conclusions, amongst which was that it was not safe or viable to engage in invasive cardiology techniques such as angiograms with a population cohort as small as Jersey's, therefore I intend to make a Ministerial decision to this effect very shortly. In the meantime, the Health and Social Services Department is already in the latter stages of finalising the job description for the post of Consultant Cardiologist. The agreement to this job description by the Royal College of Physicians is expected shortly. The subsequent recruitment process will then be entered into and the appointee will be in post by September 2006. All the auguries would suggest that this would be an extremely popular post and my department expects there to be a strong shortlist. In the meantime, our service continues to be delighted by Dr. Andrea Strauss, locum consultant physician. Dr. Strauss has been successful in reducing the public waiting time for elective cardiology consultations down from 3 months to 6 weeks.

3.10.1 Deputy R.G. Le Hérissier:

Would the Minister outline the options that were considered in reaching the decision and, secondly, what are the cost savings, if any, that will follow from it?

Senator S. Syvret:

I do not believe there are cost savings. It will probably be, effectively, a cost-neutral decision with obvious increases for inflation and things of that nature. The other options that were considered were, for example, engaging in invasive cardiology work in the Island, which would have involved the creation or the importation of a catheterisation laboratory and all of the ancillary staff required to be with it. Also the clinical governance requirements would mean that any invasive cardiology work carried out would require the constant presence and ready access to a cardiac crash team. Also there has to be the ready access to a team who are capable of carrying out cardiac surgery in the event of procedures perhaps going wrong in the event of invasive diagnostic techniques. This is the kind of provision that exists in other tertiary centres which specialise in this activity in the U.K. These were the kind of options we considered. None of the other jurisdictions of comparable size, Guernsey, the Isle of Man, or the Isle of Wight, engage in invasive cardiology, instead they use specialist tertiary centres. So, that was the conclusion that we came to. Indeed, that conclusion was further reinforced by a letter from the British Cardiac Society which said, and I will quote a little from it: "Dr. Nicholas Brooks has passed me your letter dated 11th January 2006 and I have taken from the Chairman of the BCS (British Cardiac Society) Professional Standards and Peer Review Committee and the President of the British Cardiovascular Intervention Society. We agree with you that a cardiac catheter laboratory angiography service is not viable or safe for the Jersey population of 87,000. These arguments are even stronger for a local PCI (Percutaneous Coronary Intervention) service served by a single-handed cardiologist, let alone a single-handed physician with an interest in cardiology."

3.10.2 Deputy R.G. Le Hérissier:

Would the President acknowledge that the model that has been chosen will still rely very much on people making air trips which will add, of course, to the stress of the heart condition? Secondly, Sir, would he agree that the figure quoted in his report of £250 per trip when one considers special planes - these planes being met on arrival - taxis/ambulances across London, and a possibility of relations is a totally misleading figure?

Senator S. Syvret:

That assertion is not correct. The figure is accurate. And it also has to be borne in mind that of those patients who undergo invasive cardiology diagnostic techniques a certain percentage invariably require further physical intervention. That will, for example, be under the Jersey cohort, 89 patients out of 215 would expect, upon the taking of an angiogram, then to be subject to immediate work such as the insertion of stents and catheterisation. Therefore, people would need

to be in a tertiary centre where that kind of work could be carried out. It could not be carried out safely in Jersey. The fact is, it is not ideal, of course, for people with any clinical condition to have to travel to the United Kingdom but the fact is people have to travel more and more to specialist centres, this is not just a case of Island populations but it is the case in the United Kingdom. There may not be a district general hospital or hospital of any description near where you happen to live that provides the particular specialist service that you need. We are seeing a greater and greater move to specialisation and certain tertiary centres specialising and developing a highly successful rate of treatment for certain conditions, and that is the trend that we are working with.

3.10.3 Deputy R.G. Le Hérissier:

Would the Minister promise to provide me with the figures as to how that £250 per trip was arrived at? Could I please have the figures so I can analyse those? Secondly, Sir, would he not acknowledge that in fact the U.K. experience is very different from the continental experience where such services like angiography are placed in smaller district hospitals? They have a very different approach, why was this not considered?

Senator S. Syvret:

Yes, I am happy to provide the Deputy the figures. It was not considered in Jersey because the physical isolation of a small island community means that when things go wrong you do not have access to the other expert emergency teams, which may be the case in France. You may have another hospital 50 miles down the road that can deal with the specialisms you require. But what the Deputy does not state in his question is the fact that the health service in France, whilst acknowledged to be one of the finest in the world, costs an extremely large amount of money. Now, perhaps, we could start doing things like invasive cardiology work in Jersey; renal transplants; radiotherapy, for example, is another service that sometimes is requested to be placed on-Island. Now if it is the wish of Members of this Assembly to start raising vastly increased amounts of tax to pay for these things then we could possibly consider doing some of them. But you are looking at many, many more tens of millions of pounds to pay for all these services to be on-Island. But, in any event, even if money were no object, the fact is the clinical outcomes, the success in terms of treating the specialist illnesses is greater, is better, and is of higher quality in tertiary centres where they specialise in doing this kind of work.

3.11 Deputy S.C. Ferguson of the Minister for Home Affairs regarding the press interview with the Deputy Chief Officer of Police in relation to firearms:

When did the Minister learn of the press interview by the Deputy Chief Officer of Police concerning firearms, and would she explain the reasons, if any, why States Members were not notified in advance?

Senator W. Kinnard (Minister for Home Affairs):

I believe the Deputy is referring to enquiries made by the *Jersey Evening Post* to the Deputy Chief Officer, States of Jersey Police. There was no press interview as such. I was informed of the release of information on 15th March. I am not aware of any precedent whereby States Members have to be notified in advance of issues entering the public domain. Under the Committee system it was standard practice within the Home Affairs Committee to notify Committee members of controversial issues notified to or picked up by the media. However, it was not always possible or practical to notify Members in advance of broadcast or publication.

3.11.1 Deputy S.C. Ferguson:

I am interested in whether the Minister, in fact, was aware of the content of this article? We have an irresponsible and sensationalist article, which would have made Alistair Campbell proud, and which spins the facts successively. It has caused distress to the population in general, concern to *bona fide* gun owners; does the Minister not consider that the article was alarmist and unnecessary?

What steps will be taken to prevent a recurrence and what steps will she recommend regarding the question of accountability of departments to their Ministers?

Senator W. Kinnard:

Thank you, Sir, I value your guidance in that I think this particular supplementary question veers over into the question that I have next from Deputy Baudains of St. Clement. I do not know which way you would prefer me to answer: the substantive question with all of that information in or to the answer the supplementary, Sir?

The Bailiff:

You must answer it succinctly whenever you choose to do it, but the question has been put now, Minister, so I think you must deal with it.

Senator W. Kinnard:

The first point that I think I would make, Sir, is that the nature of the article perhaps is not necessarily to be attributed to what the Deputy Chief Officer had to say. Certainly, with the nature of the article and the way in which it was written, I think there are questions that could be put to the organ which actually produced that article. Having been asked though, Sir, by the media, just to explain the situation - questions relating to the control of firearms in the Island - the States of Jersey Police at that point felt it necessary to release certain information both in the interests of public safety and for freedom of information. I was informed shortly after the information was released. But in answering the questions from the media I do believe that a balance has to be struck between withholding information - which can be legitimately put in the public domain in an area of freedom of information - and also being circumspect about the release of information that might alarm the public unduly rather than simply inform them or which might be obviously treading on the sensitive opinions of interest groups, in this case obviously the Parishes, the Firearms Council and shooting clubs. But on that point, Sir, proper legal advice was taken by the States of Jersey Police...

The Bailiff:

I am sorry, Minister, your time has expired.

Senator W. Kinnard:

I will finish answering it perhaps then when I have a chance to answer Deputy Baudains question.

3.11.2 Connétable G.W. Fisher of St. Lawrence:

In view of the many concerns about the issue of firearms certificates communicated to the press by the Deputy Chief Officer of the States of Jersey Police, and bearing in mind that all applications for firearms certificates are first vetted by the States Police, and that the States Police maintain all the firearms records for most Parishes and also maintain the central firearms index, can the Minister confirm that all such concerns had been specifically addressed with the respective Connétables involved soon after they came to light? And if not, which seems to be the case, does she believe that it is the duty of the Deputy Chief Officer to ensure that they are so addressed rather than first being raised in general by interviews with the local media?

Senator W. Kinnard:

As I had said, the information that was released was in relation to information sought by the *Jersey Evening Post* and I have made it quite clear that advice was taken in terms of legal advice, and also the Data Protection Commissioner so that that information could not, in any way, be withheld. I would say, Sir, that quite at the same time the Constables themselves had expressed some concerns and had written to the Attorney General requesting his advice on some of the concerns that they had about the way in which the Firearms Law is currently operating. I would say that both the

Constables and certainly myself, as Minister, and my Assistant Minister, are absolutely dedicated to working together to ensure that the situation is improved, that we are of one mind on this matter.

3.11.3 Connétable T.J. du Feu of St. Peter:

The Minister has referred to legal advice being sought on a number of occasions, could she inform the House where was the legal advice from?

Senator W. Kinnard:

If the Connétable is referring to the nature of whether or not it was appropriate to release certain information, that advice was taken from the Solicitor General, and from the Data Protection Registrar, which is not legal advice but advice on protection issues.

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

I would like to clarify one point. My advice was taken on the release of one specific piece of information, and that was after the initial articles had appeared.

3.11.4 Deputy R.G. Le Hérissier:

Would the Minister outline what protocols govern the relationships with the press in her Ministry, and what items, for example, are her prerogative and what items are the prerogative of civil servants or police officers? Secondly, would she disabuse us of the notion that every time she is approached for something we get this impression she has hunkered down in deepest St. Peter saying no comment, no comment, no comment?

Senator W. Kinnard:

First of all, I am not hunkered down in deepest St. Peter. I do not actually live there. No, but that is not true. I do not know where the Deputy gets that attitude at all. But going on to the issues that have been raised substantially, I would certainly ordinarily expect to be consulted on issues that are potentially of a sensitive nature prior to the release to the media, but I also am quite clear that I do not wish to interfere with the police's ability to release information which is in the best interest of the public, and that is not because I am seeking to deny the media access to any sorts of information, I simply, obviously in most cases, would wish to be aware in advance of matters which were going to enter the public domain. The Chief Officer of the States of Jersey Police does have every right to release information to the media without having to clear absolutely everything before me. Indeed, in certain situations it would be appropriate obviously for him to consult with me first, but it is not my purpose, as I say, to interfere in every single operational matter. I have been reviewing, and will be further reviewing, the way in which information is released in terms of the procedures that we do have at the States of Jersey Police, and particularly I will be reviewing it in the light of the new development that we have in terms of the States of Jersey Communications Unit.

3.11.5 The Connétable of St. Peter:

I invite the Minister to revisit her answer to me regarding the legal advice given the comment made by the Solicitor General.

Senator W. Kinnard:

I accept the comment made by the Solicitor General. I was not actually answering my question as to the timing of advice, I was asked as to what advice was sought. Certainly the advice of the Data Protection Registrar was sought by the Deputy Officer prior to the advice that was later sought after the event of the Solicitor General. I am quite happy to accept that.

3.11.6 The Connétable of St. Lawrence:

I do not feel the Minister really addressed the question I raised earlier on. Does she accept that the way forward if the Deputy Police Chief is concerned with any matter in relation to firearms that he should go back to the Connétable concerned and raise the issue with him? As far as I am aware, having discussed with my fellow Connétables, that has never happened. Now rather than go to the press I then went on to say, does she accept that it is duty of the Deputy Chief Officer to ensure that such situations are properly addressed as and when they arise and rather than being dealt with through the media in some general way, which has happened on this occasion?

Senator W. Kinnard:

Yes, Sir.

3.11.7 The Deputy of St. Peter:

Would the Minister agree that in this instance, although it is in the right of the Police Chief to make a comment through the press, he would have been better had the Home Affairs Ministry been consulted before we got ourselves in this awful mess?

Senator W. Kinnard:

The only thing I would say in defence of that is that it was an unfolding situation that, I think, information was released, the article appeared more quickly than was anticipated and that obviously it would be ideal with a sensitive issue that I had had more information prior to the information going into the public domain but, as I say, these things are sometimes difficult, as indeed they were under the Committee system. It is not always possible and practical to notify Members in advance of the media actually asking a series of questions to which they already know the answers very often.

3.11.8 Deputy G.C.L. Baudains:

In the interest of efficiency I consider it probably best if I withdraw the following question and I would just have a supplementary if I may, Sir, to Deputy Ferguson's question? I am concerned because clearly most of the recent front page articles in the *JEP (Jersey Evening Post)* on firearms we now realise are grossly inaccurate. Would the Minister agree to find out whether this was a result of journalistic over-exuberance and lack of research or whether it was, in fact, incorrect information supplied by the States Police? Because, in my view, if it was the latter it should surely be a disciplinary matter. It seems to me that by creating public alarm based on inaccurate information it is not something that the Minister should simply allow to continue.

Senator W. Kinnard:

I have reviewed the email exchanges already between the Deputy Chief Officer and the journalist concerned and I do believe that my Assistant Minister has also written to States Members making it quite clear that some of the interpretations of the material have been what I would describe as inaccurate, but I do not consider looking at the email correspondence that the inaccuracies are due to information that was provided by States of Jersey Police.

3.11.9 The Deputy of St. Martin:

Could the Minister inform the House whether the States Police still employ a press liaison officer and was that press liaison officer present when the Deputy Chief Officer gave the interview, and if he or she was not there maybe the press liaison officer would be present when such interviews are carried out in future?

Senator W. Kinnard:

I believe, although I have not had it confirmed, that the press liaison officer was not involved, mainly because this was an ongoing email exchange. But clearly in the light of - as I have already described - the development of the States of Jersey Communications Unit and obviously the fact

that the States of Jersey Police do have a press officer, and in the light of these events, of course I am undertaking a review of exactly how these matters are dealt with.

3.11.10 Deputy J.A.N. Le Fondré of St. Lawrence:

I think my question has already been answered but for clarification, is the Minister satisfied as to the accuracy of the information released by the Police and its interpretation by the *Jersey Evening Post*?

Senator W. Kinnard:

That is a double-edged question. I am satisfied as to the accuracy of the information that was given by States of Jersey Police but I am not satisfied as to the accuracy of the material that appeared in the newspaper.

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

I have quite an unusual hobby, Sir. I like to restore old vehicles, namely old military vehicles. In fact I am a member of the Jersey Military Vehicle club. Some of the members for authenticity actually have very large, old machine guns on board their vehicles. I am not an expert but I have examined them and to the very best of my knowledge they are, in fact, deactivated.

The Bailiff:

Deputy, this is not speech time, this is question time. You must stick succinctly to your question.

Deputy K.C. Lewis:

The only way anyone will harm themselves is if they drop them on their foot. My question is, does the Minister not believe that the Firearms Law 2000 with very minor amendments is perfectly adequate?

Senator W. Kinnard:

This issue of machine guns is quite an interesting one, and I think if Members wish to refer to the written question of Deputy Baudains, Members will see a very long explanation of, I think, how the misinterpretation of different forms of machine guns and high-velocity weapons and so on got, if you like, confused by those of us who are not experts in this area. But I would agree those machine guns that are in the Island are indeed deactivated. In fact, although the photograph that appeared in the *JEP* seemed to give the impression of certain types of guns, they were not necessarily the ones that were the subject of our concerns in that exchange. Sorry, I have lost my thread, could I ask the Deputy just to remind me of the second part of the question?

The Bailiff:

I think you have answered the question, Minister. Two more supplementaries.

3.11.12 Senator J.L. Perchard:

Will the Minister make available the email communications between the States of Jersey Police and the *JEP* over this issue?

Senator W. Kinnard:

I hesitate to do that without getting advice before doing so and then considering them. If that is a request that is made by the Senator, and he intends to pursue it, I would like perhaps to have that request in writing and I will take the necessary advice.

3.11.13 Deputy S.C. Ferguson:

I think the answer to the last question underlines my concerns. The Minister said that she will have to take advice as to whether to release emails for a department for which she is responsible and for

which she is accountable. I am still concerned that the whole way this has been conducted raises into question the accountability of departments to their Ministers. Does the Minister not consider that that question should be reviewed?

Senator W. Kinnard:

The issue about advice was purely and simply to advise in terms of in releasing it am I not going to fall foul of the Data Protection Law? Am I not going to fall foul of Freedom of Information codes and so on? Just to ensure that in releasing these matters that... I cannot imagine that I would in any way seek to withhold anything that should be in the public domain. But I, obviously, in this kind of situation have to ensure that there is a third party involved which is the *Jersey Evening Post* and I would have to make sure, I think, that we were doing things quite legally. In terms of accountability that is the only issue, as I say, that I am concerned about. If I get the go-ahead with that then obviously it will be up to me to decide whether or not the information is released. In terms of reporting or accountability within the department, Members should also be aware that in Home Affairs we have a slightly different situation in that I do have a Chief Officer of Home Affairs but I also have the Chief of Police who, in fact, reports directly to the Chief Executive. So we do have a slightly different situation and that is, in part, historical and does in fact cause from time to time a few difficulties.

3.11.14 Deputy S.C. Ferguson:

I am sorry to intrude on the Assembly, but the comment that the Chief Officer reports to the Chief Executive Officer of the States, perhaps the Minister would like to confirm that in writing and carefully with exactly what responsibilities the Chief of Police where he is required to report to the Chief Officer of the States, because it is my understanding that the Chief of Police reports to the Minister?

Senator W. Kinnard:

There is actually a departmental plan which I am more than happy to share with Members which explains exactly where we are responsible in the Home Affairs in terms of budgetary issues and so on, and where in fact it is the matter of a different scenario. There are 2 members who sit on the Corporate Management Board, both the Chief Officer of Home Affairs and the Chief of Police because it was felt at the time that the structure was developed that law and order was of such significance and importance to the Island that the Chief of Police should have a seat of his own on the Corporate Management Board, but I am more happy to share that information with Members.

The Bailiff:

Is this a point of clarification?

3.11.15 Senator J.L. Perchard (point of clarification):

Actually it is Sir, I think. The Minister declined to forward the email communications between the States of Jersey Police and the *Jersey Evening Post* for reasons that she laid out, but the communication from the States of Jersey Police to the *JEP*, and not the other way, Sir, is in the public domain by nature and will she release that?

Senator W. Kinnard:

It is not necessarily so. I would have to go through it to work out what is already the public domain and what is not. I wonder what the value of having one side of a conversation released without having the other side. Let me make it absolutely clear, I did not decline to release it. What I said was, I would want to check that in releasing it - if the Deputy wishes to see it or other Members wish to see it - that I am not causing any sort of difficulties for any third party in this matter.

6.11.16 Deputy P.N. Troy of St. Brelade:

Can I ask that this line of questioning continues because the Minister has brought forward a new piece of information to the Assembly regarding the reporting of the Police Chief and I think it is quite important that we explore that further because there is an issue here as to the Chief of Police reporting to a civil servant rather than the Minister?

The Bailiff:

I think the Minister needs advice on this, Deputy, and I do not think it will be profitable for it to be examined any more at this stage. It certainly can be raised later on. The Minister has given the Assembly what information she can. I think, frankly, she needs some advice before being definitive on the...

Deputy P.N. Troy:

Who from, Sir? The Chief of Police or the Chief Executive? **[Laughter]**

Senator W. Kinnard:

It is actually an unusual situation but in fact this matter is in the public domain. Certainly at the time the Minister...

The Bailiff:

Minister, I am sorry. I had drawn the period of supplementary questioning on this question to an end, and I remind Deputy Troy that the Minister of Home Affairs is subject to questioning without notice in due course. So we come to the next question, which is of Senator Syvret of the Minister for Home Affairs.

3.12 Senator S. Syvret of the Minister for Home Affairs regarding her satisfaction with the provisions of the Firearms (Jersey) Law 2000:

Is the Minister satisfied with the provisions of the Firearms (Jersey) Law 2000, which appear to allow a licence to be issued to an individual enabling him or her to build up an arsenal of multiple weapons even though that individual has criminal convictions for firearms and drugs offences?

Senator W. Kinnard (Minister for Home Affairs):

The fact that a person could obtain a firearm certificate with such criminal convictions must give cause for concern. Article 34(a) of the Firearms (Jersey) Law 2000 places the responsibility for determining whether a person is fit to be entrusted with a firearm upon the Connétable, and I understand that, as I have said before, the Comité actually wrote to the Attorney General in January seeking advice about dealing with applications from individuals who do hold criminal convictions, and that advice will help determine whether, and in what way, the Firearms Law should be amended.

3.12.1 Senator S. Syvret:

Can the Minister inform the Assembly which Connétable was involved in granting this licence?

Senator W. Kinnard:

I do not have that information to hand, and whether or not the Connétable concerned would be prepared to come forward and own up I think that is a matter for them. But actually I could find it out later today, but I do not have that specific information.

3.12.2 Deputy G.C.L. Baudains:

Would the Minister confirm that the Firearms Law actually lays down criteria which states who and who cannot have a licence according to the convictions held by a person, for arguments sake, of somebody who had a parking offence? I am sure that would not, in most people's eyes, preclude

them from owning a firearm whereas if they were guilty of grievous bodily harm that possibly would. Would she confirm that, in fact, the Firearms Law does contain those criteria?

Senator W. Kinnard:

My belief is, in fact, that it does not contain those criteria and it is actually a matter for the Connétable to make that decision, and that is why obviously they are seeking advice about the sorts of convictions and so on that perhaps ought to be considered inappropriate. And out of that will be developed a set of Regulations which will, in fact, cover this area.

3.12.3 Deputy J.J. Huet of St. Helier:

These 2 words here, “criminal convictions” for firearms and drugs offences, I would like to ask - to get it clear in my own mind - would somebody have a criminal conviction for firearms if they were late in renewing their licence? And the second one, would somebody... well I know they would have a criminal record for a drugs offence because in the old days, Sir, when Centeniering - and I am going back 12 to 14 years... Nowadays one will not get a criminal conviction if one is using a drug for personal allowance - a very small amount - but in those days it was an utter offence to even have one puff of a roll-up, as they called it, and the person went to jail. They had no choice. Now that has changed from then to now.

The Bailiff:

Come to the question please.

Deputy J.J. Huet:

The question is, when we are talking about criminal convictions for firearms and drugs offences, are we including those things from way back in that length of time because nowadays they are not a conviction?

Senator W. Kinnard:

The States of Jersey Police would have the role in actually confirming to the Connétables if an individual had any convictions but it would, at the end of the day, be up to the Connétable to take a view on whether or not they wished to still go ahead and grant the certificate.

3.12.4 The Connétable of St. Helier:

I think it is unfortunate that the Minister has used the phrase “owning up” for Constables that are Members, Sir, that answer these criteria. If that is the phrase she wishes to use I am pretty sure that in St. Helier we do have people who have firearms certificates with things in their past that have come up in the Police check. Could she confirm to me, however, that the Constables make their decisions based on advice from the States of Jersey Police Firearms Unit and that that Unit has recently tightened-up the terms of its advice to the Constables?

Senator W. Kinnard:

I believe that it is very important that we do have procedures to ensure that we have a continual process of improving upon them. “Owning up”, I apologise, it is an unfortunate use of terms and I do actually take that back. But I am pleased that, in fact, the Connétables themselves are expressing concerns about this area and have committed to work with us to ensure that we do improve matters. We have to improve matters in the way in which we deal with the law on our side, under the remit of Home Affairs, and I think there obviously needs to be tightening-up on the part of the actions of the Connétable. But, as I have said before, both sides are of one mind of trying to work together to improve matters.

3.12.5 Senator S. Syvret:

Will the Minister confirm to the Assembly that the Hungerford and Dunblane massacres were carried out by people who were legally entitled to possess those firearms? And will she not accept the fact that the entirely random and inconsistent nature of the application and granting of licences by the separate 12 Parish Constables is no longer a viable way of proceeding on this basis and that we have to have Island consistency, and that it is not appropriate for people to be deciding whether to grant a firearms licence or not to individuals who may be friends of theirs?

Senator W. Kinnard:

Leaving aside the rather inflammatory language, I would say that a central firearms licensing authority is obviously an issue that will be discussed with the Connétables as part of our review of the operation of the 2000 Law and will be discussed with the Firearms Liaison Group. But, of course, much consultation would have to go on before any such decision is made about whether it would be necessary to go to a centralised firearm licensing authority or otherwise because, quite clearly, I know that there will be divided views among the Connétables. In areas where some tragic events have taken place there has been a centralised licensing authority, so there is not an automatic correlation between the two issues. But I would say, Sir, what we do have in Jersey, I think, which is over and above what they have in the United Kingdom, is a central firearms index which is the database of certificate holders, and that was introduced by the 2000 Law and the United Kingdom is still awaiting such an index.

3.12.6 The Connétable of Grouville:

May I ask the Minister whether she is aware of any case where recommendations have been given by the Police on the application for a firearms permit which had not been carried out by the Constable?

Senator W. Kinnard:

I do not have that detail of information. It is not necessarily helpful to go there, but clearly if it is required and the Constable requires that information I would perhaps suggest that he ask his fellow Connétables.

