

STATES OF JERSEY

OFFICIAL REPORT

TUESDAY, 30th JANUARY 2007

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

QUESTIONS

1. Written Questions

1.1 SENATOR J.L. PERCHARD OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE CRIMINAL OFFENCES AND DRUG TRAFFICKING CONFISCATION FUNDS:

Question 1

Under the Proceeds of Crime (Jersey) Law 1999 a Criminal Offences Confiscations Fund was established. Would the Minister advise members of –

- (a) the current balance of the fund?
- (b) the itemised detail (on an annual basis) of how the fund has been applied since 1999 and the total cost of each application?

Answer

- (a) The balance as at 30th September 2006 (the latest available date) was £10,645,600.
- (b) Since 1999 funds have been applied as follows -

PROJECT	Approved Date £	Spent to date £
Law Officers - Salaries	2003	94,859
Law Officers - Rent	2003	133,066
Law Officers - Overheads	2003	50,257
Law Officers - Salaries	2004	94,859
Law Officers - Rent	2004	133,066
Law Officers - Overheads	2004	50,257
Law Officers - Salaries	2005	159,686
Law Officers - Rent	2005	156,261
Grant -Greenfields Centre	2005	750,000
Law Officers - Salaries	2006	304,119
Law Officers - Rent	2006	157,270
Law Officers - Overheads	2006	90,482
Viscounts - Overheads	2006	20,000

Judicial Greffe - Salaries	2006	90,000
Magistrates Court – Building and staff costs	2006	200,000
Grant - Home Affairs RIPL	2006	145,000

2,629,182

Question 2

Under the Drug Trafficking Offences (Jersey) Law 1988 a Drug Trafficking Confiscations Fund was established. Would the Minister advise members of –

- the current balance of the fund?
- the itemised detail (on an annual basis) of how the fund has been applied since 1989 when the Law came into force and the total cost of each application?

Answer

- The balance as at 30th September 2006 was £3,226,000 (includes £2.9m of funds seized pending investigations).
- Although the Fund was established in 1989, it is only in recent years that funds have been applied, as follows -

PROJECT	Approved Date £	Spent to date £
Health Questionnaire	1995	1,288
Police - Drug Squad	1995	2,315
Training Initiative for Customs officers	1998	1,789
IT Support for Drugs Intelligence Bureau	1998	1,739
Police - Confidential	1999	56,931
Health - Alcohol & Drugs Service - Shared Care Community Methadone Programme	1999	13,800
Health - Methadone Programme	1999	7,880
Health - Jersey Addiction Group	1999	1,158
Customs - Airport / Harbours Departure Posters	2000	10,000
Prison - Drug Detection Equipment	2001	30,310

Customs - CCTV Surveillance System	2001	50,000
Health - Outreach Needle Exchange Worker	2001	49,594
Customs - Drug Detection Dog Facility	2001	47,000
Customs and Harbours - Elizabeth Terminal Custody Suite	2001	292,099
Substance Misuse Strategy Rolled Up Budget from 1995 to 2000	2002	113,192
Customs - Covert Surveillance Equipment	2002	5,000
Customs - Tape Recording Equipment	2002	13,200
Prison -Healthcare Services Booklet	2002	2,705
Prison - Confidential Drug & Alcohol Database	2002	5,800
Prison - Drug Training & Support	2002	31,320
Substance Misuse Strategy 1999 to 2004 Plan	2003	35,000
Police Cozart Rapiscan	2003	6,744
Police Operation Dart	2003	33,839
Police Live ID Fingerprint Technology	2003	1,501
Police Open Intergrated Intelligence Database	2003	55,000
Police Driver Training for Customs	2003	10,500
Surveillance training for Police	2003	32,970
Police Rat on Rat Campaign Crimestoppers	2003	3,500
Police DNA Awareness Campaign	2003	9,000
Protective equipment for Drugs Squad Officers - Police	2003	19,830
Police High Speed A3 Colour Printer	2003	2,269
Police Financial Crime Unit IT system	2003	75,000
Customs & Immigration Testing Equipment for the Presence of Class A Drugs	2003	6,403
Customs & Immigration Banned Substance Recovery Equipment	2003	8,245
Drugs Squad Accommodation Police	2003	90,000
Police Drugs Squad technical equipment	2003	51,250
Official Analyst Lab Automated Solid Phase Extraction System	2003	22,232