3.12.7 The Deputy of St. Martin:

It was reported in the media that the States Police had grave fears that the current licensing rules means that unstable and unsuitable people are legally getting hold of guns with the blessings of the Parish Connétables. Has the States Police passed on that information to the Minister? If so, when, and what action has the Minister taken to address those concerns?

Senator W. Kinnard:

I can actually say that what happened... to really raise these issues this time round, there was a short video clip that was brought to the attention of the Chief Officer of Police in January 2006 and apparently it had been circulating Jersey, and it was demonstrating a particularly unusual weapon. At that point it was raised with myself and with the Assistant Minister, and we then went on to raise it with the Chairman of the Comité des Connétables. At that point, Sir, we also then went on to raise our concerns with the Education, Sport and Culture Department because we were aware that individuals were seeking certification on the basis of using local ranges and the ESC (Education, Sports and Culture) Department have commissioned a U.K. expert to inspect their facilities and to report back on various issues, including whether or not local ranges are suitable for high velocity firearms and obviously, therefore, to establish whether such certification for possession would be invalid. Also, some research was undertaken on the general issue of firearms to really look at the operation of the Firearms Jersey Law and, as I mentioned, the Comité des Connétables also raised some issues at this point. What we have decided is what we would like to do, as a result of concerns that have been expressed to us and which we have taken forward now, is that in collating the information a report is nearly finalised as to the ways in which the current Law operates and, if

you like, some of its inconsistencies and inadequacies, and on the basis of that report we will be trying to draw up a proposition to bring to the House for debate. Certainly what else has happened is that we have also decided to...

The Bailiff:

Sorry, I think your time expired.

The Connétable of St. Lawrence:

I was just going to mention something that occurred earlier which was a reference to whether we should have a central authority issuing licences or not? I was just going to make the comment that it did not help in Hungerford or Dunblane.

The Bailiff:

Connétable, this is not comment time, this is question time.

The Connétable of St. Lawrence:

No, Sir, I was just saying the particular point I was going to address and ask the Minister if she agreed with me in that case?

The Bailiff:

If you wish to ask a supplementary question you can.

3.12.8 Connétable M.K. Jackson of St. Brelade:

Could the Minister please confirm with regard to the review to which she just alluded that she has communicated with the Firearms Law Liaison Group which is, in fact, chaired by her Chief Officer?

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

It is not chaired by my Chief Officer. It is chaired by my Assistant Minister. The intention is to have a meeting and I gather that a date has been set to meet with the Firearms Liaison Group to look at methods for tightening up the controls of the 2000 Law in that Group. I am also going to be writing to shooting clubs - to their secretaries - to ensure that all shooting clubs are registered by given date because in the Law longstanding clubs do not necessarily have to but I want to change that. We are doing a lot of other things, Sir, like trying to identify who are currently club members who are returning to clubs and shooting at clubs and those that are on the clubs' lists but not necessarily taking up the opportunity to use the clubs. So, there are many things going on, Sir, to address this issue and I am aware that there will be much more work to do in conjunction with the Firearms Liaison Group.

3.12.9 The Connétable of St. Peter:

The Minister stated in the previous comment that this review started with the clip of a film. Could I inquire where this film originated from and was it requested by the Home Affairs Minister? Was it requested by herself as Minister or was it requested by the Police Chief and, if not, who?

Senator W. Kinnard:

Sir, it was raised, as I mentioned, by the public. It appeared to be circulating the Island. It was obviously open-source material which was referred to the Police Chief and indeed myself and my Assistant Minister have reviewed the clip.

3.13 Senator S. Syvret of the Chairman, Comité des Connétables regarding the discharge of duties by Connetables under the Firearms (Jersey) Law 2000:

Is the Chairman satisfied that all Connétables are correctly discharging their duties under the Firearms (Jersey) Law 2000 and if not would he explain whether there are any deficiencies in the application of the Law that he is aware and to which Parish this applies, if any, and whether any difficulties exist with the Parish in issuing firearms licences?

Connétable K.P. Vibert of St. Ouen (Chairman, Comité des Connétables):

Yes, Sir, I am satisfied that Parish Connétables are correctly discharging their duties under the Law. I welcome the Senator's question because it gives me the opportunity to point out to the States and to the attending media that since the promulgation of the Firearms (Jersey) Law 2000 all - and I repeat all - the required paperwork for every application, be it for the grant, variation or renewal of a firearms certificate, has been forwarded to the States of Jersey Firearms Index Unit and has been recorded in the central firearms index maintained by the States of Jersey Police. Police checks have been undertaken on all applications prior to consideration of any application. The issue raised in the *Evening Post* regarding the non-compliance of 4 Parishes was an administrative one and following identification of which Parishes were involved - which I would say only occurred last Thursday - I can give an assurance that the information required should be made available by close of play today. I would further point out that all the information has previously been viewed and processed by the Index Unit at the time of application. As to the question as to whether difficulties exist for the Parishes, if any such do exist they will be identified and addressed by the proposed review of the Law.

3.13.1 Senator S. Syvret:

Could the Chairman inform the Assembly which of the 12 Connétables was the one responsible for issuing or granting or renewing a firearms licence to the individual with firearms and drugs convictions?

The Connétable of St. Ouen:

I have not been made privy to that information yet, Sir.

3.13.2 Deputy S.C. Ferguson:

I wonder if the Chairman of the Comité will confirm that in fact as far as he is concerned the Rehabilitation of Offenders Act applies?

The Connétable of St. Ouen:

I cannot confirm that but I can confirm that under the Home Office guidelines to chief officers on the mainland, it says that they should consider the application firstly from the standpoint of the applicant rather than from that of a possible objector. Each case must be judged on its own merits, being mindful of the consistent administration of the law and the need to provide fair and equitable treatment to all applicants.

3.13.3 Deputy R.G. Le Hérrissier:

Could the Chairman please confirm, following on the question from the Connétable of Grouville, that there have been no instances where the advice of the States of Jersey Police has been disregarded or denied or whatever?

The Connétable of St. Ouen:

That is my understanding, although I have not sought positive proof of that statement.

3.13.4 Senator P.F.C. Ozouf:

Can I just seek to get the Constable to answer the question the other way round. Are Constables taking the advice of the Police in saying that, yes, a firearm certificate could be issued but not

agreeing it because of other information. Does he have any statistics to back any evidence of that arrangement where the Constables are being tougher than the Police are saying?

The Connétable of St. Ouen:

We are going into a field where each Connétable has the consideration to be made on the evidence provided before him or her, only him in this case at the moment. Certainly from my own point of view - from the Parish of St. Ouen - if there is a query on the application form when it is returned to the Parish Hall, I will then discuss that with the relevant authorities at the States of Jersey Police prior to making my consideration.

3.13.5 Senator S. Syvret:

Does the Chairman not accept there was a very, very important issue of public accountability here? If he is not at present party to the information as to which of the 12 Connétables was licensing firearms for a person with firearms convictions, will he undertake to find out that information and make it public and, as a matter of general policy, will the Constables be prepared to stand up and be counted for their decisions? Does he also believe that in the event of a firearms licence being issued to somebody with criminal convictions, if they were then to commit further criminal offences, particularly involving the firearm, that that Connétable would have no other decent option other than to resign?

The Connétable of St. Ouen:

I can confirm that if that information is made available to me, I will ensure that the matter is properly looked at and properly investigated and that any mistake in the application of the Law is addressed by the bodies which need addressing them. I would refer the matter to the Attorney General.

3.14 Deputy G.C.L. Baudains of St. Clement of the Minister for Home Affairs regarding definition of automatic weapons as “prohibited weapons”:

[Aside] Would the Minister inform Members whether automatic weapons, such as M2 Brownings, are defined as “prohibited weapons” in accordance with Article 33(1) of the Firearms (Jersey) Law 2000, requiring the Minister’s authority, following consultation with the Connétable, before such a firearm can be purchased or transferred and, if so, on how many occasions, if any, has such permission been granted in the last 3 years?

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

Yes, Sir, provided it is understood that the Firearms Law refers to Article 33(1)(a) to firearms which are so designed or adapted that 2 or more missiles can be successively discharged without repeated pressure on the trigger. During the last 3 years, there have been 3 occasions on which permission has been granted but none were automatic weapons as defined in Article 33(1)(a). Two cases of permission relate to deactivated flame throwers, which are exhibits at the Jersey War Tunnels, and one relates to a local company which supplies component parts to the UK Ministry of Defence.

3.14.1 Deputy G.C.L. Baudains:

I would not have thought a deactivated gun requires the Minister’s permission. Would she advise, given that a review of the Firearms Law has been ongoing now for, I think, 5 years, whether any new review will be made by the existing Firearms Liaison Group or a new group and if so what would it be? We know that the press has already incorrectly said that 6 persons have permission to possess heavy machine guns and they are high velocity, which is not true, so therefore would she also ensure that her Assistant Minister is properly briefed on firearms so that he in future does not inadvertently add to the current misinformation?

Senator W. Kinnard:

I think there is a confusion being put about here that in fact the issue that my Assistant Minister referred to was not the items referred to in the Deputy's question just now. The weapons of concern are, in fact, a weapon known as the Steyr bolt action rifle, sometimes referred to as a single-shot machine gun, that fires a .5 Browning machine gun round. Indeed its potential effects are devastating and we are aware that there is one already licensed in the Island and we are aware there are others who do not have possession of these weapons but permission to do so.

3.14.2 The Deputy of St. Peter:

Would the Minister confirm that there is no such definition as a single-shot machine gun and that although this .5 calibre weapon fires what is termed as machine gun bullets, that all bullets in all guns - and the current most common bullet is a .762 - can be used in single-shot weapons for rifle target shooting as well as a weapon of war?

Senator W. Kinnard:

I am not a ballistics expert but clearly in reviewing the Law we will take the advice of the said ballistics experts.

3.14.3 Deputy P.N. Troy:

Can the Minister then confirm that all licences issued at present have been issued in accordance with the Law and the person who owns this single-shot rifle is operating within the current law?

Senator W. Kinnard:

Yes, Sir, and that is one of the reasons why I feel the Law must be reviewed.

3.14.4 The Connétable of St. Ouen:

Would the Minister confirm that at the time of the application which was made for possession of this particular firearm, Police Headquarters found nothing to mention to the Connétable about this particular firearm?

Senator W. Kinnard:

There was no reason for particular attention on that individual case to be drawn to their attention, as indeed it was within the Law. It is only, I think, with the situation where there are others now making applications that the red flag, if you like, popped-up to say we need to look at this more closely and, indeed, that is what has happened.

3.14.5 Deputy S.C. Ferguson:

I wonder if the Minister would comment on this particular Steyr 5-calibre gun. There has been a lot of talk about high-velocity and the velocity is very similar to the .303s and 762 mm which have been used at Crabbé for the last hundred years or so.

The Bailiff:

You must come to the question, Deputy.

Deputy S.C. Ferguson:

I will indeed, Sir. I wonder if the Minister could comment on the fact that the briefing note said categorically that this 50-cal firearm cannot be licensed in the UK when there is a U.K. shooting club, the Fifty Calibre Shooters Association, registered by the Home Office?

Senator W. Kinnard:

We are getting down to absolute detail here. As I say, I am not a ballistics expert but I would say that there are, of course, other types of weapons using that kind of ammunition. We are talking

about a specific very high-performance piece of kit here, Sir, which I believe indeed can have a devastating performance against light armoured vehicles at a range of a mile, and 3 miles in the case of unprotected targets. I would query, and that is indeed why we raised with Education, Sport and Culture, whether indeed the ranges we have in Jersey are capable of really accommodating this sort of weapon.

3.14.6 Deputy G.C.L. Baudains:

In relation to the Minister's last comment, I wonder if she is aware that it is believed that a 303 - those historic rifles - can fire bullets 7 miles and kill at 3? Would she confirm, Sir, that the single-shot rifle to which she referred 2 or 3 supplementary questions ago, is neither a machine gun nor of high-velocity?

Senator W. Kinnard:

I am afraid that I am not a shooter so I do not have that kind of level of detail and I would need to have notice of the question as to the technical details perhaps that the Deputy requires. I think, Sir, what we must say here is that we are trying to have a very reasonable review of the Firearms Law and part of that will be to look at which kinds of firearms we consider to be perfectly legitimate to be held in Jersey and perhaps looking at a list of those under our review that we think ought not to be legally held in Jersey. We will do that in consultation but clearly what we are concerned about here is public safety. I am aware of the very hard and rough ride that the 2000 Law had in the States. Indeed, originally the Law came in in 1995 and was thrown out at the preamble stage because of opposition from the shooting fraternity. What I would say, Sir, is that we are not trying to curtail the actions of legitimate shooting fraternity who engage in sport and obviously add value to the reputation of this Island. What we are concerned about is ensuring that public safety is uppermost in our mind. The shooting fraternity do not have anything to fear from this review but we are absolutely clear, Sir, that the review is absolutely necessary at this time.

3.15 Senator B.E. Shenton of the Chief Minister regarding his confidence in the Minister for Home Affairs following publication of H.M.I. report on H.M. Prison La Moye:

Sir, following the H.M.I. report on H.M. Prison, La Moye, would the Chief Minister confirm whether he retains full confidence in the Minister for Home Affairs whom he nominated for this position in December 2005?

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

Yes, Sir, I have full confidence in the Minister for Home Affairs who has responsibility for a wide portfolio, as we have heard throughout much of the morning, including Her Majesty's Prison. The H.M.I. report has highlighted a number of serious deficiencies in standards at La Moye Prison and Members will already be aware of these deficiencies from the extensive coverage that has been given to the report. Many of the concerns highlighted in the report are already being actively addressed and these include the recruitment of extra staff and the provision of a new accommodation block which is scheduled for completion in August this year. In addition, funding is available for a further new block in 2009 and, in fact, the Minister for Home Affairs is bringing pressure on the Council of Ministers to bring that forward to 2007. The Minister for Home Affairs is now actively addressing the remaining concerns expressed in the report. One of the main issues - and it has been for many years - is one of resources and this is something which both the Minister and the Council of Ministers is addressing. In the meantime, I repeat that I have every confidence in the ability and the determination of the Minister for Home Affairs to carry this forward.

3.15.1 Senator B.E. Shenton:

The Minister for Home Affairs stood up in this Assembly a couple of weeks ago and said that it was not her fault she could not get the funding from Policy and Resources. Given that the Chief Minister was President of Policy and Resources, can he tell us whose fault it was? Was it the Minister for Home Affairs fault or Policy and Resources?

Senator F.H. Walker:

I think the lack of resource going into the prison is a collective responsibility of past Committees. However, we do have a new system now. We are approaching this in a new way with the new joined-up ministerial approach. I repeat what I said in my original answer that I believe the Minister for Home Affairs, working with her colleagues on the Council of Ministers, will come up with the right solutions to all these problems in a very timely manner.

3.15.2 Senator J.L. Perchard:

The 2005 Inspector of Prisons Report on La Moye described intolerable conditions for inmates with drugs freely available, serious security concerns, unacceptable sanitary conditions, bullying, racism and more. What makes these findings even more scandalous, Sir, is that they follow up an equally damning report from a H.M. Inspector of 2001. This unacceptable state of affairs has not come about as a result of an accident. This situation is no surprise. Given that the Minister for Home Affairs was Vice-President and President of the Home Affairs Committee for 6 years consecutive to her becoming Minister for Home Affairs, who does the Chief Minister think the buck stops with? Who ultimately takes responsibility for the welfare of inmates and the conditions at H.M. La Moye Prison?

Senator F.H. Walker:

The buck very clearly now rests with the Minister for Home Affairs and she is well aware of that and, as I have already said in my answers, she is addressing all these issues as speedily as sensible.

3.15.3 Deputy R.G. Le Hérissier:

Would the Chief Minister outline the conditions under which he would withdraw his confidence from a Minister?

Senator F.H. Walker:

Yes, Sir. If there was continued under-performance, non-performance or misconduct or whatever it may be, by a Minister then they would very quickly - and they are well aware of this and I have said this publicly - lose my confidence. This does not apply in this case.

3.15.4 The Very Reverend R.F. Key, The Dean of Jersey:

Would the Chief Minister accept from me that the 3 denominational heads on the Island feel that the Minister and her Assistant are to be congratulated on the alacrity with which they have worked with us on addressing the chaplaincy issues? Would he take an early opportunity when he visits the prison to pass on from us to the Governor and the staff our thanks and amazement for the relationships with prisoners that they have and the excellent work that they do?

Senator F.H. Walker:

I am very grateful to the Dean for that question and I fully accept the points he has raised and I will, of course, pass on the information as he has requested. I am extremely grateful.

4. Questions to Ministers without notice - The Minister for Home Affairs

4.1 Deputy S.C. Ferguson:

Following on from a few minutes ago - it seemed like a good idea at the time - would the Minister like to tell the House how she expects to have a reasoned and thorough review of the Firearms Law, given the effects of the adversarial interview given by the Deputy Chief Officer of Police?

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

I do believe that we will have a reasoned review and I have to say, Sir, that one of the things that has disappointed is the way in which some individuals of the firearms fraternity have really taken a very knee-jerk reaction themselves and indeed, as I say, they did successfully prevent a law coming to this House in 1995. I regret if that is going to be the way in which this is going to be conducted. It certainly is not our intention that it will be conducted in this way and I have every confidence in my Assistant Minister, as the Chairman of the Firearms Liaison Group, to ensure that matters are brought forward in both a timely, sensible and - if you like - peaceful way.

4.2 The Deputy of St. Martin:

The Firearms Liaison Group established after the passing of the Law in 1999 or 2000, can the Minister tell us how often the group has met and is the Minister satisfied with the effectiveness of that particular liaison group?

Senator W. Kinnard:

I have not got in front of me all of the minutes of the Group but I think Members heard earlier on that the Connétable of St. Ouen was in fact the Chairman of that Group for the first 3 years and they tended to meet, Sir, when they felt there was an issue that needed to be debated and discussed rather than meeting on a regular monthly basis. Indeed, much good work has been done and changes to the way in which the 2000 Law operates - amendments have been brought to this House - as a result of working within that Group. I do believe that it is a successful vehicle but there are occasions, of course, when there is not a meeting of minds and at that point it is the responsibility of both the Minister and this House to make the decision on what the Law should be.

4.3 The Deputy of St. Martin:

Could I just add then that if the Connétable of St. Ouen was on for 3 years, that there has not been a meeting of the group for the last 3 years, bearing in mind that is 6 years in total?

Senator W. Kinnard:

No, Sir, I do not believe that is true because, following on from the Connétable, in fact, it was the previous Deputy of St. John who chaired the Group and I am aware that he did chair meetings.

4.4 Deputy J.A.N. Le Fondré:

To return to the EP (*Evening Post*) article of Friday, 17th March - which is the one with the machine gun on the front page which we understand was based upon information supplied by the

police. Could the Minister confirm the method of calculation which backs up the statement that the people registered to own guns in the Island hold 6.5 million rounds of ammunition?

Senator W. Kinnard:

That information will have come from the Firearms Index which records both weapons and indeed ammunition.

4.5 Deputy A. Breckon:

I wonder if the Minister could give any information or statistics about the temporary release schemes and show whether it has been a success or a failure in comparison with other prisons?

Senator W. Kinnard:

The temporary release which takes a variety of forms - from both tagging to temporary release for home visits or for reasons for medical appointments or whatever - has been extremely successful. The failure rate has been virtually non-existent. In fact, there have been no sort of failures to return. Where there have been difficulties they have only been very minor in terms of people perhaps not abiding exactly by the terms of the release. I have not, I am afraid, got this in front of me at the moment but really there is nothing to report and in fact we have regular reports at our Ministerial meetings from the prison and indeed there has been nothing to report in terms of failures. It has been an extreme success and I think that is very much in part due to the panel which assesses risk in terms of whether or not individuals should be given temporary release and I pay credit in fact to them.

4.6 The Deputy of St. Peter:

There have been several rumours over the future of the retained Western Fire Station. Would the Minister for Home Affairs comment on the possible closure and sale of this site, either now or in the foreseeable future?

Senator W. Kinnard:

Yes, I will, Sir. I just need some time to find my piece of information because I think it is important that I answer this question very carefully because I am aware that there have been some concerns expressed, obviously, in the western parishes. What I would say, Sir, is that there are no current plans to change the status of the Western Fire Station because some 16 per cent of our total fire-fighting force is stationed there. That is 18 personnel out of a total of 118 whole time and retained staff. The station has always been identified as a retained - that is part-time - resource and this is what it does in fact continue to be. No changes can be made without a comprehensive risk assessment of the future needs being made and one is planned in terms of an integrated risk management plan in 2007. So, certainly, no change could take place before that plan was undertaken. In fact, also if the physical site was lost to the service, there would also be a loss in terms of the impact on the revenue budget if we had to lease alternative accommodation to overcome any problems of vehicle garaging and equipment storage. But, as I say, Sir, there are no immediate plans to change the status of the station.

4.7 Senator L. Norman:

In view of the startling revelation made earlier this morning that the Police Chief does not report to the Minister for Home Affairs, what comfort can the public take from the obvious conclusion that policing in Jersey occurs in a political vacuum?

Senator W. Kinnard:

No, Sir, I am sorry, it is my fault. I did not make it clear. Of course, on a political level the Police Chief does report to the Minister for Home Affairs. What I was trying to perhaps try and explain, and did not do it very well, was that in terms of reporting and in terms of sort of professional Civil Service line, my Police Chief does not report to my Chief Officer of Home Affairs. So, he does not report through the Chief Officer of Home Affairs whereas the Fire Chief does, Immigration does and so on. The Police Chief on that particular aspect reports to the Chief Executive and I am sorry that I perhaps did not make that absolutely clear but, of course, in terms of political accountability it is here within the remit of the Home Affairs Minister.

4.8 Deputy C.J. Scott Warren of St. Saviour:

Can the Minister inform Members of the progress being made to improve the educational facilities for all age groups at the prison? Thank you.

Senator W. Kinnard:

Some Members will know that this has been a grave concern to me for some time and indeed it was a major aspect of the Criminal Justice Policy which unfortunately this House chose not to debate last November. However, had they done so I think I might have had more of a chance of keeping it in the Strategic Plan. It was originally in the Strategic Plan and unfortunately it has had to be removed because of the lack of funding. However, now I am faced with the reality of having to do what I can with the resources that are available. So, meetings are going to take place with Education, Support and Culture when the Minister returns to see what they can offer to us within existing resources. I have also met with the Probation and Aftercare Services to see whether indeed they could offer us some places on the courses that they have available. I am also working to provide accommodation - although it will probably be quite temporary accommodation - for better provision for classrooms while we are waiting for the building programme to go ahead. This, I think, is a very important matter and I will do what I can to progress it but, clearly, without that £100,000 that was identified in the Criminal Justice Policy, it is going to be a difficult one to achieve.

4.9 Deputy I.J. Gorst of St. Clement:

The Minister may already have partially answered my question. Assuming, Sir, that we no longer subscribe to the Victorian value of locking-up criminals and throwing away the key, Her Majesty's Chief Inspector of Prisons in her report states that there are no policies to help prisoners address their offending behaviour or to prepare them for release. Could the Minister confirm what measures she intends to introduce to correct this fundamental problem?

Senator W. Kinnard:

Again I would say this was a major pillar - Pillar 9 - of the Criminal Justice Policy, which I really, really regret that the House chose not to debate because that set out a whole programme of how we want to move forward in terms of the rehabilitation of prisoners. We are in fact doing a number of things: Post-custodial supervision. Funding has now been released to the Probation Service for some of the work also that they do in the prison in terms of preparing prisoners for release. That is going ahead. Staffing, of course. That is one of the 6 most significant things I see that we are moving forward on that will enable us to have officers doing the kind of work that we all know

needs to be done, which they have not been able to do because pressures in terms of understaffing, no available time and resources to deliver the education. So, yes, I agree absolutely with the sentiments that the Deputy has just expressed and I am absolutely determined that we are going to turn that place round because it sorely needs it.

4.10 Deputy P.N. Troy:

Can the Minister explain the reasoning for the Chief of Police reporting to the Chief Executive Officer of the States, rather than directly to her Department? Does she feel that that dilutes her authority as Minister and dilutes the whole reporting process directly to the Department?

Senator W. Kinnard:

As I explained, the Chief of Police does report to me politically. But there was this change to the way in which things were set up for this particular Department because of the significance of law and order. It was felt that the Chief of Police should have a separate seat in his own right on the Corporate Management Board, but there is also the issue around the split between policy and operational matters. Members may be aware of the fact that the Chief Constables in the U.K. also have this difference between operational and policy and they have quite a lot of flexibility within their operational area within set policies. That we are, in a sense, trying to emulate here. So it is an unusual scenario and I am more than happy to give Members a further briefing on that in detail - it is a written briefing - so that perhaps the misunderstandings that sometimes arise out of this scenario can be better understood.

4.11 Deputy G.P. Southern:

Can the Minister provide for Members a list of the number of times in the last 3 years when she has approached the then Finance and Economics Committee for additional funding for the prison or for long-term solutions to the dreadful funding problems associated and with what outcome, and how many times she has been turned down, especially with short notice?

Senator W. Kinnard:

Certainly, in terms of specifically going to the then Finance and Economic Committee for assistance, I attended on a number of occasions, 4 in particular where we provided major reports to - if you like - assist our case because we were facing severe budget deficits because it is quite clear that the prison budget has been under-funded for a great many years. In fact, if Members wish to refer to the written question of Deputy Le Hérisier that I have given an answer to, they will see a financial chart on the back and that identifies where the Home Affairs Committee has sought to clear their deficits and where they have received one-off funding. On many occasions, Sir - I think you will probably be able to read it from the figures for Members or they will be able to read it - I have not received what I have asked for. I have been grateful for what I have received but it has never been enough. What we have asked for in the past was just to have assistance to run the prison with the low level of service that it gives now. Otherwise, I have the other evidence here, Sir, which I have to share.

4.12 Deputy D.W. Mezbourian:

Will the Minister comment on the current position regarding the implementation of the 32 recommendations made in the Wall Report?

Senator W. Kinnard:

Yes, Scrutiny have been, I think, wanting to look at this and there has been some movement on the House Needs Analysis Report from Dr. Rosemary Wall. Sir, she proposed that there should be much closer joint working with Health and that has now been translated into a business plan and there is going to be a bid for growth funds from the Health and Social Services Ministry from 2007 and this, I believe, has officers' support in principle. So hopefully there is good news there.

4.13 Deputy S. Pitman of St. Helier:

Would the Minister clarify whether she feels it is adequate that in 2006 all the Government can offer its people is race relations protection that is wholly voluntary in nature? If not, could the Minister also clarify what progress has been made to implement statutory legislation to bring us into line with other neighbouring European countries?

Senator W. Kinnard:

I am answering this because it is sort of within my Home Affairs umbrella because I have got the budget. But I am doing it under the ambit of the Council of Ministers and I am working with officers and we are looking forward to putting out a consultation paper before the summer on how we move forward with bringing legislation into force at the earliest possible opportunity.

5. Questions without notice - The Minister for Treasury and Resources

5.1 Deputy G.P. Southern:

[Aside] Can the Minister inform Members what measures he has found and referred to earlier to modify the look-through provisions which do not result in a reduction of a tax base or of revenue produced?

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

I think the Deputy may be trying to pre-empt the proposal that I will be presenting shortly but, in broad terms, as the PricewaterhouseCoopers Guernsey Report suggested, neither pure apportionment nor pure distribution are ideal solutions. So, I am, in my proposals, looking to a combination of both, which will in fact not lead to a loss of revenue but to a deferral in the timing of its collection.

5.2 The Deputy of St. John:

Would the Minister consider creating our own student loans system using existing reserve funds until such time that an outsourced arrangement can be achieved, if indeed it is determined that this is the best approach to take with regards to the current higher education funding crisis?

Senator T.A. Le Sueur:

I shall want to work with the Minister for Education and indeed the Council of Ministers in order to provide a consistent and long-term policy for the future of students' support at universities, part of which could include a short-term loan facility, bearing in mind that the U.K. student loan arrangements which I hope to be used do not seem to be available at the present time. But I would point out that there are grave dangers in the States or Government becoming a banker.

5.3 Deputy S.C. Ferguson:

On a sort of general overview, Sir, does the Minister consider part of his brief - when looking at the overall performance of the Civil Service - to look at departments which are having problems and perhaps send in consultants, so to speak, from his own departments, such as the Internal Audit Department? If you are in business...

The Bailiff:

Deputy, I am going to rule the question out of order unless you are concise. Just come quickly to the point, please.

Deputy S.C. Ferguson:

I am sorry. Does the Minister not look over the whole working of the States and say: “This Department is having problems? We had better send people in to have a review of it and see what is going on”?

Senator T.A. Le Sueur:

I would like to have the luxury of having staff to spare to be able to put them into departments when that might arise. Unfortunately over the last few years we have been squeezing and squeezing the resources in the Department to such an extent that we can barely cope with the workload within our Department, let alone put out staff to other areas. But, nonetheless, there is an Internal Audit Department, which I know will work in conjunction with the Public Accounts Committee and the Comptroller and Auditor General to assist where there are clear needs that seem to arise.

5.4 Deputy P.J.D. Ryan of St. Helier:

I would like to ask, or rather refer the Minister to a couple of things in the Strategic Plan and then one thing in R.28, which we received today. In case anybody wants to see it, it is on page 37 of R.38. I would like to ask a question once I have done that, Sir. The 2 things on the strategic plan...

The Bailiff:

You have got 5 seconds, Deputy, or I am going to rule you out of order.

Deputy P.J.D. Ryan:

Well, I will do it the other way around, so I will ask the question first and then...

The Bailiff:

You had better ask it quickly or you are going to be out of order.

Deputy P.J.D. Ryan:

Okay. On page 37 of R.28, Article 8, it says: “1. GST should be charged at a rate of 3 per cent”; Under 3, it says: “The States may amend paragraph 1 by Regulations” and 4 says: “The power in paragraph 3 should not be exercised before the third and”...

The Bailiff:

Deputy, I am sorry. I am ruling your question out of order. Constable of St. Helier?

5.5 The Connétable of St. Helier:

Would the Minister give us a date when he is going to set up the working group, which he has promised in questions on 14th March to set up in respect of the payment of rates on States-owned properties, given that the outcome of the Island-wide rate will be announced in May or June this year?

Senator T.A. Le Sueur:

As I said at the time, Sir, once the outcome of the Island-wide rate is known, I am happy to meet with the Committee’s, Constables and others to determine the way forward. It is not simply a matter of talking with the Constables. There are other people involved in that process.

5.6 Senator J.L. Perchard:

Would the Minister for Treasury and Resources, as he recently announced a welcome £12 million surplus to the budget, consider making available as a one-off payment part of these surpluses for payment of university top-up fees?

Senator T.A. Le Sueur:

Could the questioner clarify what he means by £12 million surplus because I am not clear what he is talking about?

Senator J.L. Perchard:

Yes, Sir. It is information that I gleaned from the *Jersey Evening Post* front page.

Members: Oh!

Senator T.A. Le Sueur:

If the Deputy is talking about underspends and carry forwards in the General Reserve, were that money still available and there were no other calls on it, it might be considered useful in the short term to deal with the student problem. The fact is that against that £11.7 million that is available, I have received requests for £19 million worth of unforeseen and essential expenditure and I have the unfortunate job of trying to match a quart into a pint pot.

5.7 Senator B.E. Shenton:

Would the Minister admit that his letter, dated 20th March, concerning the public employees' pension scheme was a little bit misleading, given that the pre-1987 liability rose from £118 million to £123 million?

Senator T.A. Le Sueur:

No, Sir, I do not believe my letter was misleading in the slightest. What my letter said was that we have now found a solution for dealing with the pre-1987 debt. That was agreed by this House last year, as a result of which there is far better certainty going forward as to the extent of the liability of the PECRS (the Public Employees' Contributory Retirement Scheme).

5.8 The Deputy of St. Martin:

Yes, the Minister has pledged to provide £2 million to be provided so as to protect income support claimants from the increased costs that would arise following the introduction of the Goods and Services Tax (GST). Will the Minister confirm whether this is to be just a one-off £2 million or, as these costs will increase every year for the people on low income support, that this £2 million will be recurring every year? Thank you, Sir.

Senator T.A. Le Sueur:

The figure will be whatever it takes. An initial estimate is that it will be up to £2 million in the first year. In future years, as costs go up, no doubt that will go up as well, as will other expenses of this House. So that is not a fixed amount. It will go up in relation to the extra costs incurred as a result of GST.

5.9 Deputy S. Pitman:

Is the Minister aware of the Isle of Man's proposals to cap not only the tax of wealthy individuals but also company tax? Does he accept that this is a clear invitation to tax avoidance, which will not meet the EU Code of Business Taxation rules, but that such a move seeks to undermine our economy?

Senator T.A. Le Sueur:

I am certainly aware of the Isle of Man proposals and I think, in terms of capping tax at high levels, that is a competitive issue which all jurisdictions face. We all would like to see wealthy taxpayers contribute to our economy but equally I think we have to be fair. This House debated some 2 years ago now the arrangements in respect of (1)(1)(k) residents. In terms of whether that gives the Isle of Man a competitive advantage, it may give them a very slight advantage but I think there are other things to be considered when you decide to live or not live on the Isle of Man.

5.10 Deputy A. Breckon:

A number of documents have been published today - draft discussion documents - in relation to Goods and Services Tax and they do outline some exemptions. Has the Minister got an open or a closed mind to other exemptions?

Senator T.A. Le Sueur:

Sir, I am guided by the wishes of this House. This House last year decided that it would approve a broad-based Goods and Services Tax at a very low rate with a higher threshold. The draft Law which has been presented today for consultation reflects the decision of this House last year. To answer the question, if there are other suggestions put forward and accepted by this House, then clearly this House is the supreme judge of those things and that will be whatever is decided.

5.11 The Deputy of St. Martin:

Yes, Sir. Will the Minister give the average revenue lost each year because of people who purchase their property by way of share transfer? Does he not think that the money lost really should be a spur to ensure that the House's wishes to ensure that the share transfer loophole is stopped?

Senator T.A. Le Sueur:

I have no way of assessing the actual amount of tax or stamp duty lost as a result of that but I could quite accept that it is quite considerable over the years. I am aware of the Deputy's special interest in this and he has asked questions quite often in the past and there is a proposition which we have before us to introduce a mechanism. That is being discussed with the Law Officers and I refer the Deputy to the answer I gave him some 6 weeks ago.

5.12 Deputy G.P. Southern:

It is the question that was ruled out of order a minute ago. Succinctly, the Minister appears to have hard-wired the rate of 3 per cent into the Law for 3 years. Does he not accept that whenever I try and hard-wire something into law I am always told that is not the way to do it? Should Article 8 not be in Regulations completely and not hard-wired into the Law?

Senator T.A. Le Sueur:

I think, Sir, that is one of the purposes of having this consultation document: to enable questions like that to be answered. What the draft Law at present reflects is what this House agreed last year, that the rate of 3 per cent should be fixed for a minimum of 3 years.

Deputy G.P. Southern:

Answer the question, Sir. Should it not be in Regulations is the question.

Senator T.A. Le Sueur:

That is up for discussion. It may well be better in Regulations. What the Law as drafted does is reflect what the States agreed.

5.13 Senator J.L. Perchard:

Can the Minister confirm in his quart/pint pot calculation if any of the budgetary under-spends are being targeted or will be targeted to pay student loans?

Senator T.A. Le Sueur:

No, Sir. The expenditure which we are talking about here is really for one-off situations which are generally unforeseen. The student fees question is an ongoing question which needs to be funded by a permanent source of funding, not a one-off. Furthermore, it might not be entirely unexpected.

The question has been in the public domain, certainly as far as Education, Sport and Culture is concerned, for some considerable time now.

5.14 Deputy J.A. Hilton of St. Helier:

Can the Minister inform the House how much progress has been made in relation to new taxes on land rezoned for housing?

Senator T.A. Le Sueur:

Some progress has been made in respect of environmental taxes generally. Our timetable on that one is to come back to this House with a report by September of this year. At the present time, the person leading the environmental tax work has been rather more heavily involved in urgent matters relating to avian flu and the like and has not been able to devote sufficient resources at this time.

5.15 Deputy P.J.D. Ryan:

Will the Minister give any consideration to ring-fencing environmental taxes for environmental gains in terms of the various things that we can all think of? Has any consideration been given to that?

Senator T.A. Le Sueur:

I would give consideration to it, Sir, depending on the nature of the tax. But I think, in general, I am against hypothecation of taxes without very good reasons.

5.16 Deputy J.A. Hilton:

Does the Minister not think that, due to the fact that the Environment Minister will be considering very soon the possible rezoning on the H3 and H4 sites, that the matter of new taxes on the redevelopment of land should be high on his agenda?

Senator T.A. Le Sueur:

There are a number of matters which are high on my agenda and there are various ways of dealing with H3 and H4 and indeed planning issues generally. The issue of planning obligations and other weapons available the Environment Minister will, I hope, enable the use of those resources on those sites to be best achieved in the public interest.

5.17 Deputy G.P. Southern:

In an earlier tabled answer today, the Minister referred to revised income forecasts and detailed analysis on '20 means 20.' Will he ensure early release of these documents to the appropriate Scrutiny Panel?

Senator T.A. Le Sueur:

Yes. I have already indicated to the Chairman of the Corporate Affairs Scrutiny Panel that as soon as those figures are finalised, they will be made available to that Panel, should they so require them.

Deputy G.P. Southern:

No, Sir. While I accept the Minister's answer, the intention was early release, not when finalised. Scrutiny is supposed to be part of the decision making process, so I was seeking something earlier than when they are finalised.

Senator T.A. Le Sueur:

What I meant was once I had made up my mind what was the correct way to proceed before they are then put out for consultation. Once I know which way I am going, I will then share that knowledge with the Scrutiny Panel prior to sharing it with the rest of the Members and going out for consultation.

5.18 The Bailiff:

That concludes the second question period. Before we move on to public business, I wonder if I might assist Members by drawing attention to the fact that there were, I think, 4 or 5 Members who were hoping to put questions to the first Minister, the Minister of Home Affairs, under the first question period but were not able to do so. That is the reason why Standing Order 65.2 provides that the Presiding Officer shall rule a question out of order if the question is not concise. It might be helpful to Members to know that, in my judgement, if a question takes more than 20 seconds to ask, it is getting in danger of not being concise. So Members might bear that in mind for the future. Deputy Ryan took considerably longer than that. **[Laughter]**

PERSONAL STATEMENTS

6. Deputy G.W.J. de Faye (The Minister for Transport and Technical Services) - regarding the location of the Energy from Waste and Compost Plants:

Following the answers I gave to Members during question time on 14th March 2006 and the subsequent report and proposition, P31/2006 from the Connétable of St. Helier, I would like to clarify my position regarding the location of the Energy from Waste and Compost Plants and how I would like to address the concerns of the Connétable and Members. Having discussed Members' concerns with Ministerial colleagues, I believe it is correct that this Assembly should be given the opportunity to debate the location of the Energy from Waste Plant and the new Compost Facility. On reflection, I do accept the Connétable's concern over the lack of consultation between the Parish of St. Helier and the former Environment and Public Services Committee when the composting operations were transferred from Crabbé to the existing site at La Collette. Consequently, it is my intention to propose to the Connétable that if he is prepared to withdraw his proposition, I will undertake to bring the issue of the location of the Composting Plant to the States at the same time as I put forward the proposition for the relocation for the Energy from Waste Plant from Bellozanne to La Collette. Time is now of the essence and Members will be aware that the Environment Scrutiny Panel has issued terms of reference for a further review of the Waste Strategy. I would therefore ask Members to support my proposal that I lodge a report and proposition on the location of the Energy from Waste and Compost Plants on 10th April 2006 and that a period of 10 weeks is allowed for lodging to enable the Environment Scrutiny Panel to conclude its further work. Therefore, I would ultimately like to propose a date of 20th June 2006 for the debate on this matter.

6.1 Deputy P.J.D. Ryan:

Would he accept that a full report and - shall we say - a resolution perhaps of the roads situation, the access to La Collette, is necessary before any meaningful debate can be had on either of these 2 ways of processing waste. The question of roads access is crucial to the whole thing before we can decide. Would he agree with that?

Deputy G.W.J. de Faye:

Yes, I would agree with the Deputy that an analysis of the road situation has to be an element of the process.

6.2 The Connétable of St. Helier:

The Minister said that he shares my concern over a past Committee's unilateral decision to dump composting on the residents of St. Helier. Would he go so far as to offer an apology to the residents of the St. Helier and other parts of the urban area who have suffered and had their lives blighted by the smells, some of which have come from the composting operation, and undertake to take any measures this summer which may be necessary to avoid this happening again?

Deputy G.W.J. de Faye:

I have investigated this matter within the Department and it does appear to me that there was a minimal level of consultation - possibly no consultation at all - with the Parish of St. Helier with regard to the transferring of the composting operation from Crabbé. With that in mind, I of course am prepared to give a full apology to the Connétable and the Parish of St. Helier for the way that that process was conducted.

6.3 Deputy G.P. Southern:

The Minister had stated here that he will undertake to bring the issue of the location of the Composting Plant to the States, but not to bring the issue of the composting mechanism to the States. Is that a deliberate omission?

Deputy G.W.J. de Faye:

No, Sir, it is not a deliberate omission or an oversight in any way. The fact of the matter is that the issue of composting technology has already been considered by the States and decided upon. As a result of an amendment to the Waste Strategy in July 2005, it was quite clearly concluded by a vote of 36 votes to 12 that the States is content and approves a green waste composting strategy, which is the strategy that is currently being pursued.

6.4 Senator P.F.C. Ozouf:

Sir, could the Minister confirm for the avoidance of doubt that it was not the Committee that he was part of in the last 18 months that was responsible for moving composting unilaterally? Would he also explain what he now intends to do in respect of the planning process? Irrespective of his undertaking - which, no doubt, is welcome by Members - in respect of bringing the location, will he be putting in place the necessary planning approval process to run either concurrently or shortly after the approval by this Assembly of the location? Finally, would he agree with me that in bringing the proposition for the location of the composting facility to La Collette, this Assembly is going to be able to be informed about the latest view of technology and therefore is going to have the final say in relation to not only the composting but the Energy from Waste Plant as well?

Deputy G.W.J. de Faye:

Yes, I would agree with the Senator and I would be the first to, of course, exonerate the Senator in his previous role as President of Environment and Public Services. The unfortunate Crabbé episode did not occur under his particular term of office. Yes, I do think, as I say, time is of the essence. I have to warn Members that energy from waste plants are a commodity that costs very substantial amounts of money and they are now due to the introduction of a number of EU directives, a commodity within the European and global market where the supply is starting to be exceeded by the demand. Quite frankly, the longer we wait on this issue, the more expensive the ultimate solution is likely to be. Therefore, I will be intending to progress the planning application side of the issue, so that time will not be wasted, although of course the ultimate decision on locations will be a matter for this House.

6.5 Deputy R.C. Duhamel:

The Minister just told this House that indeed the method of composting green waste was decided by the previous decision. Would the Minister like to correct his statement or advise this House which method was decided at this particular decision-making opportunity?

Deputy G.W.J. de Faye:

No detailed method of technology to tackle green waste composting was decided, because clearly that really is a matter for the engineering expertise contained within the department, and other advice that the department cares to seek, both in terms of international tendering processes and elsewhere. However, the matter that was concluded by the States when it determined the waste

strategy was that the States determined that we would pursue green waste composting as opposed to food composting.

Deputy R.C. Duhamel:

So the Minister is actually withdrawing his incorrect statement in relation to advising this House that the method, i.e. the technology, was decided on a previous occasion?

Deputy G.W.J. de Faye:

No, the Minister is not withdrawing his previously incorrect statement. The Minister is clarifying the statement he earlier made.

6.6 The Connétable of St. Helier:

The Minister omitted to respond to the second half of my question, when I asked what steps he would be taking this summer should the residents of Havre des Pas and its environs suffer the kind of odour nuisance directly from the composting site; what will he do about it this summer?

Deputy G.W.J. de Faye:

The staff who operate the current open windrow system at La Collette are both expert and conscientious in the work they carry out. They go to extreme lengths to ensure that whenever the work that they have to do is likely to produce odours, that the wind is blowing away from local residents. I regret that from time to time, on rare occasions, the work has to be carried out irrespective of what the wind is doing. I take regular and constant soundings from our colleagues at Health, who assure me that as far as is known, there is no health risk whatsoever. I accept that the smell is not pleasant. The smell, as we understand the evidence so far, is not harmful. It is a nuisance and it is a nuisance that we have been seeking to address as soon as possible, and that is why I reiterate that time is of the essence, and that is why I have appeared to be perhaps robust in my determination to see a solution and conclusion to the known problem of odour.

6.7 Senator P.F. Routier:

In the interests of clarity of time scales, my understanding is the department have a time plan for putting in place the new composting in vessel system by September 2007; that is the time scale which has been published. Does the plan of the Minister to have a debate in June of this year delay that implementation of September 2007 for the new plant?

Deputy G.W.J. de Faye:

Yes, Sir, inevitably it does. At the time when the former President of Environment and Public Services was giving assurances to residents of Havre des Pas that he wished to expedite this matter as a priority, the realistic completion date for an enclosed composting facility would have been roughly June-July of 2007. That time has subsequently drifted, and if we were to continue the planning process, as it were, tomorrow, the completion date would be approximately September 2007. Clearly, if we are now to debate the location issue in July - the Senator can do the mathematics as well as I can - it will push the likely completion date of the project, wherever it happens to be, to the end of 2007.

The Bailiff:

Well that, I am afraid, concludes the period allowed by Standing Orders for questioning a Minister on his statement, and we come therefore to public business.

CONSIDERATION OF ADJOURNMENT

7. Senator P.F.C. Ozouf:

I think we are just about to start some major debates. Can I suggest that potentially we deal with the one item on the Order Paper that may not be of serious controversy - the WEB (Waterfront Enterprise Board) item? Sir, would we not consider the adjournment at 12.45pm?

The Bailiff:

I am in the hands of Members. If a Member wishes to move the adjournment, he can, Deputy.

A Member:

I propose the adjournment.

The Bailiff:

Very well. The adjournment is proposed. Do Members agree to adjourn now and to reconvene at 2.15pm?

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

Sir, I think we are always doing this. We did agree to sit until 1.00 p.m. and now repeatedly we are turning the clock back, as it were, to 12.45 p.m. I am more than happy to take the P.30 - the Waterfront Enterprise Board - and it seems to me if want to adhere to our decision of 1.00 p.m. we should continue. If we do not, we should take our decision again to revert to 12.45 p.m.

The Bailiff:

Old habits die hard, Chief Minister. I am in the hands of Members. I have a proposition that we now adjourn and reconvene at 2.15 p.m., but I think I shall put that to Members. Members in favour of that proposition kindly show. Those against? I sense there is a bare majority for continuing.

PUBLIC BUSINESS

8. Waterfront Enterprise Board Limited: appointment of directors (P.30/2006)

The Bailiff:

Members agree, therefore, to deal with Projet 30, being the non-controversial matter. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of opinion (a) to appoint Senator Paul Francis Routier, Senator James Leslie Perchard and Deputy Jacqueline Jeanette Huet of St. Helier, to serve as States directors of the Waterfront Enterprise Board Limited, from 1st April 2006 until 31st March 2009; (b) to instruct the Greffier of the States to notify the company of the States' decision.

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

The Waterfront Enterprise Board memorandum and articles of association provide for 7 directors, 3 of whom should be Members of this House. The terms of office of the 3 existing States directors, namely Senator Paul Routier, Mr. Gerald Voisin - of course, the ex-Deputy of St. Lawrence - and Deputy Jacqui Huet, all expire on 31st March of this year; and there is therefore a need to appoint new directors. I am delighted to say that Senator Routier and Deputy Huet have both indicated that they are willing to stand for a further 3-year period, and I am grateful to them for being prepared to do so; and also delighted that a newcomer to the House, Senator Perchard, is also prepared to allow his name to go forward. And so I would like to pay tribute to the work of the retiring directors, primarily in this case of course former Deputy Gerald Voisin, who is no longer with us. Not that that infers that the other 2 States Members have not served equally well, but of course they are - as

I have already said - re-standing. They have, in my view, served the House well, and I have much pleasure in re-nominating Senator Routier, Deputy Huet; and nominating Senator Perchard.

The Bailiff:

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

8.2 Deputy P.V.F. Le Claire:

Given the fact that No. 1 District is a district where most of the Waterfront Enterprise Board's business occurs, I wondered what consultation was given to the Deputies of that district in relation to their interest or otherwise of belonging to the Waterfront Enterprise Board. I for one would actually take a great interest in the work of the Waterfront Enterprise Board if I was given the opportunity to represent the people that it impacts upon the most.

8.3 Deputy J.A. Martin:

Yes, mine is in a similar vein, Sir. It says that Senator Perchard was approached. I maybe never got my email or was not asked, and looking around I do not think many other people were. My second question to the Chief Minister, on the terms of office; how many times can people keep going back and doing the 3 years? Is it forever, or is there a time limit on it?

8.4 Deputy G.C.L. Baudains:

Just seeking assurance from the Chief Minister that these directors will now be able to resolve all issues on the Waterfront.

8.5 Deputy S.C. Ferguson:

I am very pleased to see these 3 Members be appointed. I would suggest that since Deputy Huet is an Assistant Minister, then perhaps she can be utilised to make sure that the Minister for Transport and Technical Services and his department consult properly with the Waterfront Enterprise Board in the development of Waterfront 2 around Normans Building and the Old Harbour.

8.6 Deputy G.P. Southern (point of order):

I think it is a point of order, Sir. Is it possible to nominate from the floor?

The Bailiff:

No. This is a proposition, and it could be amended, but it has not been. I call upon the Chief Minister to reply.