Alcohol & Drug Service Residential Rehab for Drug Misusers	2003	90,000
Customs Public Relations Plan re Drug Sentencing Policy in Jersey	2004	10,000
BaSS Prison Drug Education	2005	40,000
BaSS Health Promotion Officer	2005	55,000
BaSS Arrest Referral Worker	2005	40,900
BaSS Drug/Alcohol Counsellor	2005	55,000
BaSS Methadone Programme	2005	205,000
BaSS Court Liaison Officer	2005	40,710
BaSS Executive Support	2005	62,500
BaSS Customs Publicity	2005	10,000
Prison - Drug Training & Support	2005	9,885
BaSS Prison Drug Education	2006	40,000
BaSS Health Promotion Officer	2006	57,750
BaSS Arrest Referral Worker	2006	42,945
BaSS Drug/Alcohol Counsellor	2006	57,750
BaSS Methadone Programme	2006	205,000
BaSS Court Liaison Officer	2006	49,279
BaSS Executive Support	2006	60,219
BaSS Customs Publicity	2006	5,000
BaSS Overheads	2006	9,086
		2,346,426

1.2 SENATOR J.L. PERCHARD OF THE MINISTER FOR HOME AFFAIRS REGARDING THE COMMUNITY SAFETY FUND:

Question

The Community Safety Fund was established in 1998 after the first sale of ‘special’ number plates by the Driver and Vehicle Standards Department, would the Minister -

- (a) provide members with the current balance of the fund.?
- (b) provide members with details of the fund’s annual income since 1998?
- (c) provide members with itemised details of how the fund has been applied since 1998?
- (d) provide members with agreed criteria for making grants?

- (e) inform members whether the Safety Grants Panel is still active or of the arrangements now in place to administer the fund?

Answer

- (a) £250,866
- (b) Schedule 1 (attached) details annual income since 1998.
- (c) Schedule 2 (attached) details how the funds have been applied since 1998.
- (d) The main objective of the Safety Grants Panel is to finance projects which enhance community safety or raise awareness on community safety issues.

In the past, the Panel was chaired by a Committee member, other than the President. The Assistant Minister may be seen as the appropriate replacement under the Ministerial system, but this is a matter for the Minister for Transport and Technical Services. At the time that the Driver and Vehicle Standards Department, which administers the scheme, was transferred to the Transport and Technical Services Department, the other Panel members were:

Head of Driver and Vehicle Standards

Directorate Manager, Social Services

Chief Inspector, States of Jersey Police

Senior Fire Safety Officer

Finance and Administration Manager

The Panel held allocation meetings whenever applications were received rather than on a periodic basis. Any organisation, whether voluntary or public, can apply for funding, but projects considered for funding must meet the following criteria:

1. Beneficial to the community at large,
 2. For one-off items of expenditure only,
 3. For innovative ideas,
 4. Not restricted financially, subject to the balance in the fund,
 5. Island based,
 6. For anything which would significantly enhance community safety and for which there is no or insufficient public funding,
 7. Directly related to community safety.
- (e) As far as I am aware, the Safety Grants Panel has not met since responsibility for Driver and Vehicle Standards (which oversees the scheme) was transferred to the Transport and Technical Services Department in April 2006. I wrote to the Minister for Transport and

Technical Services on the 20th December 2006, suggesting that he reconstitute the Panel and advising him that I would be in a position to transfer the fund to him in January. I wrote again to the Minister for Transport and Technical Services on the 26th January 2007 notifying him that I was now releasing the balance of the Fund.

SCHEDULE 1

SAFETY GRANTS FUND

Income Statement 1998-2006

YEAR	INCOME
	£
1998	26,300
1999	120,000
2000	51,000
2001	40,080
2002	115,000
2003	84,760
2004	70,000
2005	109,000
2006	0
TOTAL INCOME	616,140

SCHEDULE 2

SAFETY GRANTS PANEL

SUMMARY OF EXPENDITURE 1998 TO 2006

						£
Fire & Rescue Service	Smoke Detectors Campaign	for	Senior Citizens			20,000
Parish of St Brelade	Smoke Detectors Campaign	for	Senior Citizens			1,000
Parish of St John	Smoke Detectors Campaign	for	Senior Citizens			1,000