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

Taking the St. Helier No. 1 point first, which in part at least I do accept. Senator Routier, of course, is a long-term resident of St. Helier No. 1, and formerly was a very active Deputy for that district. Also, I am not aware - and they will correct me, I am sure, if I am wrong - but I am not aware that I have ever been approached by either Deputy Le Claire or Deputy Martin expressing any interest in sitting on the board of WEB, and had I been approached, I have no doubt we would have taken their interest very seriously indeed. I am not quite sure what the position is in relation to how many periods of 3 years can be served, but I can, of course, find out. In answer to Deputy Ferguson's point, I am sure that the board of WEB will use Deputy Huet's talents in every possible way. Certainly, I would want to if I was a fellow director of hers. **[Laughter]** But Sir, I am sure that she will liaise with them. **[Aside]** On the subject raised, Sir, I make the proposition. **[Laughter]**

Deputy G.P. Southern:

On a point of clarification, the projet - the report - says Senator Perchard was approached and Senator Walker in his summing up said I hadn't been approached. Who approaches who in this matter?

Senator F.H. Walker:

In this instance, we approached Senator Perchard, and I believe he is an excellent appointee, and of course he comes to the issue with an Island-wide mandate, and the Waterfront is overall an Island-wide issue. Sir, it still does not deny the point that anyone who has interest in serving on the board of WEB is, of course, free to express that interest and notify me or the Chief Executive or whoever of that interest at any time they think they would like to do so.

The Bailiff:

I put the proposition. Those Members in favour of adopting it, kindly show. Those against? The proposition is adopted.

ADJOURNMENT

Senator F.H. Walker:

I propose the adjournment now, Sir.

The Bailiff:

Very well. I remind Members that we return at 2.15 p.m. according to Standing Orders.

RECOMMENCEMENT

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

The Bailiff:

The Assembly continues with public business on the Order Paper. The next item of public business is the Draft Postal Services (Transfer) (Jersey) Regulations, Projet 9, in the name of the Minister for Treasury and Resources, and I ask the Greffier to read the long title.

The Greffier of the States:

Draft Postal Services (Transfer) (Jersey) Regulations 200-. The States, in pursuance of Articles 27, 28, 32, 34, 35, 36, 37, 38 and 83, of the Postal Services (Jersey) Law 2004, and Article 49 of the States of Jersey Law 2005, have made the following Regulations.

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

The States have, in approving the Postal Services Law 2004, agreed to the modernisation of the provision of all postal services through the introduction of independent and professional regulation of those services through the offices of the Jersey Competition Regulatory Authority (JCRA). Hand-in-hand with that framework came the approval of the incorporation of the business currently undertaken by a States department into a group of companies wholly-owned by the States, enabling a more commercial outlook to be taken for the delivery of postal services in the Island. As the title says, these Regulations are about just that transfer of assets and liabilities and business of Jersey Post into a wholly-owned group of companies in accordance with the principles agreed by the States when they passed that law in 2004. The parent company for that group will be Jersey Post International Limited, and there are a number of subsidiaries, all of which have been incorporated, although at the present time the majority of them are inactive, other than applying for a licence from the JCRA. The only one is Offshore Solutions Limited, which is currently trading. Jersey Post International Limited will own all the shares in Jersey Post Limited, which will be the main trading and licence entity, and that company in turn will own all the remaining subsidiaries. The shares in Jersey Post International Limited are held on behalf of the States of Jersey. What these Regulations will achieve is a transfer of the business operations currently being undertaken by Jersey Post into those subsidiary companies. What they also achieve is a transfer of accountability

from the Economic Development Minister to myself as Minister for Treasury and Resources. That arrangement allows for clear separation of duties and responsibilities, and it is only really workable following the introduction of a proper competition and regulatory framework. Whilst these Regulations are at this stage really in furtherance of incorporation, suffice it to say we have been working pretty closely with the JCRA to prepare to issue a new licence to the company from the date of implementation, which is proposed to be 1 April 2006. That will thereby ensure that the rights of the consumer are properly protected. I say properly, or adequately, because the regulator has a duty not only to look after the interests of the company but also an obligation to ensure that the business of Jersey Post remains financially viable and that there is a postal service within the Island. Another group of people who are particularly interested in incorporation are, of course, the employees of Jersey Post themselves. They are currently members of the Public Employees' Contributory Retirement Scheme (PECRS), and we have had to make sure that in the new arrangements they are still adequately protected and can remain members of PECRS, so that they get the same benefits and entitlements as they currently have. That undertaking will be backed by Regulations which will be lodged shortly and are confirmed by a letter from me to the Chairman of PECRS. Because, when those employees become part of Jersey Post Limited they cease to be employees of the States of Jersey, the effect of that is to crystallize the debt which exists in respect of their previous liabilities to the fund. That creates a financial liability which we have to take into account in making sure that the company is adequately capitalised. The amount of that debt has been calculated to be some £11.9 million and we will transfer that sum in total to PECRS on day one. What that does in effect, it does not increase the liability but it brings it forward; it crystallizes it on one day rather than spread it out into the long-term future. Should there be a future actuarial deficit, that would need to be resolved by the members in the same way as the rest of the employees, but the company itself would not be exposed to further liability. Because Jersey Post does not have £11.9 million hanging around I, as Treasury Minister, have agreed to make a loan to the company on commercial terms and build that into their repayment forecasts over the next few years in such a way that even paying-off that loan they can still remain profitable. That is good from the public funds point of view, because if I cannot get a better return on that investment, then I would put it straight into the bank. The company's point of view, of course, is equally good because they are borrowing from me at a competitive rate of interest rather than they having to go to the bank. I have also mentioned there are employees who are members of the previous postal pension fund that was closed down to new entrants, and there is a further liability of £2 million in respect of them. Against that liability, of course, the company has some significant real assets, both in Broad Street and Rue de Pres. They will form part of the company's balance sheet and that improves their solvency. Of course, it does not mean that the States lose any value, but since we own all the shares in the company that is equivalent to owning the property in the first place. However, a company does not just need a sound opening balance sheet; it needs sound prospects for the future. I have discussed those with the Chairman-designate and with the management of Jersey Post and I am satisfied that they have got a viable future in front of them. I think, more importantly, that they are satisfied and I think those who are becoming potentially directors of this trading company will particularly want to satisfy themselves that there is no danger of them becoming directors of an insolvent company. I know I am perfectly satisfied - and I think all of us involved in this incorporation are perfectly satisfied - that this viability remains the case irrespective of the impact of the fulfilment industry and a possible downturn in revenue from that source. I know that has been a concern for some people and I gather that it may even raise some level of a Scrutiny Panel Inquiry, but I would say that I am perfectly convinced that either way it is not a showstopper. Of course, as it was pointed out in Question Time this morning, whether the company is incorporated or not, that effect on the fulfilment industry will be there in one way or another. What we will have with incorporation is a well-balanced organisation; a type of structure in which the directors can be responsible, but it can also satisfy themselves that the company can pay profitably. I and the directors of Jersey Post are satisfied that the company can prosper, and will prosper, even in the worst possible situation as far as fulfilment is concerned. But I repeat that

success is not dependent primarily on the fulfilment industry; it depends on the calibre of management, the calibre of the directors, the ability to invest, and the ability to diversify and develop new products. I believe that all those things can be done far better in a stand-alone commercial organisation, but one which is regulated by the JCRA. In this new company, the Board of Directors will report to myself as representing the shareholder interests of the company, and there will be written agreement between the Board and the Treasury Minister regarding its ongoing activities. There will be a dividend policy to demonstrate the sort of return which I would expect as a commercial investor, and the whole operation will be designed to run in a strictly commercial manner. In conclusion then, Sir, approval of this proposition will bring to completion the policies agreed by the States some 2 years ago when they created the new Postal Services Law and approved the transfer of postal activities into a company or companies. We have spent the best part of 2 years now ensuring that there was a suitable framework within which the operations can have, and will have, a sound and successful future. We discussed this framework, not just with management, but with the prospective Board of Directors, with the employees, and with the Committee of Management of PECRS and with the JCRA who will be poking after the public interests. All those parties are in agreement with these Regulations before us today. The JCRA has indicated that it will issue a valid licence on the appointed day to the company. The Committee of Management of PECRS have confirmed that they are satisfied they will retain the employees within PECRS, and I am satisfied that the arrangements are financially viable. Furthermore, I repeat that I and the Minister for Economic Development, and the management of Jersey Post and the Chairman-designate, have all reviewed the various options about fulfilment, particularly in the depressing scenario. We are all satisfied that even in the worst possible situation the company has a viable future. So, I leave members with one parting thought: the JCRA have made it clear that they do not want to start regulating postal services until such time as the company is incorporated. Conversely, I think many Members of this House and many members of the public would like to see the activities of Jersey Post regulated and any delay to incorporation delays the time when that regulation gets a stage closer. We have had delays already and I am anxious that this law should now go forward sooner rather than later. In other words, right now, Sir, and I propose a preamble.

The Bailiff:

The principles of the regulations are proposed and seconded. **[Seconded]** Does any Member wish to speak on the principles of the regulations?

9.2 Deputy G.P. Southern:

Following the preamble, I understand that the new Standing Order 72 should invite me to say whether I wish to examine this particular issue and I just say that, in fact, I do. Members will be aware that we have started a Scrutiny Inquiry on the fulfilment industry. We are informed that there will be some impact on the revenues of Jersey Post and OSL (Offshore Solutions Limited), its fulfilment arm. Therefore, what I propose to do is to examine the impact on the post office in particular as a first stop, and to respond to the House by 23rd May in order that this House can know what the circumstances of the situation of Jersey Post are. It will be absolutely useless for me to come back with a full fulfilment report in 4 months' time and say: "By the way, have you noticed we did Jersey Post some harm and there are some issues there?" So, that is what I intend to do - and I believe it goes to the House - I wish to call that in, Sir.

9.3 Senator P.F.C. Ozouf:

A point of order, could I just clarify for Members that might not be aware exactly of what the provisions are: we are basically going to have a debate on the preamble. At that point then, the Chairman of the Scrutiny Panel is asked whether or not he wishes to scrutinise it and there is 4 weeks, or 4 sittings. I wonder whether you could assist me in understanding exactly how this works, Sir, as it relates to a number of propositions that we need to decide whether we start, pause, or do not start at all.

9.4 The Bailiff:

We do not debate the preamble any more, we debate the principles of the Regulations and if the principles of the Regulations are approved by the Assembly, then Standing Order 72 requires that the Presiding Officer should ask the Chairman of the relevant Scrutiny Panel whether the Scrutiny Panel wishes to scrutinise the Regulations. Deputy Southern has already indicated that the Panel does wish to do that and so the Regulations will be referred for Scrutiny. If that happens, the second reading of the draft shall not continue and the Scrutiny Panel will have not later than the fourth meeting day - I think I am right in saying - following the debate upon the principles, to give the report to the Assembly.

Senator P.F.C. Ozouf:

So, can I just confirm, Sir, it is the second reading of the principles that is not permitted to go ahead and therefore, is it the case that we need to start? Effectively, what we are doing is we are putting the continuation of the debate on pause as opposed to it being withdrawn. Could you please also confirm, Sir, that it would then be in 4 sittings' time a matter for the Assembly to decide whether or not they continue with the actual debate on the Regulations?

The Bailiff:

That is my reading of the Standing Orders, Senator.

9.5 Senator T.A. Le Sueur:

My reading, and I certainly defer to the Chairman in his interpretation of Standing Orders, is that the States first of all has to agree to those principles and I propose that... **[Interruption]** ...we agree only if those principles are accepted does it then get referred to Scrutiny.

The Bailiff:

That is absolutely right, Minister. Yes, you have proposed the principle of the Regulations and you are entitled to see that through to a vote, and only if the Assembly approves the principle of the Regulations does the Chairman of the Scrutiny Panel have the right to refer the Regulations to Scrutiny. So, the debate continues for the time being on the principle.

9.6 Deputy R.C. Duhamel:

While being broadly in favour of this move, I just really have one question that I hope the Minister will be able to answer before we proceed whichever way and that is under the first page, it is itemised under 7 that: "The Delegator. All powers will be delegated to the Minister as holder of the securities in the Group except those relating to future ownership." The question, Sir - it is fairly simple - under the new structures that are being set up, is there any way that either the existing structure could be used to allow assets to pass out of the company, either by the way it has been set up at the moment or, indeed, by the creation of future subsidiary bodies, whereby presumably, some assets could be put into those structures? So, the key question, Sir, is whether or not - and I am relatively happy and content that immovable assets in terms of property are put into this holding in order to give it financial substance - but that said, Sir, I would like to be given the strong assurance that any request for those assets to be sold at any stage in the future, that that decision will be taken by the House. Thank you, Sir.

9.7 Senator P.F.C. Ozouf:

The former President of Finance and Economics did not tell the Assembly that there was, in fact, a joke on the previous Finance and Economics Committee that we would all be out of office before Jersey Post would be incorporated... **[Interruption]** and we were not joking. It has to be said - and for a variety of different reasons - there have been numerous delays with the incorporation of Jersey Post. Incorporation of Jersey Post was originally proposed back in, I think, 1996. This Assembly

has considered, I think on 3 occasions, the principle of whether or not to incorporate Jersey Post. Members will therefore understand why there is a measured sense of frustration to understand that there may well be a further delay. I think that is regrettable because the principle of incorporating Jersey Post has been agreed by this Assembly and irrespective of the outcome of the various happenings in the fulfilment industry, it will not change the principles of why we should incorporate. If the profitability of Jersey Post falls because we do not have fulfilment, corrective action will have to be taken, whether that be a States department or a company. Everybody in this Assembly, I am sure, agrees that that body is better as a limited company with all of the strictures that company law and company incentive provides. So, therefore while not undermining the right of the Scrutiny Panel to want to go on and scrutinise these Regulations in detail, I think it is a matter of regret that this Assembly and the Island, and Jersey Post will not have the prize, which is proper independent regulation of postal charges. So, there is nothing we can do about it but we express disappointment, and we express disappointment on behalf of Islanders who will continue to have an inappropriate corporate structure for Jersey Post.

9.8 The Deputy of St. John:

A point of clarification from the Minister: he stated this morning that the States should not behave like a bank. I am not disputing the financial arrangements that he is suggesting for Jersey Post, however, it does sound to me a bit like the States is behaving like a bank. If that is the case, would he not seriously then reconsider what he said this morning about seriously considering a similar approach to student loans? Thank you. **[Laughter]**

9.9 Senator P.F. Routier:

It has been a long and windy road to get to where we are today. Certainly, the meetings that have been held about the incorporation of Jersey Post have been long and protracted. I want a regulated postal industry because it is really something that Jersey needs to ensure that we have a postal service which is appropriate for the Island and can be held up as being the postal service that we all want. The way we are going to achieve that is by having a regulated postal service. I listened very carefully to the Minister when he spoke initially about the effect of the fulfilment industry changes which can, and may, happen over the next period. What he said was - it may not be word for word, but certainly the implication was - that whatever happens to the fulfilment industry, the Postal Committee or the company in the future will have to deal with the situation. It does not make the slightest bit of difference to the incorporation - this proposition - whether the fulfilment industry changes at all. We should be going ahead with the incorporation of Jersey Post, specifically so that we can have a regulated postal service. We are not going to achieve that unless we do get the incorporation in place. I would implore the Chairman of the Scrutiny Panel to reconsider his thought about taking a call-in this for scrutiny and delaying the postal incorporation even further than it has been. It is, I am afraid to say, a process which I hope that he will not go forward with, and I do believe that it may not be the whole of his Scrutiny Panel that supports that view. It may only be... **[Interruption]**

Deputy G.P. Southern:

Point of correction, that is absolutely not true.

Senator P.F. Routier:

Obviously, we all hear different things from different people and that is the view that I have heard expressed by... **[Interruption]**

Deputy G.P. Southern:

Some of us hear what we want to hear.

Members: Oh!

Senator P.F. Routier:

So, I would really just implore the Chairman of the Scrutiny Panel for the benefit of the public, for the benefit of the States, for the benefit of having a regulated postal service, that he does not delay that by the measure he intends taking.

9.10 Deputy A. Breckon:

I should perhaps declare an interest, at the outset, in saying that I am a member of the Economic Development Scrutiny Panel. We did debate this as a Panel, because I have some concerns, as the Minister for Treasury and Resources did say, about the JCRA. In fact, the JCRA cannot act until it is incorporated, so they have no role and I do know from discussions that they wish to have a closer look at some of the cost centres within the post office, so they are able to investigate and have a look-through. But there is another Island not very far from here who do have a regulator for the post office and they do, in fact, make them work for price increases - we've been lacking that - which I think is disappointing. They have a service level agreement, not very far away, with the public. It is measured and publicised and these are the things we are lacking. So, I did not come to the table, I should say, very easily with this. Having said that, as Senator Routier has just mentioned, this has been about 10 years in coming. But there is something also that was in the back of my mind and it was the wanting to be sure. We went the same road with Jersey Telecoms and not very long ago we had a glitch about the pensioner benefit and whether it was their role to provide that and, as they say, we are where we are. I was conscious that with the post office there were not measures that they could take to be cost-effective that would be detrimental to the public, and I am not going to give them any lead on that, but you might have things in mind that they could do to become more singing and dancing and cost-effective. That really was where I was persuaded that a delay, although not necessarily going to alter that much, it would be as well to look at some of these issues now and if there is some bad news, let us make a decision when we are aware of that rather than say: "Well, it may happen or it may not." That is really where I come from and I was swayed to ask for this delay.

9.11 Deputy J.A.N. Le Fondré:

A point of clarification: can the House decide to suspend Standing Orders at certain times? The reason I ask, Sir, is it then possible that the agreement to the House to suspend Standing Order 72, if the House feels it could cause an unwarranted delay to the incorporation of the postal service? [Laughter]

9.12 The Bailiff:

The question is an interesting one, Deputy, and I think I might just need a couple of minutes' notice of it because, although in principle the Assembly can suspend any Standing Order - and on that basis could, if it were so minded, suspend Standing Order 72 - I just want to make sure that it would not be necessary to suspend other parts of other Standing Orders in order to make sense of the procedure of the Assembly. So, perhaps I can defer a decision on that for a few moments.

9.13 Senator S. Syvret:

While you are thinking about that point, could I make the point to the Assembly that I think it would be unwise to suspend Standing Orders for this matter? Whether one agrees with the wish of it to be scrutinised or not we have, for good or ill, made the Standing Orders and I think we ought to adhere to that. Let us be frank, we can imagine many, many situations and circumstances under which the Executive might not want the Scrutiny Panels to look at certain items, and if we allow the thin end of the wedge in at this point, then we might find similar devices being used down the road in the future. I would strongly counsel against suspending the Standing Order, Sir, at this time.

The Bailiff:

We are not debating suspending Standing Orders. Does any other member wish to speak on the principle of the Bill?

9.14 The Connétable of St. Brelade:

I would just like to confirm Deputy Southern's comment that the Economic Development Scrutiny Panel are, generally, as a whole on this, so I do not think there is anything malicious in it. Purely, we have got the situation where we have got £11/12 million pension fund to consider and there are enormous funds at stake here, Sir. I think it would be unwise for the House not to consider this in depth and, I think going through this process of scrutiny will be fairly quick. It has been agreed that it will be dealt with in 4 sessions and I think it would be the wise way to go, and I fully support the Deputy's proposal, Sir. Thank you.

9.15 Deputy P.V.F. Le Claire:

As a member of the Public Employees' Contributor Retirement Scheme, Sir, on the Committee of Management, Deputy Troy and I attended a week ago last Friday to the Committee of Management, and I do not believe we were apprised of any need for scrutiny to safeguard the issue of the pensions. The pension matters, I believe, have been secured in respect of the agreements and the undertakings made. So, from a pension's issue, I believe I speak for the Committee of Management when I say that the assurances that we have required have been given to us, and that is not a reason... I understood that the scrutiny issue was to do with the loss of revenue in respect of the liability of Jersey Post, not the viability of the pension scheme.

9.16 The Connétable of St. Helier:

Perhaps it may be seen as going from the sublime to the ridiculous, but the issue of the rates that are not paid by the post office shop [**Laughter**] is one that I have been banging on about. Deputy Ryan hides his head - not in shame - I think perhaps in relief, that at last this matter is going to be resolved when these Regulations are made. Clearly, I am impatient to see these Regulations made though, of course, in practice, the post office shop will not have to pay rates until next January because we have missed the deadline of 1st January this year. I will just let Members know that after various requests to the former Postal Committee to remit the sums that are, of course, due - if we had a level playing field with other town traders who sell similar products as the post office shop - I did approach the now Economic Minister to see if they would pay us for this year, given that we have missed the 1st January deadline. But I have been informed by his Assistant Minister, who is also a Constable - he got the Constable to do his dirty work for him - that there was no way they could find funds to pay rates, even an ex gratia sum, to the Parish in respect of this year's rates on the post office shop, which I think is unfortunate, and I think it would have been a generous gesture if the Minister could have found a way. I am sure he could have found a way, he is a very clever man, and perhaps he will. Of course, I look forward to the day when rates will be paid on the post office shop and I know that many retailers in town, who sell similar products, feel that this unfair situation has gone on for far too long.

9.17 The Bailiff:

Deputy Le Fondré, I think the answer to your question is that it is open to the Assembly to suspend the Standing Order 72 on a proposition moved and adopted by the Assembly. If you wish to do that, the proper time, I think, would be when the Assembly has adopted the principle of the Regulations.

9.18 The Connétable of St. Lawrence:

Yes, I was asked to do the dirty work for the Minister, although it grieved me to have to say to a fellow Connétable that he could not collect rates this year, but he would have to be a little bit more patient. If we do not proceed today, he might even have to be more patient than he was going to be in the first place. I just wanted to address a few points that Deputy Breckon raised. He talked

about the Telecoms issue with the OAPs. I think that was unfortunate at the time and is not something that should be used as an argument to block the greater scheme of things. That was one issue which was probably not handled in the best possible way and, in fact, I was talking about that issue with the Board-designate of Jersey Post only on Friday. I pointed out to them that they have to be - assuming the whole proposal does go ahead - as conscious of their customers as obviously Jersey Telecoms were slightly not. Therefore, there has to be recognition that there is a political element to some of these issues when decisions are made. I have no doubt that the Board-designate fully takes that on board. Deputy Breckon also mentioned Guernsey Post having incorporated, and I was pleased to see - although it is Guernsey we are talking about - that their recent reports are showing that they are doing very well and no doubt they are new guys as a corporate body, and regulation is working out well for them, so I suspect it would work out well for us. Deputy Breckon also mentioned the review by the JCRA. That will happen in any event once incorporation takes place. This is a standard procedure that regulators make in these instances, as I understand it, in order to get to know the business and to see the areas that they need to concentrate on. So, that will happen whether we incorporate effective from today or later. The point that has been made already is that incorporation is not affected one way or the other by fulfilment in the sense that figures have been reviewed; they have been produced by Jersey Post. The management of Jersey Post are quite happy that in any scenario which was mentioned in Question Time this morning, Jersey Post would still be profitable. I will just repeat, more or less, what the Minister said this morning: "Jersey Post has conducted a financial analysis on a number of scenarios that might impact its future profitability. Such analysis not only included the potential impact of the revised fulfilment policy but also other potential actions by the U.K. Government and the E.U. that might affect the current application of the low value consignment relief. In the very worst case that the E.U. abolishes low value consignment relief in 2006, Jersey Post would still remain profitable. With each other possibility Jersey Post remains a viable and profitable concern, though progressively over time the worst-case scenarios indicated that Jersey Post profitability might return to the very much lower pre-fulfilment levels, though nevertheless still profitable." Now, the figures produced by Jersey Post, as I understand it, have been very fully vetted by the Treasury and they are satisfied and obviously the Minister of Treasury and Resources is satisfied as a result. With the figures that have been produced the existing management obviously of Jersey Post are satisfied and the incoming board - and this is very important from their point view because they do not want to end up as directors of an insolvent company - are satisfied. So everybody who has looked at the situation so far, which shows that Jersey Post is inevitably going to be profitable whether fulfilment disappears or not and the pensions are safe, there is no reason why we should not proceed now. Thank you very much, Sir.

9.19 Deputy C.J. Scott Warren:

I have some concerns regarding issues to do with retail under point 9 in schedule 1 and I certainly will be, if we get to this, supporting a referral to Scrutiny. Thank you.

9.20 Deputy G.W.J. de Faye:

I am afraid I cannot let my good friend Senator Ozouf off the hook quite so easily when he turns around to the House and says: "Of course we all agree that incorporation - the commercial approach - is a view of the way forward we all share." No, it is not necessarily. Privatisation in one form or another and the waiving of the commercial magic wand is not necessarily the marvellous panacea that it is often made out to be. Witness only the entire shambles of the privatisation of British Railways and the ongoing knock-on effects that that has had. Witness the privatisation of British Telecom that then fantastically over-extended itself to the extent its share price shot up to £14 and then when the empire collapsed the shares fell back to about £2 to £3. A lot of smashed fortunes and broken hopes there. I think Senator Routier hits on an interesting point when he said: "We all want the postal service that we want." But I am not quite sure that we know what we want and I think this is one of the issues that we will have to face up to. I am hearing all

sorts of glowing reports from various Members about how much the postal management are looking forward to being incorporatised. I am sure they are. If I was in postal management I would be looking forward to it too because if the story runs true to form then, like Telecom's management, I will be getting a few more thousand pounds on the end of my salary in due course. I will be recognised as a commercial manager, not a civil servant. So, yes, there are clearly going to be positive benefits for some but will we be getting what we really want? I ask that question, for example, in terms of the number of sub post offices that we have. Now, it is all very well to talk in terms of glowing efficiencies and cost-cuttings and money savings and the new way forward but a commercial interest does not necessarily lie happily alongside what is being considered to be public service. I think we have to be aware that there may be choppy seas ahead where those 2 philosophies clash. We have seen clashes of a sort in Telecoms and I have no doubt there may be problems with the postal service. So, we should be very careful before we simply regard that privatising in one shape or another, with the positional regulator on top, is necessarily going to be a happy and satisfactory formula for everything. I believe it may well be in terms of the post office but before we all get too enthusiastic I do wish to issue words of caution.

9.21 Deputy P.N. Troy:

I would really like to back up what Deputy Le Claire was saying in relation to the PECRS. As a member of the Committee of Management it is described in items 13 and 14, on page 9, the procedure that will occur. Basically, an agreement has already been reached on the way on which the pension issues will be dealt with. So, I think that is a bit of a red herring and we need to look at that issue again. The Committee of Management and postal are in agreement as to the way forward, as to how this will proceed. I see no real reason to labour that point so I would support my colleague Deputy Le Claire on that and bring it to Members' attention.

9.22 Senator W. Kinnard:

I really just wanted to pick up on one or 2 things said by Deputy de Faye. When this matter first came to the House in 1996 I was one of those who was quite keen to scrutinise it very closely because I had great concerns at that point about whether the States might be going forward to a privatisation model. What we have here is not a privatisation model. This is the corporatisation of the situation where, in fact, the States of Jersey are going to be the whole shareholder. It is an entirely different scenario. Indeed, at the time that this first came to the House I did quite a lot of work speaking to the staff at postal to be absolutely sure that they were content that this move would be made. Certainly at that time I received the necessary assurances and I have certainly not heard anything different since. There was the issue around the pension scheme which, again, we have heard from others more closely involved. There is agreement there. I really do not feel that there is anything to hold back this proposition today and I would urge the Scrutiny Panel to continue with the work that they are doing, certainly on the fulfilment industry, but I really do not see that there is any need for this particular aspect of the work to be held back. I do not know whether the Chairman of Scrutiny Panel would reconsider his position on this but I can certainly say, from the point of view of one who has been very concerned about privatisation issues in the past, I do not hold those concerns and fears in this particular instance. Thank you, Sir.

9.23 Deputy J.A. Martin:

As the last Member to speak on the Scrutiny Panel, to follow on from what Deputy de Faye was saying, our third term of reference is to consider the affects of any potential changes in revenue upon Jersey Post and its ability to meet universal service obligations - which is your doorstep delivery, which is your sub post office and everything else. Now, I remember when Deputy Ryan was first elected to this House and his first job - and it was to be for 3 months - was going to be the Chairman of Postal. Now, we are asking for 8 weeks - 4 sessions - to have a look at this. We hear a lot from the benches I am facing at the moment, trust me we know. Now, we are also hearing rumours on the Scrutiny side. We have been down to Jersey Post and we have spoken to people

and we cannot do one review without the other. They are totally interlinked. Senator Ozouf keeps shaking his head at me but **[Laughter]** ... I thank the Senator for his shaky smile. But this is why we are not trying to hold anything. As it has been explained by the Chairman we are asking for 8 weeks and I think just to make sure that everything that we are being told from the benches, that everybody is happy, services will carry on as we say. Do not forget they are going to be a business, albeit owned by the States of Jersey. I am told each part of the Post will have to make a profit whereas I think the Senator, Sir, said today: "Cross-subsidising is not the right word." When one part of a company is running a service for another part of a company in my book that is cross-subsidy. If this is going to happen we need to know they are going to continue to provide the services that Jersey wants. Just lastly, Sir, I have just read Standing Order No. 80, Proposal to Suspend Standing Orders. "A Member of the States may propose, without notice, that one or more Standing Orders be suspended for a specific purpose" and if, Sir, this specific purpose is to just stop Scrutiny looking at the Post Office I really think this is a sad day for the States of Jersey and Scrutiny. Thank you, Sir.

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

I do believe I am the last Member of Economic Scrutiny to **[Laughter]** ... Yes, thank you. As Deputy de Faye has alluded to it is a postal service we are talking about and we do not want to repeat the same mistakes as happened in the U.K. with many regional offices and sub post offices closing down. But I would assure the House we will be as quick as possible in our deliberations but very thorough. Thank you, Sir.

9.25 Senator F.H. Walker:

I would like to follow up on Senator Kinnard's speech because I share her sadness, I suppose is probably the right word, at some of the things said by Deputy de Faye which are absolutely inaccurate and misleading, I am afraid, in this respect. This is nothing to do with privatisation. There is nothing in this proposal, nor has there ever been anything in the proposal, which looks at privatising the Jersey Post Office. This is about keeping the Post Office in public sector ownership but allowing it to compete properly and commercially in the market to the benefit of the people of Jersey who effectively are its shareholders. Nothing in the proposal here is seeking to change that in any shape or form. Now, I was President of the Postal Committee for a number of years, in fact I was President when the proposal to incorporate first emerged and it seems almost going back to my childhood it was so very long ago. I had then, and I have today, absolutely no doubt whatsoever that this is in the public interest. That is what the States decided when they agreed the principle, goodness knows how many years ago. I have heard nothing to suggest that that has changed. Nothing whatsoever. It remains in the public interest because the public will be the shareholders and the public will be beneficiaries of allowing the Post Office to compete on more equal terms in the market place, both locally and, indeed, internationally. This has been going, as the Economic Development Minister said, now for about 10 years. It has effectively been scrutinised by the States, scrutinised by the JCRA, scrutinised by the private sector directors, scrutinised by the previous Finance and Economic Committee and the Policy Resources Committee and, most recently, scrutinised by the Treasury and Resources Minister. Do we really now need any more delay and any more scrutiny? What on earth are we likely to come up with which has not been thoroughly debated and thoroughly resolved over the last 10 years by all the individuals and all the bodies that have been thoroughly immersed in this project. By all means I support Scrutiny in their wish to scrutinise the fulfilment industry. Absolutely no problem at all. But we have heard both from the Minister and his Assistant Minister that whichever way you look at it, whatever scenario develops, the Jersey Post Office will still be profitable. So what reason, therefore, do we have for delaying again on a decision that this House has taken, endorsed by everybody else who has looked at it, what possible reason do we have? What is the advantage to the public, which is a crucial question, of further delay in this issue? In my view there is no advantage, there is great disadvantage and we should continue with the incorporation as planned.

9.26 Senator J.L. Perchard:

Just a brief question, Sir, through the Chair to the Minister when he sums up, what are the implications other than the obvious 8-week delay of referring this to Scrutiny for the Draft Postal Services Transfer (Jersey) Regulations? Are there any commercial implications with a delay?

9.27 Deputy J.G. Reed of St. Ouen:

I feel I must stand up as a past member of Postal Services Committee. I had, when I first became a Postal member about 3 years ago, concerns about incorporation and equally looked at all the various areas and eventualities and effects that incorporation may or may not bring. I equally, quite quickly, came to the understanding that the incorporation benefited everybody, whether it be general public, whether it be the States of Jersey and, more importantly, the greatest benefit was going to be derived from the employees. They equally know that. They are equally sitting there currently very, very, very frustrated that it has taken such an inordinate length of time. In fact, I do feel and hold my hand up as being guilty as one of those that seem to have been unable to speed the process between an initial decision of incorporatising Jersey Post back in 1996 or 1997 and 2006 which is the date that we are standing here today. Equally, I think there have been some misapprehensions being made by certain Scrutiny Panel members and others who suggest that: "Oh well maybe if we do not incorporate we are going to save the sub post office offices. We are going to change pricing structures. We are going to secure pension schemes." Rubbish, I say. Absolute rubbish. All of those sort of things can be changed whether incorporated or not. Equally, I would point the Scrutiny Panel to the fact that they are speaking and looking at the effects of fulfilment on the incorporation of Jersey Post. Yes, it might take 8 weeks and, yes, quite possibly they will come back and say - and I believe they will - there is no problem. What happens in 6 months time when, as someone has suggested, the U.K. changes its policy or something else happens that relates to Jersey Post. Any business needs to operate in a commercial world. A commercial world recognises that changes in government policy - external forces - will affect their business. The whole point is that they have got to be able to react to those changes. Jersey Post is no different. Incorporating Jersey Post will free it, to an extent, to be able to adjust to those external forces far quicker and better than it has been under government control - direct government control. For that reason I totally support the incorporation and transfer of postal services and I, again, implore the Scrutiny Chairman to reconsider the referral to his Panel. Thank you.

The Bailiff:

I call upon the Minister to reply.

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

Members might be excused for thinking that my overriding feeling at the moment is one of frustration. But it is not. That, I think, passed years ago. **[Laughter]** It passed about 3 years after Senator Walker first invited me on to postal for about 6 months before we incorporated. Since then I have sat through 2 Postal Committees, 3 years on F and E (Finance and Economics Committee) and now finally we are within sight at least of the winning post. So, I do not feel frustration. I feel pleasure that the end is in sight. I thank Deputy Southern for giving me advance notice that his Panel wished to scrutinise this. If I have a slight hesitation I wish you had given me notice 8 weeks ago, but anyway better late than never. I am heartened by the fact that there seems to be a willingness to get on with this within the timescale and to come back as soon as possible. I think most of the issues that have been raised have been dealt with by successive speakers. Yes, we do need proper regulation. Yes, we do need a commercial framework. Yes, we do need to get on with it. I am sure that I will do my best certainly to co-operate fully with the Economic Scrutiny Panel to ensure that they have all the information that they need and we get a proper decision. I would not want the Standing Order to be lifted on this one because I think it would simply mean that we have approved this under cloud and we would come to regret it in the future. So, I am quite

prepared to go to Scrutiny if they are prepared equally to act swiftly. There were a couple of other issues that have not been dealt with. Deputy Duhamel asked about the powers of ownership and whether the Minister could, so to speak, pull a fast one or the company could pull a fast one. Had we got that far this afternoon one of the things which we might have debated would have been a second amendment to this Law which brings in safeguards to protect that. In addition, I have instructed the shareholders to pass a special resolution stopping the board themselves from doing that. So, yes, the point he raised is valid, it has been addressed and dealt with. The Deputy of St. John suggested that there might be a split in my thinking between the commerciality of the postal service and the commerciality of operating student loans. I simply say that if I were to be operating a bank I would want to have some expertise in the matter and one wants to run it on a commercial basis. I do not have the expertise, my friend does not have the expertise so I do not think we are comparing like with like. He may have been tongue in cheek there but I take the point. Deputy Breckon's comments I think have been dealt with quite succinctly by the Constable of St. Lawrence. I am grateful to the Members of the States who sit on the PECRS for their support. As I say, it has been through PECRS and through the staff and I think it was Senator Kinnard - or Senator Walker perhaps - who mentioned the relevance of the staff to this. The staff are fully behind these moves. They understand this as being in their long-term best interests. Deputy Martin talked about meeting the Universal Service Obligations (U.S.O.s) and, yes, but I would also recant to the articles and point out that there is provision in there to ensure in the JCRA that the company remains viable. Senator Perchard asked if there are any implications of the delay, commercial implications. I think there are no obvious ones to me except perhaps one for the staff - staff morale. I think the staff have been looking forward to this for some time now. They have been expecting it at the end of April. They now know that they will face another 2 months' frustration. It may not change their working conditions very much but I think it is indicative to them that the States are prevaricating. I think that cannot be good for morale and ultimately it cannot be good for the commercial activities of a commercial organisation. Nonetheless, in conclusion, can I thank Members for generally, I think, endorsing what has already been agreed, that we should move to incorporation as soon as possible. We have moved, perhaps not as rapidly as I would have liked to have done, but I hope the Scrutiny Panel can do better than I can in that respect and come up with the goods. Meanwhile, Sir, for the sake of formality, I do propose the principles.

9.29 The Bailiff:

I put the principle of the Regulations. Those Members in favour of adopting them kindly show. Those against. The principle is adopted. Now, pursuant to Standing Order 72 I have to ask the Chairman of the Scrutiny Panel whether he wishes to have the regulations referred to his Panel.

9.30 Deputy G.P. Southern:

Indeed, Sir, I do and I apologise for being a bit premature earlier.

The Bailiff:

Very well, in the absence of any proposition the Standing Order provides that the Regulations must be referred to the Scrutiny Panel and the second reading of the draft Regulations must therefore await the outcome of the Panel's report. Minister, how does that affect the subsequent matters on the Order Paper?

Senator T.A. Le Sueur:

There are 2 amendments to the Regulations that will obviously have to wait until the second reading of those Regulations. There is an Appointed Day Act. Now, I seek the indulgence of the House here, Sir. The Appointed Day Act for 1st April is now clearly untenable. The main Regulations themselves require a date of 1st April as well. I would not want to have to withdraw the whole of the Regulations and relodge a fresh set just to change the date. I trust that Chair would allow me a simple change of the date once the Scrutiny Panel have finished their investigations.

On that basis, the Appointed Day Act cannot proceed either and, equally, there is a matter relating to the present arrangements between us and the U.K. Government. That, again, is date critical. Again, I would assume that we could just do it by a simple change of date rather than having to relodge the whole sets of papers.

The Bailiff:

Perhaps that can await consideration by the Greffier in a little while but I would have thought that would be the solution to the problem, Minister.

Senator P.F.C. Ozouf:

May I just clarify the Appointed Day Act. Is it that we are not going to be in a position that if we do not commence the debate on the Appointed Act where we have a debate on the principles and then it can be caused another delay for sitting. I just want to confirm that we do not need to start them all and then simply pause them all so that we can start again in 4 sittings' time.

The Bailiff:

No. There is no provision for scrutiny of an Appointed Day Act or, indeed, of the proposition relating to exclusivity of personal services so those matters can proceed whenever the Regulations have been adopted.

NOTIFICATION OF LODGED PROPOSITIONS

10. Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law 200- (P.35/2006)

10.1 Senator S. Syvret:

Yes, Sir, another matter. I just wonder if it might be appropriate to draw to the attention of the House, I am wishing to lodge a.

The Bailiff:

Yes, thank you. Proposition 35 (P.35), has been lodged - Draft Restriction on Smoking (Amendment No. 2) (Jersey) Law 200-.

Senator S. Syvret:

It is enabling legislation. The detailed Regulations would come back to the Assembly probably after the summer recess, assuming this Law were to be approved. But as we have just seen with this previous item, when we debate these amendments there will be an opportunity, I understand, for the relevant Scrutiny Panel to ask that it be referred to them if they so wished.

The Bailiff:

Yes. Very well, Minister for Economic Development, may I just say you were content to adjourn Projet 8 and Projet 13.

Senator P.F.C. Ozouf:

Indeed, it was my Assistant Minister who I pass my dirty work over to but he, I think, wants to ask for a deferral, Sir.

The Bailiff:

Yes, could we defer those for the time being?

Senator P.F.C. Ozouf:

Yes.

The Bailiff:

Projet 8 and Projet 13 are deferred to await the result of the scrutiny of the Regulations.

Senator P.F.C. Ozouf:

Can I just say to the Assembly that this delay will mean that effectively the postal administration that has been inherited by Economic Development will continue as is at the moment but I have asked the Assistant Minister to keep the board on hold as an advisory group but to progress all matters that would have been taken by the board in relation to postal stamp prices, et cetera. So, the Assistant Minister will act almost as the Minister responsible for the former Postal Administration Committee with the future potential board acting as an advisory group. I just wanted the Assembly to be aware that that is how we are going to deal with the procedural issues that will inevitably occur over the next few weeks.

PUBLIC BUSINESS (continued...)

11. Draft Water Pollution (Amendment No. 2) (Jersey) Law 200- (P.11)

The Bailiff:

Thank you. Now, we come to the Draft Water Pollution (Amendment No. 2) (Jersey) Law 200- (Projet 11) in the name of the Minister for Planning and Environment. I ask the Greffier to read the principles.

The Greffier of the States:

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

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

The Water Pollution (Amendment No. 2) (Jersey) Law will, when enacted, further amend the Water Pollution Law 200-. In general terms the amendments are connected with the separation of my regulatory activities as Minister for Planning and Environment under the principal Law from the operational activities provided by my friend the Minister for Transport and Technical Services, Deputy de Faye, notably in his role as the sewerage undertaker for Jersey. **[Laughter]** Allow me to explain further to the Assembly. Before the recent change from Committee to Ministerial Government, the Water Pollution Law was administered by the Environment and Public Services Committee. That Committee exercised both a regulatory and an operational function under the Law. Its primary operational function being that of the sewerage undertaker for the Island. For example, in the operation of the Bellozanne Sewage Treatment Works and associated sewerage network. When the Committee needed to make an introduction into the controlled waters that

would otherwise have been in contravention of the Water Pollution Law the Committee was required to issue a discharge certificate in favour of itself. An example being the discharge of treated sewage effluent from the Bellozanne Sewage Treatment Works into St. Aubin's Bay. The discharge certificate regime is subject to stringent controls including the need to advertised proposed discharges in the *Jersey Gazette*. The regime is also subject to review by the Royal Court, for example, on the application of the Attorney General. In contrast all other discharges into controlled waters made by companies or private individuals, for example, the discharge from a private sewage treatment plant, are subject to the discharge permit regime as detailed in the principal Law. On the transfer to Ministerial Government I, as the Minister for Planning and Environment, became the regulator for the purposes of the Water Pollution Law and the Minister for Transport and Technical Services, Deputy de Faye, became the operator in his role as the sewerage undertaker for the Island. Amendments are now needed to the Water Pollution Law in respect of the separation of the functions that I have just outlined, which, as I have explained, were previously jointly undertaken by the Environment and Public Services Committee. The draft Law before Members today contains the necessary provisions. In particular an introduction into controlled waters by the Minister for Transport and Technical Services in his operation capacity will, in future, be subject to the discharge permit regime in the principal Law. In exactly the same way as those by persons and bodies such as companies. Consequently, it will mean that once this amendment Law comes into force any Minister other than the Minister for Planning and Environment, whose department wishes to make an introduction into controlled waters, that would otherwise be in contravention of the Water Pollution Law, will be required to obtain a discharge permit from my department as the regulator in the same way as a private individual or company. The 6 discharge certificates currently held by the Minister for Transport and Technical Services will be converted into discharge permits. However, the discharge certificate scheme and the principal Law will continue to apply to introductions to controlled waters made by my department. For example, if a decision was taken at some stage in the future to operate a fish farm. However, this will not apply to my regulatory functions under the Water Pollution Law, for example, when my department carries out clean-up operations following a pollution incident. Finally, the defence of due diligence in the principal Law to a charge of causing or knowingly permitting pollution of controlled waters, which was not previously available to the sewerage undertaker because of the Environment and Public Services Committee dual role, will be extended to apply to the Minister for Transport and Technical Services as the sewerage undertaker for the Island in the same way that it already applies to all other Ministers, private persons and companies. As stated in the report accompanying the draft Law, this Law, when enacted, will not have any financial or manpower implications for the States. I have also made a statement that the draft Law is compatible with the European Convention on Human Rights. It is vital that these amendments are implemented as soon as possible to ensure the effective and efficient administration of the Water Pollution Law and so I commend the Draft Water Pollution (Amendment No. 2) (Jersey) Law 200- to the Assembly.

The Bailiff:

The principles have been proposed. Are they seconded? **[Seconded]** The principles are open for debate. Senator Syvret.

11.2 Senator S. Syvret:

Sir, I will certainly be strongly supporting these amendments to the Law. Many of us have always been of the view that it was not appropriate for different States departments - Committees as they used to be - to be both the poacher and gamekeeper. Both the regulator and potentially one of the potential perpetrators themselves. Let us be clear, this particular example in respect of the Water Pollution Law is simply one example of many such administrative conflicts of interest that exist throughout public administration in the Island. There are a number in Health and Social Services,

for example, as there are a number in a range of other departments. I do think a wholesale review of such administrative conflicts of interest is something that we need to carry out. So, as far as is possible and practical in a small island environment, we do, in fact, avoid such conflicts. It is particularly necessary in this case because I remember when I was first elected to this Assembly as a Deputy and in my naivety joined the then Public Services Committee and mystifyingly the oyster farm that was on the south-east coast kept getting told that the levels of e coli in their crops were too great for them to be safely harvested and sold for human consumption, which led to quite some rather expensive and lengthy legal rows. But this was because of the complete failure of the then Public Services Department to properly refurbish and expand the sewerage network along the east coast to take account of all the dramatic number of buildings that had taken place along the coast road. As a consequence, every time there was heavy rainfall the numerous sewerage outfalls simply cascaded raw sewage into the sea off the east coast polluting, of course, the oyster fisheries and, indeed, the rest of the marine environment. I remember taking photographs of slicks of raw sewage bobbing around in the sea to Committee meetings and saying: "Look, it is coming out of the sewage pipes" and the then officers of the day saying: "No, it is not, it is purely agricultural run off, it is nothing to do with us." Even when we took a handy cam video of the sewage cascading out of the pipe into the sea this still was insufficient and I was accused, along with one of the oyster fishermen, of having faked the footage. So, that will give you an example of just what States departments are capable of doing to try and get away with things in the past. So, absolutely we should support these amendments today. The public interest requires that States departments, just as private entities, are properly subject to the full rule of law and do have to observe the kind of Regulations that everyone else has to observe.

11.3 Deputy P.N. Troy:

One other point that I would like to raise and ask the Minister is under normal circumstances people making applications will have a time period in which their application is considered. Can he confirm that any Minister applying for a permit will operate under the same standards as other applicants and the government applications will not be rushed through as a disadvantage to other businesses?

11.4 Deputy G.W.J. de Faye:

I am sure the House must regret the absence of the former Deputy of St. John who I am sure would have had some interesting words [**Interruption**] to say on the subject. But we welcome his replacement. Sir, the role of an undertaker is a serious and solemn one and that of a sewerage undertaker carries with it a certain burden of odiousness. Therefore, it must surely be quite right that such an odious person [**Laughter**] should be regulated. The idea of an unregulated sewerage undertaker is one that is far too awesome to contemplate. Nevertheless it is a role that has existed and created some level of embarrassment. I know from my predecessor in the role, the former President of the Environment and Public Services, on a number of occasions found himself in the position of having to prosecute himself and appear in the Magistrate's Court to answer to his own charges. That is clearly a situation that should not perpetuate. This new amendment sorts the problem out once and for all and splits the role, quite rightly, of the regulator and the operator. Despite the fact that I now wear the odious title of sewerage undertaker I commend this to the House.

11.5 Senator P.F.C. Ozouf:

Just to make a very brief point, Sir. Deputy de Faye is absolutely right but he just needs to be corrected on one issue. Of course I was not prosecuting myself, it is the Attorney General that brings prosecutions after the relevant files and papers are sent to him for consideration. So it was

under the Law in which we both operated on. But I think the point is well made, it should be separated.

11.6 Deputy P.V.F. Le Claire:

Just briefly to ask the Minister, while giving him total support, to ensure in the future the issues in relation to St. Aubin's Bay and the outfall there is looked into and monitored with keen regard to the issues in relation to people bathing and people using the beaches there.

The Bailiff:

I call upon the Minister to reply.

11.7 Senator F.E. Cohen:

Firstly, I thank Senator Syvret for his support of the proposed Law. Yes, I can confirm to Deputy Troy that other than in emergency provisions the requirements are the same for departments, companies and for private individuals. In response to the points raised by Deputy de Faye, very clearly here are significant benefits of the separation of the role of regulator from the operator. I can assure Deputy Le Claire, through the Chair, that all issues, including the St. Aubin's issue, are carefully monitored.

11.8 The Bailiff:

I put the principles of the Bill. Those Members in favour of adopting them kindly show. Those against. The principles are adopted and, again, pursuant to Standing Order 72 I enquire of the Chairman of the relevant Scrutiny Panel, Deputy Duhamel, whether he wishes to have the Bill referred to his Scrutiny Panel?

Deputy R.C. Duhamel:

No, Sir.

The Bailiff:

Then we turn to debate on the Articles themselves. Minister, do you wish to take the Articles together?

11.9 Senator F.E. Cohen:

Yes, may I suggest that we divide... **[Interruption]**

The Bailiff:

Too much advice, Minister, that is the trouble. You move all the Articles?