Parish of St Lawrence	Smoke Detectors Campaign	for Senior Citizens	1,000
Parish of St Clement	Smoke Detectors Campaign	for Senior Citizens	1,000
Parish of St Saviour	Smoke Detectors Campaign	for Senior Citizens	1,000
Parish of St Peter	Smoke Detectors Campaign	for Senior Citizens	500
Parish of Trinity	Smoke Detectors Campaign	for Senior Citizens	600
Parish of Grouville	Smoke Detectors Campaign	for Senior Citizens	200
Total 1998			26,300
Societe Jersiaise-Green Island stabilisation works			3,000
Network to prevent abuse and violence			6,000
CI Air Search-Infra Red Detection equipment			25,000
Child Accident Prevention-Inter Island Child Safety in Action Week			3,000
Education-Student Survival Guide			700
Victim Support-			5,000
Centre Point-Minibus			7,500
Order of St John-towards First Aid Mobile Unit			2,000
Jersey Youth Trust-Cyber Café Minden Base			10,000
States of Jersey Police-Road Safety Initiative			3,500
Driver & Vehicles Standards-Baby seats for taxis/cabs			1,000
Total 1999			66,700
Health & Social Services-Rmas Training(Risk Management)			4,500
Jersey Women's Refuge-Office equipment and website development			3,600
Victim's Charter			2,300
Water Safety Project for Jersey Schools			7,000

Crime Stoppers Display Board	1,984
Jersey Road Safety Panel-To much Punch for Judy	3,500
Total 2000	<hr/> 22,884
Jersey Layman's Guide to Family Issues	5,000
Motorcycle training D' Hautree	1,003
Fire Service-Smoke alarms for the hard of hearing	4,750
Crimestoppers	1,500
Family Nursing-Safety equipment for needy families	2,000
Other	4,210
Total 2001	<hr/> 18,463
Child Accident Prevention Jersey-Child Accident Video	15,000
Ambulance Service-Defibrillators Patient Transport Vehicles	30,000
Fire & Rescue Service-Hazard Warning Signs	3,000
Jersey Road Safety Panel-SpeedVISOR	7,380
Total 2002	<hr/> 55,380
Fire & Rescue Service-Smoke Alarms (vulnerable individuals)	6,600
Jersey Road Safety Panel-SpeedVISOR	900
Ambulance Service-Community Alarms	35,000
Prison Me! No Way!	10,000
Fire & Rescue Service-Community Safety Resource Guide	2,000
Total 2003	<hr/> 54,500
Admin Costs	25
Honorary Police Publicity Material	5,775
DVS-Portakabins	4,500
Child Accident Prevention- Video Mascot	6,000
Prison Me! No Way!-5 Year Sponsorship	40,000
Child Accident Prevention- Video(Fire Safety)	7,500
Fire & Rescue Service-Smoke Alarms	6,500

Fire & Rescue Service-Smoke Alarms	16,000
Total 2004	<hr/> 86,300
Public Services-Tactile Cones Pedestrian light Crossing	2,400
Family Nursing & Home Care(Child Safety Video)	2,250
St Brelade Youth Club (Youth Outdoor Shelter)	5,000
People Against Crime(Personal Attack Alarms)	2,560
Admin costs	37
Total 2005	<hr/> 12,247
SOJ Police-Firearms Radios	15,000
Headway Cycle Helmet Initiative DVD	7,500
Total 2005	<hr/> 22,500
TOTAL EXPENDITURE	<hr/> <hr/> 365,274

1.3 DEPUTY R.G. LE HÉRISSEIER OF ST. SAVIOUR OF THE CHAIRMAN OF THE COMITÉ DES CONNÉTABLES REGARDING THE RETRIEVAL OF FEES FOR NURSING AND RESIDENTIAL CARE:

Question

- (a) Would the Chairman advise members whether a common policy exists amongst the Parishes for the retrieval of fees for nursing and residential care via a charge upon properties? If so, what is the policy?
- (b) How many parishioners are currently subject to such charges and what is the distribution amongst the Parishes?