Senator F.E. Cohen:

Sir, Article 1 merely identifies the Law; Article 2 simply deletes the definition of the term "person"; Article 3 will plug a tiny loophole in the existing laws since at present surface water drains as opposed to surface water sewers are outside the scope of the law; Article 4 provides that if I am required to make an introduction into controlled waters I will not require a discharge certificate in order to do so; Article 5 reflects the change from Committee to Ministerial Government; Article 6 is the same, reflecting the change to Ministerial Government; Article 7 has the effect of introducing an new offence article into the Water Pollution Law to reflect the change from Committee to Ministerial Government; Article 8 will extend the defence of due diligence to the Minister for Transport and Technical Services in his capacity as a sewerage undertaker and, secondly, it will correct something of an anomaly in the original law which had required the

regulator to give notice to itself when it sought to rely on the defence of emergency; Article 9 merely sets out some drafting alterations; Article 10 is required to reflect the fact that only the Minister for Planning and Environment being the regulator under the Water Pollution Law will be subject to the discharge certification regime; Article 11 affects further changes to the Water Pollution Law that are needed to correspond with the amendments that the Assembly have already approved; Article 12 effects a drafting alteration to the Water Pollution Law; Article 13 effects a drafting alteration to the Water Pollution Law in order to cater for the change from Committee to Ministerial Government; Article 14 again caters for the change from Committee to Ministerial Government; Article 15 provides for the conversion of discharge certificates held by the Minister for Transport and Technical Services into discharge permits; Article 16 provides that the amendment Law will come into force 7 days following the registration in the Royal Court.

The Bailiff:

Thank you, Minister. Are the Articles seconded? **[Seconded]** Does any Member wish to speak on the Articles of the Bill?

11.10 Deputy G.W.J. de Faye:

Just to congratulate the Minister on the way he is finding his feet so quickly in his job, Sir.

The Bailiff:

I call upon the Minister to reply to that plaudit.

11.11 Senator F.E. Cohen

I thank Deputy de Faye for his kind comments.

11.12 The Bailiff:

I put the Bill, those Members in favour of adopting it kindly show. Those against. The Bill is adopted in the second reading and do you move the Bill in third reading? **[Seconded]**. Does any Member wish to speak on the Bill in third reading?

Deputy P.N. Troy:

Can I just say that in discharging his duties the Minister of the Transport and Technical Services is sure to find himself in it, Sir. **[Laughter]**

The Bailiff:

I put the bill in...

Deputy G.W.J. de Faye:

Sir, could I just say that the Deputy has in fact been in it **[Laughter]** and as a younger man had the privilege of working as a finisher on the Gorey to Le Bourg) sewerage project. I am well acquainted with all the problems.

The Bailiff:

I think it is time this debate came to a close. I will put the Bill in the third reading. Those Members in favour of adopting it, kindly show. Those against? The bill is adopted in third reading.

12. Sea Transport: revised policy (P.24/2006)

The Bailiff:

We come next to Projet 24 - Sea Transport: Revised Policy - and I ask The Greffier to read the proposition:

The Greffier of the States:

The States are asked to decide whether they are of opinion to request the Minister for Economic Development, after consultation with the Council of Ministers and any other appropriate bodies, to take the necessary steps to implement without delay a revised policy for the management and development of sea routes to and from the Island, and that; (a) each route, namely the northern and southern car ferry roll on/roll off sea routes, should be operated by a separate Service Level Agreement with the operator or operators in order to protect the operators and ensure that the Island receives a sustainable all year round service; (b) each Service Level Agreement should set out (i) the price structure for the route, which must be approved by the Minister and subsequently made publicly available; (ii) the required schedules for winter and summer services; (iii) the type and capacity of vessel(s) that must be used on the route; (iv) the appropriate level of reserve capacity which must be available for peak season and in case of breakdown; (v) an indication of how quickly normal services will be resumed by the operator after a period of inclement weather or a breakdown; (vi) a realistic financial penalty on each route should the operator fail to comply with the conditions laid down in the Agreement; (c) the Minister for Economic Development should take steps to identify and license additional operators on the routes to ensure that the Island does not remain wholly dependent on a single operating company.

12.1 Deputy J.B. Fox:

I am seeking your guidance I think first of all, Sir. The Minister for Economic Development has submitted to all States Members that he is prepared to agree some of the propositions that have been brought forward and if so, if that is confirmed, whether I need to go through them or not, or just take them as read.

The Bailiff:

You mean, the Minister will accept paragraph (b) or paragraph (a) or...

Deputy J.B. Fox:

That is right. I can lay them out in the document that he has submitted: he agrees to (a), (b)(ii)(iii)(iv) with a couple of notes, (v) and (vi) but does not agree to (c) which I would obviously speak to.

The Bailiff:

I would have thought, Deputy, if those are non-contentious you could concentrate your address to the Assembly on the bits that may be contentious and if necessary you can reply on other matters when you come to sum up the debate.

Deputy J.B. Fox:

Indeed. Can I just seek ratification that this still applies with the Minister?

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

I am happy to give an absolute undertaking that all those issues which were agreed are part of our policy and give that undertaking that we agree on them.

12.3 Deputy J.B. Fox:

Thank you. By way of introducing this, economic development is of strategic importance to the Bailiwick of Jersey and like any other jurisdiction its independence is reliant on its sea routes which must be guaranteed to ensure its stability and prosperity. Recent events have shown that any disruption to this stability can potentially have a devastating effect on the economic and social consequences to the community. This is recognised by national governments. For example, in the United Kingdom they have a critical national infrastructure policy under the umbrella of MI5 for

security services. This is to advise, where appropriate, that those assets, services, systems and support the economy, political and social life of an area such as the Bailiwick of Jersey whose importance is such that an entire or partial loss or compromise could, for example, have a serious impact on the Island's economy, grave social consequences for the community or any substantial part of the community or immediate concern to the States of Jersey, among other things. I believe that this criteria has now been reached especially when it now only leaves one Ro-Ro carrier servicing the whole of the Island on the northern and southern routes and therefore for this reason I have brought this proposition to the States. Although it has been agreed by the Minister I think that this little part I should just cover because it is very important. In my proposition I have asked the States to request the Minister to implement, without delay, a revised policy that each route, namely the northern and southern route, should be controlled by a separate Service Level Agreement. As I say the Minister has agreed to this. Both to protect the operators and to ensure that the Islands receive a sustainable all year round service. Although the Minister for Economic Development may receive all the assurances from the remaining operator it is important that there is no opportunity for the Island to be left potentially vulnerable through any risk that may or may not be in the operator's control such as possible industrial action, for example, other predatory demands which could not only come from internal but external pressures which could also result in commercial blackmail to the Island. As I say, these are possibilities and that is why one cannot rule them out. Going onto (b)(i) the pricing structure for the route which must be approved by the Minister and subsequently made publicly available. The Minister does not agree with this policy but I submit that to ensure that the public confidence is returned and the pricing structure is set at such a level that is both sustainable to the operator and their clients, a base structure as far as possible to be equivalent in Euros and Stirling. Sometimes you can have differences between the 2 but it can make it more advantageous for others, but not necessarily for local residents. The availability of special offers to be part of the Service Level Agreement to local residents on an equal playing field throughout the various sea routes. It is clear from the Minister's comments that it is not agreed. All I am trying to do in this proposition is to ensure that there is some price structure fairness and comparability for local residents as well as travellers from the U.K. and Europe. I will leave the Minister to speak for himself. The other parts of (b) of the Service Level Agreement are agreed and I have no problem with the odd comments that have been made by the Minister, especially in relation to (b)(iv) under his notes. Turning to (c) this is the main one: "the Minister for Economic Development should take steps to identify and license additional operators on the routes to ensure that the Island does not remain wholly dependent on a single operating company." It would appear that at this time Sogestran only plans to introduce a foot passenger ferry operating in April 2006 with a replacement Ro-Ro ferry possibility made available at some time later in the future. It is therefore essential that without the surety of a return to the southern route that the Minister would be asked to actively seek and identify additional operators that might wish to consider providing a service one or more of the routes to and from the Island. It is with regret, in my opinion, that negotiations with Sogestran on the point of exclusivity did not consider the question of Condor wanting to protect its through-routes from the mainland via the Channel Islands to France. I perceive that negotiations could have resulted in possibly links between Condor operating its through-route ferries while Emeraude providing its traditional service. This would enable Condor 10 during the backup for its annual maintenance of the other 3 fast ferries during the winter months. This I submit would provide the assurances and safeguards that both companies seek and the viability of the winter service as a standard and price structure that would have been acceptable to the travelling public. The light freight operators, - that is your shell fish and fresh fruit and veg - social and sporting clubs and large motor homes basically that cannot be catered for at this present time. Recognising that previous propositions have failed because Ministers have deemed them to be over-prescriptive I have deliberately kept (c) simple and I believe self-explanatory. Clearly the Minister in his comments would agree if I just stipulate to identify additional operators. I believe that it is of the utmost importance and the purpose of this proposition is to safeguard our sea route and at least one additional licensed operator. Again, the

Minister can seek guidance from MI5 if he wants reassurance on this point. I am sure they would be happy to come over. They have done in the past at our request. I have deliberately not been prescriptive on any things of the types of Service Level Agreement as I believe this is subject to negotiations between existing and interested operators and the Minister working alongside the Jersey Competition Regulatory Authority (JCRA). Referring to me not making any reference to the JCRA on additional comments, I did not want to. The contents of this proposition has already stated to be over-prescriptive and therefore I assumed that when referring to the pricing structure in (b)(i), this is the one that is not agreed, that the Minister would be including the JCRA in their final document. I note that Members with regard to the commercial price structure during the summer of 2005, this is where the Minister refers to Sogestran starting off with a price structure in January of £100 for a weekend break, a car and 2 passengers. I, in fact during the summer months, paid £145 for a weekend rate for a car and 2 passengers during that period on Solidor and on the week ending the 10th and 12th March 2006 I paid £257 for the same car and 2 passengers on Condor 10, just to complete that discussion. Consumer complaints, Deputy Sean Power spearheaded the public campaign. He received numerous complaints as a result of the 2 public meetings that he had organised. I do not propose to comment on this aspect but we will leave that to Deputy S. Power to respond. There is no point in me going through hearsay when he has direct communication. So, therefore to conclude, I think basically it is that the Minister has agreed the majority except for the 2 areas (b)(i), the pricing and (c) which is the major thing. I think (c) is of significant importance. The economic development of this is of strategic importance to the Bailiwick of Jersey and like any other jurisdictions its independence is reliant on its sea route which must be guaranteed to ensure its stability and prosperity. This is what my proposition is aiming to achieve. I think I will leave it at that at this stage. Thank you, Sir.

The Bailiff:

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

12.4 Senator P.F.C. Ozouf:

Can I first of all say that I welcome the opportunity of explaining Economic Development's position in respect of Sea Transport and I welcome Deputy Fox's interest in this matter. Clearly, as Members will have found out in reading our comments there is a considerable measure of agreement between what Deputy Fox is seeking to achieve and what we at Economic Development have been putting into place. I should say that as far as the general portfolio of economic development is concerned sea ferries - our sea links - are absolutely top on our agenda and that is why they have consumed the time of both myself, the Assistant Minister with a specific responsibility for harbours, and importantly the Council of Ministers since we have been taking office over the last 100 days or so, and that is as Members would expect. We have had difficulties, there have been some uncertainties and we have been working hard in order to chart a course. I hope Members will forgive the navigational similes but we have been trying to chart a course to give certainty for our sea routes now and into the future. It is probably just worth saying that the current situation is that we no longer have an S.L.A. (Service Legal Agreement) on the northern route without it being extended. We are putting in place at the moment -- we have a Service Level Agreement but it is a Service Level Agreement which effectively expires at the end of this year and what we have announced is that we should be putting in place a Service Level Agreement on the northern route for 2 years for the period 2007 and 2008 in order that we can become... There is a very strange situation that emerged when I took office that I did not realise that we had the Guernsey arrangement which was expiring at an earlier juncture to that of Jersey. Clearly, this is a Channel Islands issue and putting in place a Jersey Service Level Agreement which expires at the same time as Guernsey means that we all arrive at a co-terminus position in 2 years time and that is what we are doing. Our options... and I say that, because our options in relation to any big decisions about our ferry routes are effectively limited by that later position of an expiration of a Service Level Agreement to 1st January 2009 and so what we are doing is that we have put in place

that arrangement and I would urge Members, if they have not had an opportunity to read it, to read the policy which is attached to the proposition which sets out exactly what the arrangements for Service Level Agreements on the northern route are going to be. The situation in respect of the southern route is of course, as Members will be aware, tricky. There was not a Service Level Agreement for either of the 2 operators on the southern boundary and this has been the subject of questions in this Assembly. We are putting in place a Service Level Agreement with the operator that we know is going to be capable of operating on the southern bound route for the same period that we are talking about on the northern route and that is for the rest of this year and for the duration of 2007 and 2008. None of the service level agreements that we are putting in place will run further than 1st January 2009. Now, I just say that by way of background, because that is effectively what the situation is in respect of S.L.A.s (Service Level Agreements) which I think goes at the heart of many of the objectives which Deputy Fox was trying to achieve. I do not think there is any point in my going through, as Deputy Fox has done, the areas that we agree with. We have agreed all of these aspects, some of the things we were already doing, some perhaps we have been encouraged by Deputy Fox to go a little bit further but the terms on which we are agreeing those are set out in the report and proposition. I really do however need to try and urge Members and convince Members not to accept Deputy Fox's proposition in respect of (b)(i) and (c) because there are some quite serious implications if the Assembly was to agree that and I hope perhaps in making some remarks that Deputy Fox may even be convinced himself, if he has not already read our comments, but he may well wish... once he has heard what I have to say, he may well see the error of accepting (b)(i) and (c). I will deal with (c) first because this really is probably the most serious of the parts of the proposition which will bind our hands in a way which, I would submit, is unacceptable and indeed downright dangerous for the economic interests of Jersey. If we are to do what Deputy Fox is asking we effectively have 3 options; the first option is to find another operator to enter into competition on the northern-bound route with Condor. Now, I would say that at this point we do not have an exclusive Service Level Agreement with Condor on the northern route. Curiously Guernsey do, which is I think another point which goes to the heart of the explanation as to why the current state of affairs with Jersey and Guernsey in relation to ferry licensing is not particularly clear, in my opinion, and there needs to be some work on that matter. If we are to do what Deputy Fox says we could effectively - Jersey only, not Guernsey - get another operator on the northern route: option one. Option 2 is that we could find an alternative operator to operate on the southern route. Option 3 would be to find another operator to operate the whole network of the route. Effectively, I think, what would happen if we were to accept this proposition and Deputy Fox would get his way, would effectively to separate the routes from the northern to the southern boundaries. In other words, we would most likely end up with a situation of 2 different operators north and south. This becomes a real possibility if Members approve this proposition because effectively the barrier to entry - quite apart from the Guernsey issue - the real barrier to entry on the northern bound route is the back-up requirements that they have to have the conventional vessel requirement which Members will be aware of, to operate that Service Level Agreement, to abide by the Service Level Agreement - northern level agreement - the operator must have a conventional vessel on back-up in order to provide the necessary back-up to the fast ferry in the case of bad weather. Effectively, we have to be clear, that is a high barrier to entry and pretty well gives a natural monopoly on that northern bound route. So, effectively, if we are going to agree the proposition, we are talking about 2 operators, one on the northern bound route and one on the southern bound route. Now, the risk of that happening is that the whole network... and if one is going to have - which of course Condor is - one network operator, there are risks that, effectively having 2 separate operators, that one route may become sub-commercial and the current operator which we have been in very constructive discussions with, said this to me, that since 1997 the 2 routes, U.K. Jersey and U.K. Guernsey, have reduced substantially in terms of their traffic volume. The net result of this is that the operation of these Islands routes only makes economic sense if assets deployed by the company also serve other markets, including U.K./France and the Islands/France routes. By the provision of services to other markets the company is able to operate

a fleet of vessels which is of a size to provide in-built weather and technical back-up services on all the routes served. The concept of separating Jersey southern and northern bound routes from each other and from other routes in the region by licensing or other means would condemn the routes' operators to commercial non-viability. Now, I think it is very important for me to have said that because that may well be the consequence of separating out the north and south routes. Members may have their own views about individual operators and their loves or not loves of the different operators over the last period. I want to say of Condor that Condor has served this Island for the last 40 years. We would be in a position, if this proposition was to be accepted, in separating them - of effectively booting off Condor from the southern bound route because effectively Condor would have to carry on operating on the northern bound route and with 2 operators we would effectively have to remove them from the southern bound route. If that was to happen Condor are saying that effectively the whole network of routes becomes sub-commercially optimal and I think that is something that is potentially a very serious state of affairs and if we were to make that decision, that decision needs to be taken on the basis of serious amounts of evidence. There is a lot of talk of evidence in this Assembly at the moment but we would need absolute categorical evidence that that would be in the best economic interest of Jersey and what the operator is saying is far from it. I think that I have already explained that the Air and Seaport Transport policy has been approved by the Council of Ministers and I think that what I should probably do is basically highlight and perhaps try and give Deputy Fox some comfort that while we think that in the short-term the passing of part (c) of the proposition is dangerous, it does not mean to say that we are not going to be doing anything over the next 18 months to 2 years. I spoke earlier of the situation and the importance of having a single date where all Jersey, Channel Islands, Guernsey routes end in terms of a Service Level Agreement because if we are doing that and we have one route then we do have the option - and I say the option - of tendering all of the routes at the same time. What we could do for the period starting 2009 is we could effectively seek expressions of interest for the whole network or any parts of the network but with the certainty that we effectively could have any one of a number of options and I think that it is that arrival at a situation of having a number of options which is where we should be, and where this Assembly should support us in being, in the beginning of 2009. I think that there is probably an argument for a single network operator on the whole route. I think there is an argument that needs to be examined and effectively putting in place arrangements where that single operator is regulated in a way in which I am going to come and talk on in a few minutes. I think that this Assembly should not simply bind the hands of economic development and slavishly apply a policy whereby we must definitely have 2 operators or 2 more operators. I think what I am asking the Assembly's approval for is effectively to keep all the options open and to have all of those options open across the Channel Islands for the beginning of 2009. Effectively, that goes to the heart of the reasons why I do not believe that this Assembly should be adopting part (c) of the proposition. Keep the options open. Keep all of the options open across the Channel Islands. Keep the options open in respect of the northern and southern route. We do not simply know today that it is wise - commercially sensible - to separate off the routes, which I would submit to Deputy Fox will be the consequence of acceptance of the proposition. He did say - and I probably should have said this earlier and I understand this - that there has been some disruption following the withdrawal of Emeraude as an operator and Condor being the remaining one. I must say that he will be aware of significant efforts made by the remaining operator to deal with problems that have emerged. There was a number of quite difficult situations which arose. There are oyster farmers which have configured vehicles particularly to run on Emeraude with the full expectation that Emeraude was going to continue and are then in the situation where Emeraude is no longer in business and therefore they no longer can support their oyster and fish exports. We also have some extremely difficult situations concerning certain people with motor homes. Effectively, the Emeraude boat could take a larger amount of freight than Condor on one single axle and so we have people in Jersey - it is a huge issue for them as individuals - where they effectively have motor homes that simply cannot travel on Condor's fast ferries. I understand that. Condor understands that and we have been doing our best to try and find

solutions to these individual problems. But simply requiring Condor to bring in a large vessel in order to take these, effectively, minority of problems, is I am afraid not the way that a State should operate in terms of solving these problems and I also would say that it is not sensible for this Assembly to be trying to second guess the commercial realities of what is effectively a very competitive market place. There are dangers if this Assembly requests Economic Development to have 2 or more operators and to abide by the terms of that part (c) of the proposition. The other bit of the proposition which gives us - and gives me - real cause for concern is the issue of prices and I would ask Members if they would just simply turn to the particular wording that Deputy Fox has put on that. If Members could look for a moment at (b)(i) of the proposition. We agree that we want a Service Level Agreement. We are putting in place Service Level Agreements for the first time on all the routes as I have explained but what Deputy Fox is asking us in (b)(i) is that the price structure of the route must be approved by the Minister and subsequently made publicly available. Now, the difficulty that we have... and I will not go into Deputy Fox's report because there are some pretty strong statements in there. Obviously this Assembly is debating simply the word of the proposition and the report has really nothing to do with the decision at the end of the day. It is the wording of the proposition that matters. Now, we are taking this wording to be such that we must approve effectively the whole of the pricing structure. That means every single price that Condor or any other operator is going to be charging on different routes. We do do some element of price control on formally the northern bound route S.L.A., but that price regulation is at the standard tariff. It is that the full rack tariff that the industry parlance is and we do have to authorise, on an annual basis, or whenever the operator wants to increase it, and they do come along and they say: "We want to increase prices by 4 per cent or 3 per cent" and we say: "What is the justification for that?" I have to say that in reality that is only part of the story and in reality the rack price is effectively normally the highest price and effectively what we are doing is we are engaging in a process which effectively pretty well caps what the price on the route is going to be. It is certainly not full price regulation. Full price regulation in the modern world of fluid pricing strategy is extremely difficult and I think what the proposition is asking me to do is effectively to ask Condor to effectively give me all of their pricing information, whether these be special offers, whether they be 5 day weekend, 5 person, one car, 2 car, weekend breaks, Jersey/U.K., U.K./Jersey. I think what Deputy Fox is doing is asking me to effectively approve every single pricing mechanism that exists in their pricing structure. Now, somebody said that the Minister for Economic Development was a clever chap and I do not think I am very clever but I do not think that I am able to do that. I simply do not think that it is the role of a State Department, or a State Minister to approve the detailed pricing structure on a route such as a complicated arrangement in a competitive market such as the U.K./Jersey and U.K./France. I simply think it is not possible and I would be misrepresenting to the Assembly and I would be promising the Assembly something that I do not think we could deliver realistically. What we can do is we can try and continue to monitor effectively the rack price. What we can do is we can ask the JCRA for assistance and I think it is particularly the role and the potential role of the JCRA whereby we can draw some comfort even if I convince Members not to accept part (b)(i) of the proposition. Competition law deals with the general issues of anti-competitive structure. Competition law is there to promote competition and it is interesting because we have a debate this afternoon about Postal. Postal is going to have special powers - or the JCRA rather - is going to be given special powers in order to monitor and regulate prices, almost very much what Deputy Fox is actually asking. That level of detailed price regulation is what an Ofcom, Ofwat, Ofgen kind of regulator does and effectively we are asking the JCRA... already we are giving them some specific powers to regulate prices in some individual markets. We are doing it for Telecom. I hope we are going to be doing it for Postal. The rest of the JCRA's activities are general generic anti-trust provisions. Where I think that we might be going, and which is where I want to try to convince Deputy Fox would be an acceptable way forward, is to consider with the JCRA whether or not if, at the point at which we are going to license the network of routes at the beginning of 2009... is to ask the JCRA to do that job that he is asking me to do. Nobody is asking the Minister for Economic Development to regulate the pricing structure for Telecoms because that

is a non-political or should certainly be a non-political activity. What the potential could be for price regulation is to ask the JCRA to do that. What I undertake to Deputy Fox is, while not being able to accept this part of the proposition as it is currently worded, what I am willing to do is engage in this debate with the JCRA to find a way that they can effectively regulate prices on the sea transport routes in the future because I think that is something, certainly, that may well have to occur, if, indeed, we do end up with a single operator on the network of routes in relation to passengers and cars in the future. So, what I say, again, is (b)(i) - I cannot do that. I cannot ask my Assistant Minister to do that and I cannot ask the department to do that. It is just simply a Herculean task. We are not experts and I do not think that there is any best practice around the world when now politicians are signing-off on pricing structures for commercial entities. That is not a sensible state of affairs. What is a sensible state of affairs is to ask the expert Competition Authority to help us in that job. What I would say is: we have got 2 years, effectively, to plan with the JCRA, and, if necessary, bring Regulations or Laws to this Assembly to empower the JCRA to do that. That, I think, is the sensible way, and that, I think, would be, perhaps, the preferred way that also the travelling general public would prefer to see us go down. I understand that there is a concern about prices. I am as concerned as anybody else. Last year we were basically able to travel to France with a car and 2 people for about £100 return. Now we are seeing that prices are much higher than that. I understand the concern. What the travelling public want to know is that a fair price is effectively being charged within the dominant position of a single operator. So, what I say is, Members, please do not consider that we can do (b)(i). What we can do is we can ask the JCRA to carry out those duties for us. I undertake to engage... and, if necessary, Deputy Fox can come along to the discussions that we hold with the JCRA to try and find a way forward. But please do not ask Economic Development to do that job. I will finally say, in relation to (c), I think it is too early to say whether or not we definitely are in a position that we need to operate because I am sceptical. I think that there needs to be a great deal more work carried out in relation to our sea routes. By the way, I should have said that we have engaged OXERA (Oxford Economic Research Associates Limited). OXERA are also helping us and the Economic Advisor is also assisting us in giving us some specific insight into the whole and updating the previous reports that we had in respect of this whole issue of pricing. No doubt the Scrutiny Panel will also want to look at this issue. Perhaps, as we develop forward... The Chairman of the Scrutiny Panel is looking at me a little bit quizzically. But, effectively, what we have done is we have published the policy. It is now the policy of my department to administer that and I welcome the Scrutiny Panel's review of that policy, and, effectively, any recommendations perhaps assisting us in bringing forward and bringing-in the JCRA in this Assembly. So, in summary: enthusiastic support for the majority of what Deputy Fox is doing, but realistic not acceptance of (b)(i) and (c) of the proposition. I urge Members that when they vote, to bear those "impossible to do" comments in mind. Thank you.