Answer

- (a) Traditionally welfare was paid to those in need. Persons with assets, but limited income, are assisted at the Connétable's discretion on the basis that the sums paid are reimbursed. This includes recovery from the estate following death. Likewise residential care and nursing care costs *for those born in the Island* are paid through the welfare system if the claimant does not have sufficient income to support himself/herself. Where such agreement has been made the Connétable is able to seek recovery of any costs incurred from the estate.

In applying the policy, each case has to be treated on its merits and each case will vary according to the individual circumstances.

There are some persons who have had bequeathed to them a life enjoyment of a property but who do not own the property. Although this entitles them to any income from the said

property it does not entitle them to any claim on the property itself and only the income is taken into account when determining an application for welfare. In these circumstances no charge can be made against the property itself.

- (b) At the current time there are 7 parishioners subject to liens or charges against the estate and these are as follows –

Grouville 1

St. Helier 5

St. Lawrence 1

1.4 DEPUTY R.G. LE HÉRISSIER OF ST. SAVIOUR OF THE MINISTER FOR EDUCATION, SPORT AND CULTURE REGARDING RESIDENCES THE DEPARTMENT OWNS:

Question

Would the Minister advise members how many residences the Department owns, how many are allocated for rental to departmental staff, what percentage are currently occupied and how many residences the department rents from the private sector for the accommodation of departmental staff?

Answer

All properties are owned by the States of Jersey under the management of Property Holdings and not the Department for Education, Sport and Culture. However, the department is currently responsible for the administration and letting of 21 properties and four bedsits specifically available for off-Island supply teachers who come on short term contracts. This is a total of 25 units.

Twenty-two are occupied by departmental staff, either caretakers or teachers who meet the Departmental policy for allocation. Currently three properties are vacant, which is approximately 12%. Two properties at Le Squez are currently out of service and have now been identified for possible disposal as part of Property Holding's Property Plan. Another has proved difficult to let within ESC and Properties Holdings have been approached and are in the process of identifying a suitable tenant from within the States of Jersey. The Department will continue to work with Property Holdings when it has properties that it finds difficult to let or has no further use for.

The department does not rent any properties from the private sector for the accommodation of departmental staff. The department simply keeps a register of private sector vacant properties which employees occupy on the basis that they are responsible for all aspects of the lease, including rental payments and deposits.

I am aware that the Property Holdings Department is intending to develop a States-wide approach to the allocation and management of residential property provided for public sector staff in the future. This is something I would be very supportive of.

1.5 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR TRANSPORT AND TECHNICAL SERVICES REGARDING THE PROPOSED

RELOCATION OF AN ENERGY FROM WASTE PLANT FROM BELLOZANNE TO LA COLLETTE:

Question

With regard to the proposed relocation of an energy from waste plant from Bellozanne to La Collette and the statement that the Jersey Electricity Company's chimney could be used, would the Minister advise members -

- (a) how many meetings have been held with the JEC to discuss sharing the chimney?
- (b) whether the JEC chimney is suitable as an energy from waste exhaust and, if so, whether that would be in its present state, or, if not, what modifications would be necessary?

Answer

- (a) There have been many meetings with the Jersey Electricity Company to discuss the use of the JEC chimney and the shared use of the chimney has appeared on every agenda. The first meeting at which the use of the chimney was discussed was on 13th December 2005. Meetings then took place on 7th February 2006, 23rd March 2006, 4th April 2006, 16th May 2006, 8th August 2006, 19th October 2006, 23rd November 2006 and 20th December 2006. Since the beginning of 2007 these meetings have taken place on a fortnightly basis and have included discussion of the shared use of the chimney on each occasion.
- (b) In June 2006 a detailed structural inspection was carried out to the fabric of the boiler chimney at La Collette Power Station. This inspection was carried out with the full agreement and with the support and cooperation of the Jersey Electricity Company. The inspection was carried out by Delta International under a sub-contract to the Department's Waste Strategy Projects Technical Adviser - Babtie Fichtner Limited. The inspection confirmed that the chimney was in good structural condition and therefore the Department and the JEC have progressed discussions with regard to the use of two flues of the chimney for the flue gas output from the proposed energy from waste plant. To use the chimney, new flues would be required to be fitted as the flue gas output from the energy from waste plant differs from that from the JEC power station. The flue gas pipes from the energy from waste plant would need to be connected into the base of the JEC power station chimney. A review of this requirement has been undertaken which indicates it is feasible.