12.5 Deputy G.P. Southern:

It is really quite daunting and interesting sitting down here so close to the pit. I draw the attention of my Minister often. But he might be surprised to recognise that I rise to support his objections to Deputy Fox's proposition. Although he has denied it once today, I will say again: the Minister for Economic Development is, indeed, a clever man. **[Laughter]** Some would say perhaps too clever for his own good. But, nonetheless, I am surprised that he has not picked on the single objection that I have to Deputy Fox's proposition. He has talked about the difficulty of doing (b)(i). He has talked about the difficulties involved in (c). That catches my eye spectacularly, since the previous OXERA report suggested that if you get competition on the southern route, what you will have is a downward race to the bottom and eventually one of those operators going out of business, which is exactly what happened. They said 2 years ago that was a serious risk. It seemed to me that (c) invites a similar sort of process again. It says "additional operators." It does not say "alternative operators." It does not say "Have a re-tender." It says "additional competitors on the route." The inevitable consequence of that, I believe, will be another race to the bottom and another disruption in services. I have looked forward to doing this bit because it was the role of someone who used to

stand behind me- Deputy Dorey, as was - who used to rise up to his feet and say: “Am I the only person who actually read propositions?” Because if you just read (a): “Each route, namely, the northern and southern car ferry roll-on, roll-off sea routes, should be controlled by a separate service level agreement with the operator or operators in order to protect the operators and ensure that the Island receives a sustainable all year round service”. Now, I do not know about you, but a service level agreement is there to protect the public, not the operators. It is for the operators for putting their tenders and to look after themselves. It is not for a service level agreement to protect the operator. That, to my mind, is a contradiction in terms. Yes, (b) should be there in a service level agreement. You might consider that (c) might there in a service level agreement, but a service level agreement is there to protect members of the public and the users. So, to my mind, that sentence has not been thought through. “In order to protect the operators” should not be in there. It makes a nonsense of the proposition. The key, as the Minister for Economic Development correctly pointed out, is not what the fine print on the service level agreement is. It is that it is in place and that it is monitored. Now, the Minister for Economic Development already has in view a mechanism by which he is going to make sure that that service level agreement - north or south - is properly monitored. That is the key element. So, I see no reason to support this different proposition and I will be voting against it.

12.6 Deputy P.V.F. Le Claire:

I am just wondering why we went through the issue in relation to the JMT that we went through with the JMT before Connex, when all that seemed to surround that issue was a service level agreement and whether or not the company would open up its books so that we could have a good look at why there was cross-subsidisation, perhaps, in the Diamond Group of companies to the JMT. It was a fervent desire of many Members of this Assembly at the time - and the establishment led the charge - to ensure that the JMT buckled to pressure before it got its renewed contract for the £100,000 subsidy; that it exposed its finances in total to the States of Jersey before it was going to be granted a licence and therefore before the service level agreement could be signed-off. So, it does strike me as a little bit surprising to hear that we do not actually want to look at the books and that we do not necessarily have a service level agreement in place at this time. Why were we in that position with a bus company, which is a method of transport? I question the issue of transport in general and why the Transport Minister himself is not more actively focussed on this, if he is aware, when we have a very substantial connection to the Island in relation to not only tourism and vehicle movements but also the supply of goods and services to this Island from the sea routes. Now, I believe Senator Ozouf said that he had spoken to the people at Condor, who had assured him that there had been a reduction in arrivals in the harbours since 1997, I believe. I would have to look at the transcript to see exactly what was said. But I seem to recall that while 2 years ago - 3 years ago - air transport numbers had dropped, we were singing the praises of the harbours because sea transport had gone up. The arrivals at the harbour had increased. So, I personally am a little bit sceptical of the whole issue on the table before us today because a lot of it is leaving me with questions. There is a need, I think, to protect the routes, but I think there is also a need to protect the consumer. I believe that Deputy Fox had worded his proposition to take into consultation other bodies. Appropriate bodies in that case would, I imagine, include the JCRA. But there is another dilemma. If it is wrong for us to investigate a company's books, perhaps that is the new way of doing business in the future, not to get involved in these miniscule details. Maybe it is not the right thing to do. Then why are we looking to approve (b)(vi), when we will determine what an appropriate financial penalty will be for the company? What is an appropriate financial penalty, how will that be collected and what will be done with it once it has been collected? Where will the money go? How will it be spent? Should there not be some consideration by the JCRA whether or not there should be a financial penalty in respect of a company not meeting its obligations? Is it not a little bit odd that we have a whole hodgepodge here this afternoon of things that are being suggested that are acceptable and other things that are not acceptable, where both

ends of the arguments can be used against each other? I am listening to the rest of the debate with interest but I must say it is throwing up already a lot of questions.

12.7 Deputy P.N. Troy:

The travelling public are extremely disappointed that there is no requirement for fares in both travelling directions to be offered at parity. Jersey travellers often complain that discounts and special price offers are given to those starting their journeys from outside of the Island, while here in Jersey prices are maintained at the highest levels. The people of Jersey are being disadvantaged, and this is an issue that really must be addressed when it comes to creating and negotiating service level agreements. Although the Minister is not content with (b)(i), I think - within the concept of (b)(i) - one could look at that issue as part of the overall negotiations on a service level agreement. It is something that really is irritating to the people of Jersey. Of course, I take on board the Minister's comments that the JCRA could be involved in looking at these issues as well. But there is a real problem there, that the people of Jersey are being disadvantaged and taken advantage of by some of these companies. I do not absolutely agree with (c) either but I would like to make the point that EDC (Economic Development) should certainly be open to additional operators on routes but going to different ports. So, if you have got Condor going to Jersey to Poole back to Jersey, why not have another operator going Jersey to Weymouth or some other port and back? That would give additional choice to people on the port of embarkation that they are going to and it would also segregate the routes, so it would also allow for different operating times even. It does not have to be a monopoly on routes. You can create different routes on which people are not operating on the exact same route. I think that is where part of the problem has been. On the southern route you have got 2 operators going to the same port and that is where there have been real problems. Also, of course, one could licence 2 operators but one might have a ship carrying 100 vehicles and the other one might have a ship carrying 300 vehicles. What you have achieved there is you have achieved competition on the first 200 seats because you have got one operator with a smaller ship giving prices at that sort of level. Of course, once their boat is full, then, of course, your second operator comes in, offering seats at other levels. So, there are various many ways of looking at this without necessarily monopolies being the total solution. We really need to have some flexibility. We really need to look at all the options. That is why I would like to see a full review of the facts and an exploration of all of the options before we go rushing down one particular route. I think that is important that that progresses before we take full decisions as to the future, locking ourselves in to a monopoly situation *ad infinitum* and in perpetuity. We really need to explore the options. So, those are my points. I do not think they help Deputy Fox in getting his proposition through but I think they raise other issues around this whole problem.

12.8 Deputy K.C. Lewis:

Deputy Tory has partially asked my question. If I may refer to P.24 Com, page 2(g), there is a requirement to offer equivalent standard fares where the traffic originates in the Channel Islands, the U.K. or France. The Minister will probably remember I brought this question up a few weeks ago now. There was a play on words with the standard fare, many people complaining they can tune into U.K. television and see prices coming to the Channel Islands for £66 but going the other way it is around £300. Would the Minister undertake to remove the word "standard" from the service level agreements? Can the Minister assure the house that if he is in talks with his Guernsey counterpart, what assurance does he have that in 2 years' time that Guernsey will not again go it alone with the service level agreement? Thank you.

Senator P.F.C. Ozouf:

Would Deputy Lewis be willing to give way before he sits down, so I can answer his question?

The Bailiff:

He probably has not quite sat down, Senator.

Senator P.F.C. Ozouf:

The Deputy Lewis raises a fundamental point. He is absolutely right. The standard fare is the standard ramp tariff and there is no difference on Jersey/U.K., U.K./Jersey. The difficulties are raised because of this fluid pricing model in a competitive market. Effectively, Condor's pricing strategy and any other pricing strategy - Emeraude were the same when they were on the route; no doubt they will be the same when they come back on their passenger services - they are offering fares in order to attract people on a specific offer at a specific time. I understand the concern that the travelling public has when they see different fares from the 2 jurisdictions. It is a really difficult issue.

The Bailiff:

I think you have probably clarified that.

Senator P.F.C. Ozouf:

Okay. JCRA is a solution, Sir.

Deputy K.C. Lewis:

Sorry, the second part of the question, Sir, regarding the Guernsey counterpart.

Senator P.F.C. Ozouf:

I probably should have said that working with Guernsey is absolutely vital. I should have said that my ambition would be to effectively have a Channel Islands Commission, perhaps brought for approval by the States of Jersey and Guernsey, to appoint the operator or operators on the network of routes and to appoint, for the first time, a Pan Channel Islands regulator to deal with Pan Channel Islands pricing. That is the only way. We have got to persuade our Guernsey friends to have a Channel Islands solution and not go it alone.

12.9 Deputy A. Breckon:

I have some sympathy with the comments of the Minister for Economic Development because this is a situation that has been inherited. Some people with longer memories will remember the problems with Condor in the past. Indeed, when this went out for a 5-year operating licence I, at the time, organised a public meeting and Sea Containers were interested, as were Peninsula and Oriental, and P & O. Following that, there was a debate in this house. The Jersey Transport Authority at the time awarded a 5-year licence to Condor and the Jersey Transport Board, in their wisdom, gave a 7-year licence for the same thing with some exclusivity, I believe. But at the time that was a U.K. situation and it did not include the French leg of the journey. I think this is a vital component of where we are today and I think that is why a service level agreement is vital. I want to come back to that in a minute. But it is about routes and it is about ferry markets and it is about the change, because the change is significant in the ferry markets. If you look at the cross-channel ferry, the cut-price airlines have really hit the ferry operators. Now it is more convenient to fly somewhere into Spain or wherever for £39 and people hire cars. They do not take their cars anymore like they used to. If you look at the market, the figures prove that it is a declining market. So, that is the situation we are in. If we are going to go into that market then we will find that perhaps the interest is not as great as we think it is. But I believe that we should roll this up again and it should be become a Channel Islands/U.K./French bid that we look for. The Minister is absolutely right. Some flexibility is required. What we have at the moment is a sort of stop-gap situation because of the Guernsey situation and the French situation. So, we are - to some extent - making it up as we go along and trying to satisfy people's demands, which is difficult, because the situation has changed. We have an opportunity, though, because the situation does give us that gap until 2009 and that gives us a chance to move on through the Economic Development Minister in line with, I think, most of what Deputy Fox is saying to test the market. That market would be

what we want, to an extent, and say: “This is what we have. This is the sort of service level agreement we want” and go to the market and see what comes back. Because it is about providing a service to the public that they want. Again, I have looked at the proposition and I did have some problem with the wording about “protect the operators”. I am also not sure why you need to have separate service level agreements for different routes. I am not sure why this needs to be because many other things would be the same: the timings of sailing, capacity, types of vessels, reserve capacity, how quickly certain normal services would resume, levels of compensation, perhaps, if the situation fails and I do not really see the difference, whichever direction you are going in. I would add to that: facilities on vessels and in ports, perhaps, for disabled; and price transparency as opposed to too much political interference, I would suggest. The other thing that needs to be in there, whichever way you are going, if there is going to be a service level agreement then somebody needs to monitor it. It is no good having it if it is just gathering dust somewhere. Then somebody needs to say that 85 per cent of the services are within what they are supposed to be, 10 per cent were affected by the weather and 5 per cent did not meet the standards. It is a case of: if you have the benchmarks, you can ask people to improve on them year on year and that is part of the reporting structure. That is vital in my opinion, because, as a government, we are going to licence somebody to do that perhaps exclusively and we must ensure that the public get a level of service and that is government’s arrangement with an operator to deliver the service to the people. I think that is a vital part. Again, I agree with the Minister of Economic Development: I do have some problem with (b)(i) and also with (c) because I think, again, if you have the involvement of the JCRA, if you have a degree of transparency, then perhaps you are going to have to have one operator because of the size of the market. But if you have that transparency then that is, I would suggest, the public safeguard. But we do have this window. It is 2 years, which sounds a long time, but it is not. As far as I am concerned, the noises that have been made already by the Economic Minister are the right ones because it is an interim measure. What the Minister is saying is that this is the opportunity to work with others, including... well, Deputy Power’s not here but he has had a lot to say on this issue. He has probably gone to France or something. But Deputy Fox is there. Then there are people who have a knowledge. It also says in there at the start of the proposition: “To request the Minister of Economic Development, after consultation with the Council of Ministers and any other appropriate bodies, to take the necessary steps”. So, I would suggest that gives opportunity for everybody that wants to, to comment in the meantime. I think this proposition is 95 per cent right. But it does need a bit of tweaking. I am not sure, Sir, procedurally how we could vote on this, whether we could divide this up. But in general terms, I agree with the principle but I do have one or 2 problems. But I would not like, necessarily, to vote against the whole thing. Perhaps Deputy Fox can consider that when he sums up. Thank you, Sir.

12.10 Deputy S.C. Ferguson:

I think, really, the House needs to remember that in terms of economic reality, the problem for these operators is that we have, in effect, got 2 markets. We have got 87,500 people in Jersey and U.K. and France with very much larger hinterlands. I would suspect that these operators are making money on volume, which is why you get the differential in prices. It is unfortunate, but unfortunately, economic reality comes in. With due respect to Deputy Fox, the proposition is a bit like a set of audited accounts. It is all backward-looking. He assumes that there are only 2 routes to consider, when we have the possibility in the future of Cherbourg and Granville. We need to look forward and consider all the possibilities. It is for the Minister and his department to encourage other routes and not to be blinkered by one route and hindsight. I think at the same time we cannot tie them in too narrowly. As for the OXERA report, as Deputy Southern has already said, it forecast chaos if we had 2 operators, and, as happened last year, there is predatory pricing. This always ends in killing competition. This is a well-meaning proposition but it is rather out of touch with economic reality and I cannot support it.

Senator P.F.C. Ozouf:

Deputy Ferguson has just said that the entity is engaging in predatory pricing. Does she really mean that, when we have, in fact, a competition law which effectively out rules predatory pricing? Is it right that she is saying that? It is against the law now.

Deputy S.C. Ferguson:

In that case, I will withdraw the comment and say “extremely competitive pricing”.

12.11 Deputy C.J. Scott-Warren:

I believe Deputy Fox brought this proposition with the very best of intentions for Jersey sea passengers. Although I cannot support this proposition in full, I welcome the Minister’s offer to involve Deputy Fox, together with the JCRA in future discussions. Overall we must keep the emphasis on ensuring reliable sea travel services at good reasonable prices, backed up with one or more service level agreements. Thank you.

12.12 Deputy R.G. Le Hérissier:

There has been a lot of discussion earlier on about the meaning of words and this technique has been used, in a sense, to undermine Deputy Fox’s proposition. Now, one could argue you need tight working - you need clear wording - but much of it is in the eye of the beholder. I think the Minister, Sir, is slightly guilty of not having understood the anxiety that underpins this proposition. For example, Condor went to ‘yield management’ in the way it sold its tickets. It went away from a clear standard set of prices and people went to the computer and all of sudden quite horrendous prices - in the absence of a competitor - were starting to appear on that computer, albeit, capped at a very high point. I do not think he realises quite how much anxiety that set in train with people and the feeling that the thing had got out of control. It was not only different to last year, Sir, it was quantitatively different in terms of the level of prices. In (b)(ii), we look at the required schedules, and people sort of slightly mock this: “Why should you want the timetables?” Well, people want the timetables and Condor this year have not printed a physical timetable. You have to go to the web. Now, that is no problem for a lot of people but a lot of the traditional users of the ferries, they prefer to make personal visit to the Elizabeth Terminal, negotiate their trip, discuss their trip and settle it on the spot. They feel very lost with the absence of schedules for winter and summer services. It was said, Sir, by Deputy Southern, that the service level agreement was going to protect the operator but I will wait for Deputy Fox’s response to that. But I think what the good Deputy was saying, Sir, is going to protect them in the sense that they would be given the chance of running a viable service. So, from that launch pad they could develop an even better service. IT was not some kind of self-centred S.L.A. because, quite clearly, that would not get past first base. The other thing, Sir, Deputy Ferguson talked about economic reality. But the problem is, we have left the world of economic reality. I think to her - and good luck to her - it is code language for “a free for all” - for a free market. Unfortunately, for good or for bad, we are looking at a situation where somehow we have to rig this market. That is the degree to which we have moved from when it appeared there was this paradise last year to one where we are all terribly worried about whether there will be service on both routes. That leads me, Sir, to another point. I think the Minister is slightly guilty of conflating Condor as the operator and we must meet Condor’s needs because they are under tremendous financial stress and therefore they must charge us high rates. Second, Sir, whether we can bring in a totally new operator who will bring a totally fresh approach. I just put that forward. But I noticed in the way he was talking about it, he was talking as if it was Condor he was thinking about rather than the principle of a one network operator. While I have got no problem with Condor, in fact, I find their service very good, other than the absence of printed timetables and the demand management, which, as I said, to a lot of people, is now running totally out of control. My view is, Sir, Deputy Fox has done us a good service. I hope there can be some negotiation on A.M.C. But I think when he also looked for 2 separate agreements, I think what he was trying to say there - and I am sure he can say it himself - was that we have to see, first of all, whether either route can be a viable route in a free-standing sense. Because we all talk about the

French route but I think we all know that the real problem in terms of medium and long-term viability exists with the U.K. route. There has been massive desertion from that route. Local people do not use it because, as somebody said, they use... well, relatively low-priced airlines and hire cars. The holiday camps do not exist anymore, bringing over the large numbers of people and it suffers from what the Americans call "sticker shock": the prices are just far, far too high and local people are very turned off. So, I think we ought not to underestimate the need to look at the U.K. route, simply because it strikes me, Sir, that that is in a really vulnerable condition at the moment. Now, if it could be argued: it is only by giving Condor or another operator free service that you are going to keep both routes viable - in other words you are going to, in a sense, cross-subsidise. If it could be argued that that is the case, then we will have to look at that. But I suspect that is why the Deputy said we need separate agreements: it was to see whether both routes could be managed separately, even though, as I said, there are major problems on the northern route. Thank you.

12.13 The Deputy of St. John:

I just wanted to suggest that the House observe a degree of caution here. Condor have had a business in the Channel Islands for many, many years. Since the 1960s, in fact, they have been operating on the St. Malo route - then, albeit, not necessarily with cars. They have invested significant amounts of money into that route, other routes and so on, over a number of years. They have invested in equipment, they have invested in training, they have invested in marketing. From where I am sitting, it seems to me to be a very well-run, well-organised company. I am sure they could do better on some things but generally speaking, my experience and others' have been good. However, I wanted to urge caution because I do not see a big queue of operators queuing up to operate these routes. It is a very, very high capital cost business and to get into it costs an awful lot of money. There are not droves of companies queuing up to get into this business. So, we really ought to be working with them to make sure that they grow with us, albeit with a service level agreement, with a Channel Islands regulator as Senator Ozouf was suggesting. Yes, I am all for that. But we must be very careful that we do not throw out the baby with the bathwater. We have got an operator here that is clearly committed to the route; they have shareholders; they have investors in that. They had a management buy-out a few years ago. Those investors may well get jittery if they hear a debate like this and think: "Well, maybe we should invest our money somewhere else." Like I said, there is not a big queue of people waiting to take on this route. I know we might go out to tender; we might get a few. But when they look at what the real cost is and what the diminishing market is - which Deputy Le Hérissier referred to earlier on - that market northbound is getting smaller by the day. Southbound, yes, we possibly could grow it, but I think we need to grow that with a company that is really interested in investing in that market and Condor, to my mind, have demonstrated that over a number of years, since the 1960s, as I say. We should be encouraging that, not discouraging it by suggesting that their instability in our minds as to what their commitment is to that route and others and to the market in general. Thank you, Sir.

12.14 Deputy A.J.H. MacLean of St. Helier:

This is clearly a highly emotive and complex issue. I have listened to wide-ranging points of view around the Chamber today and it throws me back to December when I was thrown into my very first meeting as a States Member when shortly after, I should say, that Emeraude suddenly withdrew their services. It was interesting at that meeting that Condor came forward very rapidly with offers to put additional capacity on to the route and to assist us. I think we should remember that Condor has been much maligned. There have been problems, historically, and I think we are all very well aware of that. But they are much maligned over the years. They have been serving the Island for more than 40 years and I think that was alluded to a moment ago. I think we should really concentrate on the issues at hand, and that is in terms of supporting them and finding a way in which we can address the major issues that members of the public have been bringing forward. I have been involved in a number of public meetings - 2 public meetings - that were called in relation to this issue at the Town Hall and later at St. Peter. I listened to public concerns about pricing,

which has been mentioned to day. I have listened to concerns from businesses that have had significant issues in terms of getting their produce to France. I have listened to States Members who have raised valid points, including, I have to say, Deputy Fox, who I spent some time with, listening to his concerns some while ago. Specialist groups: caravans, motor homes, there are many, many people who have concerns and desires for long-term, sustainable ferry links between Jersey and both France and of course north to the U.K. It was interesting. I noticed earlier on that Deputy Le Claire referred to passenger numbers falling. In fact, passenger numbers falling have been on the northern route and I think that is obviously a by-product that has been mentioned of the fact that low-cost airlines are having a significant effect on the ferry services. In fact, over the past year passenger numbers have increased from France to the Channel Islands - to Jersey. A lot of the reason for that is that prices have been so competitive. We got ourselves into a position where we had 2 operators running on the route. They got more and more competitive. Prices were driven lower and lower. The price reductions, in fact, were driven initially by Emeraude, who first introduced the £99 for 2 passengers and a car. Condor simply reacted to that commercial decision. It was very good news for the public of Jersey to have such very low fares to go across to France. I have noticed that in Deputy Fox's proposition he mentions the fact that this year he paid £249 whereas last year he paid, I think it was £149. Well, it is not surprising. We are not really comparing apples with apples. Last year we had 2 operators and last year we had a competitive market. It is not to say that we should not bear in mind that 5 to 10 years ago standard fares running between Jersey and France were something like £350 for 2 passengers and a vehicle. So, the £249 that Deputy Fox had to pay this year is, in fact, still significantly cheaper than it was 10 years ago. But I think what I would like to concentrate on today is the proposition itself. If we look at the proposition, it says: "To request the Minister for Economic Development, after consultation with the Council of Ministers, [which I believe has already happened] and any other appropriate bodies, to take the necessary steps to implement, without delay, a revised policy for the management and development of sea routes to and from the island". We have a revised policy. We have a revised policy now and we have a new S.L.A. for the southern route, which is nearing completion. Another important point - or a point of contention - is (b)(i). Deputy Fox describes this point in the following way: "All I am trying to do in this proposition is to ensure that there is some price structure fairness and comparability". Well, so are we. We have been working very hard to achieve that, I can assure you. Although a standard fare can be set, we should not prevent an operator from using promotional or incentive fares, according to market conditions. This is clearly a consumer benefit and that we certainly hope will help to grow traffic." The standard fare can be contained in the S.L.A., as is currently the case on the northern route. While fairness of price can be controlled, as has been mentioned on one or 2 occasions in the Assembly this afternoon, by the JCRA and this will happen in due course and is quite correct and quite as it should be. I have to say that the principle of (b)(i) is agreed but the unclear wording is certainly something that I cannot support. Under (c), which is the other area of contention, it is not possible to agree the elements asking for additional operators to be licensed until the existing ramp licences expire at the end of 2006. However, it should be noted that on the northern route currently, there is no exclusivity agreement and the intention with the almost complete southern route S.L.A. is, yet again, there will be no exclusivity included in that particular agreement. It should be noted - and it is an opinion that I feel quite strongly about - that I have a feeling that other operators would perhaps not be queuing up to serve the routes, as we are currently being served very satisfactorily in many respects. There are some issues that need to be addressed and I trust that the pricing one is, probably, the most emotive and will hopefully be addressed in due course under the S.L.A. and also with the support of the JCRA. But the industry view shared by consultants, such as the OXERA report, and I have to say, proved by recent history, suggests that dual operators on the route have not proved to be particularly commercially viable, which is the reason, I suspect, that we are in the position that we are currently in. There was some mention as well - just picking up one or 2 points that came about from other members - I think one or 2 of them will be picked up under the JCRA issue. Deputy Troy was talking about price parity again; the price issue coming forward - the

differential in prices between Jersey and France versus France to Jersey. I have to agree, there is an issue here, but, again, I would hope that the JCRA - in fact, I would expect them- to deal with that. Deputy Breckon talked about the single network, which, I think we all agree, has got significant possibilities in January 2009 - or shortly before that - when we are in a position to give it some serious consideration. It is likely to be the most commercially viable option that exists. The reason that there are, in fact, separate S.L.A.s proposed at the present moment in time is because of the different agreements that currently operate between both Jersey and Guernsey and also between the southern route and the northern route, from Jersey's perspective. Deputy Le Hérisier quite rightly pointed out the issue about timetables. That has been a significant irritation to passengers. I understand from Condor that, in fact, the issue is going to be rectified shortly. They claim that the reason the timetable has not been forthcoming on the site is due to commercial considerations awaiting the decision from Sogestran and Emeraude. So, we hope to see that appear very shortly. As I said at the beginning, we as a department have worked very hard to ensure that Jersey will enjoy a long-term and sustainable ferry service both north and south, and, most importantly, at a fair price. I cannot, therefore, support this proposition, due to the unclear wording of (b)(i) and as I consider (c) to be a little bit too early or premature. There are, in my opinion, severe commercial dangers in supporting this proposition. I do, however, accept that it was very well intended and it has been a more than useful opportunity to discuss this vitally important issue regarding our sea routes, both south and north. Thank you.

12.15 Senator M.E. Vibert:

I think it is very good that this debate is taking place, as it is giving Members an opportunity to express their views and concerns on this vital issue: our lifeline sea links. What is good is to stress the degree of agreement there is between the bringer of the proposition and the Minister concerned. It is a very emotional debate, or it can be, because the old Emeraude was held in such affection by many people, like myself, who were regular users of it. But I think we should remember the old Emeraude is no more. It is not the same company. We cannot turn back the clock and go back to what some may regard as the halcyon days of a few years ago when the old Emeraude was operating almost exclusively in a car-carrying capacity on the southern route and Condor on the northern route. But one thing we must be careful of is we must not try to regulate - to return to those services - because there is a danger that in too much regulation we would be practically running them and perhaps running them, if not into the ground, to the bottom of the sea. We need those services and we need companies who are prepared to run them. So, we need to retain flexibility. I think Deputy Fox's proposition - the (b)(i), asking that, in effect, the Minister approves the price structure - is too constraining on a commercial company, which may wish to react to circumstances at short notice. I remember a few years ago when I was involved in the tourism Committee that Condor and some hotels got together at short notice to offer promotional fares at a time when travel to the continent was not attractive, for various reasons, to a lot of people coming who from the U.K., who perhaps had booked, were going to go to the continent or the USA or further afield. They tried to attract them to Jersey and were very successful in doing so at very short notice with promotional fares. I think that flexibility must be kept. Again, I believe that part (c) of the proposition, which the Minister is concerned about, is, again, too restricting. I think we need to look at the needs of the routes and not rule out that a regulated monopoly position is what may be best for the Island. It seems to me that (c), as it stands, would rule that out. I think it may be the fact that that may be the best position for the Island. I do not know yet. I have not seen the work that has been done. I mean, it would be going back to what was the *de facto* position for many years, where, in effect, Emeraude was running a monopoly in the car carrying on the southern route and Condor was operating it on the northern route. Perhaps that is the best way forward: perhaps one carrier, I do not know. But I do not think we should rule out anything. I think we should look at what is best for the Island. I think that (c) is too restricting. So, I agree with what Deputy Fox is trying to achieve and I believe the 2 areas - (b)(i) and (c), which are in contention - are too restricting if adopted as worded in the proposition. I would ask Deputy Fox to consider

withdrawing these 2 parts of the proposition for further discussion and then I would hope the proposition would be overwhelmingly, if not unanimously supported, which I would like to see happen rather than have disagreement on these 2 points. So, I hope the Deputy will consider that because I think it would be a good message if we could all support this proposition with those 2 points out of it, rather than argue over those details and then perhaps vote against the proposition. Thank you, Sir.

Deputy S.C. Ferguson:

A point of clarification, Sir. A number of people have mentioned the lack of timetables supplied by Condor. I should perhaps point out that if you telephone England - their English office - and give an address in the U.K., then you can get a copy of the timetable.

The Bailiff:

I call upon Deputy Fox to reply.

12.16 Deputy J.B. Fox:

You are damned if you do and you are damned if you do not. You are, for the simple reason that what people have said - I have some sympathy and support for, but we lose sight of the purpose. The purpose is, going back to the original: "The Economic Development is of strategic importance to the Bailiwick of Jersey, and like any other jurisdictions, its independence is reliant on the sea route, which must be guaranteed to ensure the stability and prosperity. Recent events have shown that any disruption..." et cetera, et cetera, and then it talks about: "There are systems that are within the United Kingdom under the Securities Service that are there to advise, so that you do not end up with ever a situation where the whole of the Island could become susceptible because we have a total reliance on one company - one monopoly." I am not standing here today to talk about companies. I am talking about routes. I am talking about the Island's strategic needs for its economic development, survival; call it what you like - that is what I am talking about. What everybody else is talking about today is about the areas that they perceive are too restrictive. I deliberately kept the wording light, because on previous occasions, I have seen private Members bring up bills and the accusation is it is too prescriptive - it has happened to me - and therefore, it does not move forward. Today, I have been accused the other way, of not being too prescriptive, and if I just go through - I am not going to go through it all, because otherwise I will probably bore you by the end of it - but talking about (b)(1). I am quite happy to withdraw this, because of the technicality of my wording. All I am trying to do is put the safeguards in for the public to at least have an opportunity of having some fairness put into the pricing structure. It is all very nice you saying that they need to have competitive rates for commercial success. I know that. That is why I put in on (a) - which has been brought up - about protection of companies. If you do not protect the companies, you will not have any companies to operate. The priority is people, but it is also essential with companies that they are able to operate. That is the reason that I am also bringing up the question of service level agreements, to have 2 separate ones, because if you have one that runs all the way through, you can have one for a company to operate. All they have is one going this way, but one goes that way as well; but as long as they are separate... But then it must also give the opportunity for having an additional operator, and that is what I am suggesting at this time, although the Minister is - very cleverly with his wordsmithing - saying: "We are going to do it anyway in 2009." What happens between now and 2009? All I am trying to do is to bring some reassurance to the public of the Island, for the strategic nature of business in the Island and for the tourism, and the agricultural trade. Sorry, there is an awful lot of talking, Sir, in the background. It is difficult to concentrate.

The Bailiff:

The Members should allow a Member to speak without interruption. I hope they will take notice of that.

Deputy J.B. Fox:

I told you if I spoke too long, they would get bored.

The Bailiff:

There is a remedy for that, Deputy. [Laughter]

Deputy J.B. Fox:

Yes, I can sit down, Sir. Clearly, I will not need an Appel for this one. I think a stand up vote would do, but I think it is important that now that I stood up that I do cover (c) a bit more; (c) is - to me - a very important thing. It provides a safeguard for the Island. That is what it is about. If this House chooses not to have that safeguard and to rely upon the *status quo*, then so be it. But from my previous life, I have learnt that you look at things in advance, and if you see that there is a possibility that something could go wrong, what options do you have to safeguard the Island against it? An economic key point security under this civilian framework that MI5 are doing is that, so if I do nothing else today, yes, I have raised the level of awareness in it but, please, I would ask that the Economic Development Minister have discussions with MI5 and at least move forward with knowledge, to see what they have to say on the subject, because they provide a professional service. The last time we used them, it did not cost us anything. No, it cost us a lunch, so you will need to declare that, of course. But clearly, I have great credence in the necessity for (c), and it would be against my conscience to actually say I would withdraw it, because I know that it would be wrong, and therefore, please, I will withdraw (b)(i), but I need to leave (c) to stand, although I can quite see where it is going to go. Thank you.

Deputy J.A. Martin:

Sir, is the Deputy going to let us vote separately on (c)?

Deputy J.B. Fox:

Sorry, Sir. I understood that the rest of them were agreed; they can vote separately on all of them if they wish.

The Bailiff:

You have brought a proposition to the Assembly, and in principle, Deputy, the Assembly will vote upon the proposition as a whole, as a proposition. If you are seeking to have separate votes or to withdraw part of the proposition, I think you must make that clear to the Assembly - the matter is really one for you.

Deputy J.B. Fox:

For me, clearly I would have liked to have voted for the whole thing. Clearly, it will vote everything out because of (c), and therefore, can we vote for the remainder, having withdrawn (b)(i) and allow (c) to be a separate vote. Is that acceptable? Yes, we can do it that way. We can do (a), then we can do (b) and then we can do (c), whatever the Assembly wishes. I do not mind.

The Bailiff:

Deputy, are you seeking the leave of the Assembly to withdraw (b)(i)?

Deputy J.B. Fox:

Yes, Sir.

The Bailiff:

Then it is open to you, if you wish, I think...

Senator P.F.C. Ozouf:

I suggest that we have a vote on (a), (b)(ii) to (b)(vi) as one vote, and then a separate vote on (c). Would that help, Deputy Fox?

Deputy J.B. Fox:

Yes, it would.

The Bailiff:

You would like to have a vote on the (a) and (b) and (c) separately, is that right?

Deputy J.B. Fox:

In simple terms, yes.

The Bailiff:

If the Assembly is prepared to accept that, we can certainly do that. Do you want an electronic vote?

Deputy J.B. Fox:

No, I am quite happy for stand up vote, if they want to be counted.

The Bailiff:

An Appel then of the vote, the Deputy having withdrawn - with the leave of the Assembly - (b)(i). The vote is for or against that paragraph, the introduction, of course, and paragraphs (a) and (b), and the Greffier will open the vote.

POUR: 43		CONTRE: 3		ABSTAIN: 1
Senator L. Norman		Deputy G.P. Southern (H)		Deputy of St. John
Senator F.H. Walker		Deputy S.C. Ferguson (B)		
Senator W. Kinnard		Deputy G.W.J. de Faye (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 F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Saviour				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. John				
Connétable of St. Brelade				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				

Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
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. Pitman (H)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

Senator P.F.C. Ozouf:

Could the 3 votes and one abstention be read out, please, Sir?

The Bailiff:

Yes.

The Greffier of the States:

Deputy Southern, Ferguson and de Faye voted contre and the Deputy of St. John abstained from voting.

The Deputy of St. John:

If I can just clarify why, I have property in France. I felt it inappropriate to vote.

Deputy J.B. Fox:

Oh, then I should abstain.

The Bailiff:

Deputy, if that is the position, then I think technically you should have declared an interest under Standing Order 106(1)(c), even though it is not a financial interest. Are you making that declaration, because if so, the Greffier will record it in the notes.

The Deputy of St. John:

Sir, I made a full declaration of my interest in my declaration of interest, and also I have spoken in the House, because I felt it was in the economic interest of the Island, not in my interest.

The Bailiff:

No, but you are perfectly entitled to speak in the States, perfectly entitled to vote, but what Standing Order 106 does - and it is a change on the former declaration of interest provision in the Standing Orders - the Standing Order says that: "A member of the States who has an interest in the subject matter of a proposition must:... (c) if it an interest which is not financial, declare the interest" so that if you consider that the ownership of a house in France is material to this, then it is an interest which you should declare, and it will then be recorded.

Senator M.E. Vibert:

Sir, surely that would be a case where we would all have to declare interests if we used a ferry at any time in this debate.

The Bailiff:

No, I do not think so, Senator. I mean, having property in France, it seems to me, is an interest which bears upon the frequency of the car ferry service and matters of that kind.

Senator M.E. Vibert:

Or the U.K., I presume, Sir?

Senator P.F.C. Ozouf:

Sir, I am aware that a number of Members - including, I think, my own Assistant Minister - may well have property in France and Deputy Fox, the mover of the proposition, has property in France. We are opening a little can of worms here, Sir, which may be correct but...

The Bailiff:

We may be opening a can of worms, Senator, but the Deputy of St. John very correctly notified the Assembly why he had abstained, and it seems to me that that is evidence that he thought that it was an interest which he ought to have declared, or perhaps he did not think ought to have declared it because he was not aware of Standing Order 106. But in these circumstances, the Assembly having passed a Standing Order which makes it very much wider than it was before in terms of declaring interest, technically it seems to me that Members who do have properties in France should declare that. It does not debar them from voting or taking part in the debate, but it is an interest which ought to be noted by Greffier.

The Deputy of St. John:

Sir, could we call for a re-vote then, because there must be a number of other Members who are affected.

The Bailiff:

It does not affect the right to speak, nor the right to vote, but it is a declaration which ought to be made, and perhaps I could suggest to Members in order that we may preserve good order that any Member who owns a property in France and who feels that he ought to have declared that interest should subsequently notify the Greffier of that, so that a note can be made of it. I recommend that Members do study Standing Order 106, because it is very different from the Standing Order governing interest which was in force at the end of last year.

Senator F.H. Walker:

Sir, for the purposes of completeness, can I add, I think, a suggestion to your ruling: it seems to me that the same ruling should apply to those with property in the U.K., and indeed, the other Islands, all of which are served in the same way by the ferry companies.

Senator P.F.C. Ozouf:

Sir, are you suggesting that they should by note to Greffier or by declaration in the States now?

The Bailiff:

I think we have reached the stage where a vote has been taken on part of the proposition. I think it would be in good order if Members were - by memorandum or by email - to notify the Greffier and that will be taken as a declaration under Standing Order 106, and it will be noted.

The Deputy of St. Clement:

Sir, surely it will only apply to people who have properties and attend those properties by boat, not those who fly. [Laughter]

The Bailiff:

That is a matter for the discretion of each Member, Deputy. Members who have their own means of transport to get to France obviously would not find this an interest which they need to declare, so that is why I suggest it is a matter that is dealt with individually by Members to the Greffier. Can we come back to the vote: paragraphs (a) and (b) of the proposition have been adopted. I now invite Members to vote on paragraph (c) and I ask the Greffier to open the voting.

The Deputy of St. John:

Do I abstain on this one or not? I apologise now for not bringing this up earlier, but I was of the opinion that as I declared the interest publicly, as many others have, it would have been taken into account and I apologise for that to the House, but I do request a ruling here, am I in fact to abstain again or not?

The Bailiff:

You are perfectly entitled to vote in any way in which you see fit, Deputy, yes. If all Members who wish to vote have passed their votes, I will ask the Greffier to close the poll.

POUR: 7		CONTRE: 38		ABSTAIN: 1
Connétable of St. Peter		Senator L. Norman		Deputy of St. John
Deputy R.C. Duhamel (S)		Senator F.H. Walker		
Deputy R.G. Le Hérisier (S)		Senator W. Kinnard		
Deputy J.B. Fox (H)		Senator T.A. Le Sueur		
Deputy of St. Ouen		Senator P.F. Routier		
Deputy J.A. Hilton (H)		Senator M.E. Vibert		
Deputy K.C. Lewis (S)		Senator P.F.C. Ozouf		
		Senator T.J. Le Main		
		Senator B.E. Shenton		
		Senator F.E. Cohen		
		Senator J.L. Perchard		
		Connétable of St. Saviour		
		Connétable of St. Mary		
		Connétable of St. Clement		
		Connétable of St. Helier		
		Connétable of Trinity		
		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. John		
		Connétable of St. Brelade		
		Deputy A. Breckon (S)		

		Deputy J.J. Huet (H)		
		Deputy of St. Martin		
		Deputy G.C.L. Baudains (C)		
		Deputy P.N. Troy (B)		
		Deputy C.J. Scott Warren (S)		
		Deputy J.A. Martin (H)		
		Deputy G.P. Southern (H)		
		Deputy S.C. Ferguson (B)		
		Deputy P.J.D. Ryan (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 S. Pitman (H)		
		Deputy A.J.H. Maclean (H)		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

13. Composting facilities at La Collette II: approval by States Assembly (P.31/2006)

The Bailiff:

That concludes the debate on the proposition of Deputy Fox, and we come next to Projet 31, composting facilities at La Collette II in the name of Connétable of St. Helier. I ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion that those steps should be taken by the Minister for Transport and Technical Services to establish permanent composting facilities at La Collette to St. Helier until the proposed site and technology have been debated and approved by the Assembly.

13.1 The Connétable of St. Helier:

I am aware that we have had a statement today from the Minister which clearly is at variance, not only with his position 2 weeks ago, but at variance with the comments presented today under embargo until 9.30 a.m. Clearly this puts me at some disadvantage, because in his comments on my proposition, he is declaring that only the debate on the new Energy from Waste Plant should be brought back to the States. He says it is not reasonable that anything else should be brought back for debating again, but yet in today's statement, he declares that - and there is a slight change here - that the location of the Energy from Waste Plant - but, one assumes from his statement, not the technology - and the location of the composting will indeed be debated by the House. He is proposing to lodge that on 10th April, and various Members have asked me if I am therefore happy to withdraw the proposition on the basis of these extremely confusing mixed messages and confusing signals. I do not know whether the Minister wishes to clarify his position. He may have moved since this morning. It does seem to me that the Minister has gone halfway by saying that, yes, indeed, the States can debate the best location for composting, but he has not gone on to say that he is going to give the States a further opportunity to debate his preferred technology for

composting. Equally, I think it is perhaps incumbent upon the Minister to explain whether he is withdrawing the ability the States should have to debate the technology behind the Energy from Waste Plant, certainly judging by today's statement, because the word "technology" does not appear anywhere - one must assume that he is looking at a very different kind of debate on his new proposition. Clearly, my position, Sir, is that if the Minister is only conceding a debate in the States on the location of composting, then that is not going far enough, because where you deal with waste is inextricably linked to how you deal with it. If the Minister is to come to us with a technique of composting which sees a number of reception sites around the Island, or possibly even a number of treatment sites for composting around the Island - which certainly would seem to make sense to me - then that is going to require a number of sites. But if he comes to us with a single site, then clearly we are looking at just one large type of composting. So I am at a little bit of a loss, and unless the Minister intervenes and clarifies the situation, then I am just going to crack on, Sir, with my speech. Clearly, we are not going to finish this item today, but I am in the hands of the States as to whether we carry on with it tomorrow, or indeed, on 4th April.

The Bailiff:

Connétable, may I just intervene, please, in order to make sure that I have understood what you have just said. As I understand it, the Minister has said that he is prepared to undertake that no steps should be taken to establish a permanent composting facility at La Collette until the site has been approved by the States, but has not mentioned the question of technology. As I read the proposition at the moment, the technology relates to the permanent composting facilities at La Collette too, and I would have thought that if the Minister is prepared to bring the establishment of the proposed site back to the States, it follows that the technology associated with that site would come back to the States as well. That is how I read the proposition at the moment; if the proposition is adopted, that is what the Minister would have to do. Now, if that is not acceptable to the Minister...

13.2 Deputy G.W.J de Faye:

If I may attempt to be of some assistance, Sir. Yes, I think it is very clear that I am very happy to bring back the question of the location of the composting facility to the States as well - as was previously promised by the President of Environment and Public Services - as the location of the Energy from Waste Plant. The difficulty I have in accepting the Connétable's proposition is that what he means by "technology" is extremely unclear. The fact of the matter is that the Waste Strategy has already determined that in respect of composting, the States will pursue the composting of green waste. Now, it is quite clear from the report submitted with the Connétable's proposition that he is talking about technology that relates to food composting. The current situation is that the department has had 17 responses from major suppliers in the field of green waste composting which cover all available technologies for what is known as in-vessel composting, and I was going to raise this issue because these tenders have been submitted under an OJEC (Official Journal of the European Communities) notice. I had a level of concern: if any of the specific companies involved might have been named, that could potentially jeopardise our tender process, so I was going to ask States Members if any States Member was going to consider mentioning the name of the company, either to refrain from doing so and to describe it another way or - frankly - if we wanted to discuss the detail, we would have to have an element of in-camera discussion. But the reality is that I am very happy for the Connétable to involve himself in an appropriate way with looking at the in-vessel technologies that are under consideration, and I imagine that my friends in Scrutiny will be drawn in at an appropriate level. The matter is, though, is the Connétable talking to the House about composting for green waste, or does the Connétable want to open up the entire Waste Strategy debate all over again? That is my concern.

13.3 The Bailiff:

Minister, may I just say that it does not seem to me that the proposition is capable of opening up the entire Waste Strategy, because that has been approved by the States and it would need a specific proposition to rescind that part of the decision of the States before the proposition could do that. I read the proposition as meaning that the technology associated with the composting facilities at La Collette II would be a matter which would be brought back to the Assembly. If the Connétable intends it to mean something more than that, then I am not sure that it does, as a matter of procedure. This is why I am a little puzzled at the mismatch between you and the Connétable, because as I read the proposition, you appear to have conceded that you are going to do what the Connétable wants you to do, but perhaps I am misunderstanding something.

13.4 Senator T.A. Le Sueur:

Sir, may I ask for clarification? I understand exactly what you are saying. The difficulty is that the fourth and fifth words say that to agree that no steps should be taken. Does that mean that the Minister, if this is to be approved by the States, can do nothing to progress the issue of establishing list of tenders and going out to tender et cetera, or does it simply mean that it is the location?

The Bailiff:

But may I suggest to the Connétable and perhaps to the Minister that this might be the appropriate time to adjourn overnight and that both the Connétable and the Minister might perhaps attend upon the President of the States, and you can decide what the proposition means and decide whether there is any common ground, and then tomorrow morning you can then come back to the Assembly and we will know where we are going.

Deputy G.W.J. de Faye:

I am happy to do that, Sir.

Senator T.A. Le Sueur:

It strikes me that this issue has been rumbling around for the last 3 or 4 days and it may well be that it will not be resolved overnight. If it was resolved overnight with agreement, we would come in here at 9.30 a.m. to get it nodded and leave half an hour later, but looking at the arrangements of business for the next Tuesday, I suspect it might be quite a light day, and I wonder whether it would be better to give the parties concerned a few days to then agree and let us Members know what the arrangements are, rather than springing them on us at 9.30 a.m. tomorrow morning.

The Connétable of St. Helier:

Sir, before the Minister and I get out our duelling pistols and go down to the Square, can I just suggest that this item be taken as a first item of business on the 4th, if indeed it needs to be taken? Thank you.

The Bailiff:

Do Members agree to take this item as the first item of public business in 2 weeks' time? One weeks' time, I am sorry. Yes, very well, on that basis the matter will be adjourned until then.

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Bailiff:

The President of PPC.

14. The Connétable of St. Clement:

Thank you, Sir. I would like to propose the arrangement of business as outlined on the pink Order Paper under Item M, with the addition of the item that we have just mentioned; and also on 23rd May with the 5 items on the Postal Services also to be included on 23rd May.

The Bailiff:

Thank you very much. [Seconded].

Senator B.E. Shenton:

Sir, on 4th April, I have got the Higher Education top-up fees for debate. The Chief Minister has asked me to move this forward to 25th April in order to give the Council and Ministers time to consider the motion.

The Bailiff:

Very well. There seems to be a very substantial number of matters on 25th April, but I do not know whether...

Senator F.H. Walker:

Sir, I think it is a good decision, and I am very grateful to Senator Shenton for agreeing to my request - which I only put to him yesterday - to defer this matter, because it will give the full Council of Ministers a much greater opportunity to debate this issue in depth, and therefore have a more informed debate when it comes back to the House.

The Bailiff:

Thank you very much. Projet 33 is moved from 4th April to 25th April.

Senator P.F.C. Ozouf:

Sir, I see that now with that addition on 25th April, Deputy Fox has asked for his Bellozanne waste treatment to be on that date. Could I respectfully suggest to Deputy Fox, that is going to be an important debate which we are going to have to spend some time on, and might he consider moving it 2 weeks forward where there is not such a heavy agenda, in order that we can do justice to his proposition, and it is only 4 weeks away.

The Bailiff:

Very well, that matter is moved forward to 16th May, Deputy Fox.

Deputy G.P. Southern:

Thank you, Sir. Since my intention is to report back to the House on 23rd, I do not know how people are on speed-reading, but it seems unlikely - inappropriate - that we should have the Postal Services Laws in place on the 23rd. It should be a date in June. It is for me to report back within 4 meetings. Four meetings is 23rd May. Not 4 weeks; 4 meetings, 23rd May. Now, I can produce a report on 23rd May, but if you are going to be debating the issue, then that would be, I would suggest, a little...

The Connétable of St. Clement:

Sorry, Sir, can I just intervene and say I meant the 23rd May.

The Bailiff:

Right. Well, the Assembly, I think, is not definitively settling the matters on the Order Paper for 25th April and so on. We are not definitely settling the matters for the 4th April.

Deputy P.V.F. Le Claire:

May I suggest, I have briefly spoken to the Minister for Housing, that perhaps the draft regulations for housing that are put down for the 25th are moved forward to the 4th, which is quite sparse, and

also perhaps a quick thought is given to moving the Bailiff's Consultative Panel forwards to the 4th, from the 25th, which might balance the business a bit better.

The Bailiff:

They have not been lodged long enough.

Deputy P.V.F. Le Claire:

They have not been lodged long enough? Sorry.

The Bailiff:

Are Members content? Yes, Deputy Le Fondré.

The Deputy St. Lawrence:

Just more of a clarification, I think, the Draft Sexual Offences (Jersey) Law, which it is currently is on 25th April, my understanding is that that may have been moved. Could someone perhaps identify whether that is the case or not, Sir?

Senator W. Kinnard:

I am aware, obviously, that the Scrutiny Panel has made its report - or published its report - today, and the Council of Ministers are going to discuss this issue, and I will be in a position then to decide what we will do next. I think, for the moment, if we just leave matters as they are, as we have said, business is not absolutely definite and depending on what decision is taken later, I may be coming back to suggest to the Greffier that the date is changed, but at this stage, Sir, I cannot give you an alternative date, and I just really just leave matters as they are.

ADJOURNMENT

The Bailiff:

Very well. Are the Members content to approve the arrangements as put forward by the President of PPC? Very well. The Assembly stands adjourned until 4th April. The Meeting is closed.