1.6 DEPUTY G.C.L. BAUDAINS OF ST. CLEMENT OF THE MINISTER FOR PLANNING AND ENVIRONMENT REGARDING 2 BOREHOLES RECENTLY DRILLED IN ORDER TO DETERMINE THE SOURCE OF JERSEY'S DEEPER WATER:

Question

- (a) With regard to the two boreholes recently drilled in order to determine the source of Jersey's deeper water, would the Minister inform members –
 - (i) whether the bore at St. Catherine was drilled where the water diviners wanted and, if not, whether the alternative site was chosen in order to save money?
 - (ii) whether the drill-rig was brought back to re-drill the bore at La Rocque?

- (b) With regard to the La Rocque bore, would the Minister advise –
- (i) whether the bore had to be re-drilled and, if so, whether it now meets specification?
 - (ii) the depth of the bore?
 - (iii) at what depth flow-rate and samples were measured?
 - (iv) whether the contractor has been paid for his work?

Answer

(a)(i) The investigation was managed through the Deep Groundwater Advisory Group (DGAG) and the process has been open throughout. Two consultants (The British Geological Survey and Entec UK Ltd) were appointed by DGAG to oversee and quality-assure the experimental design, delivery, analysis and subsequent reporting independently. All aspects of the investigation were discussed by the DGAG group and members were kept regular updated. Members showed interest in the drilling work and took the opportunity to regularly visit the drill sites and to discuss various aspects with the consultants.

Both water diviners, Mr. George Langlois and Mr. Lewis de la Haye are members of DGAG. An essential part of the agreed methodology was that Mr. Langlois and Mr. de la Haye would identify two locations in Jersey which they considered to be the most probable sites where underground ‘streams’ exist. As well as the location, they informed DGAG that they would also identify the depth of the ‘stream’ below ground level.

Mr. Langlois and Mr. de la Haye were given an absolute free hand and as much time as they wished to identify the sites and depths to be drilled. They were given a ‘window’ of up to a depth of 750 feet below ground level in which to locate the ‘stream’. Both the diviners gave this task their utmost attention to detail and as well as identifying spots to be drilled they further took the time to divine the respective ‘streams’ for some distance to and from the site. The final locations and depths identified were presented to and agreed by DGAG members.

Mr. Langlois and Mr. de la Haye marked the spots they had chosen with a paint cross and Mr. Langlois was present when drilling commenced to ensure that the drill bit entered directly on the mark that they had identified.

One of the initial sites considered by Mr. Langlois and Mr. de la Haye at St. Catherine was towards the top of La Vielle Charrière above Pine Walk. This was later changed when Mr. Langlois discovered that the same ‘stream’ could be accessed and effectively drilled into on lower ground toward the coast at Pine Walk.

The advantage of the second site was that the same ‘stream’ could be drilled into without pre-drilling through the overlying hill. This minimised the drilling depth (from 450 to 250 feet) and so maximised the chance of ‘hitting’ and drilling into the identified underground ‘stream’. The cost saving of this second site was offset as an access road had to be constructed to get the drilling rig in.

- (ii) The first stage of the investigation involved the drilling out of the borehole to the depths specified by Mr. Langlois and Mr. de la Haye as being where the ‘stream’ could be located. All the planned sampling of chemistry, isotopes and recording of air-flush yields, groundwater levels, rock type and hardness were successfully completed during this stage.

The second stage of the investigation involved hydraulic testing of the aquifer to determine the yield of each borehole. This required that a submersible test pump was lowered to just above the base of the borehole. The drilling rig was brought back to the site to clear some plastic debris at about 25 m depth that was preventing the pump from being lowered any further. This was cleared with no difficulty and the pump was installed at the specified depth. The hydraulic testing of the aquifer and further sampling of isotope and age then was successfully completed.

- (b)(i) As above, at the La Rocque borehole the rig successfully cleared plastic debris without re-drilling of the borehole.

The borehole at La Rocque fully conformed with the stringent specification as demanded by the investigation and agreed by DGAG members. The major evidence of this was that all the shallow groundwater (7 litres per second) was effectively sealed out permitting valid samples to be obtained from the depths of the predicted ‘streams’ specified by the water diviners.

The drilling process was supervised throughout by a consultant from the British Geological Survey who has extensive experience in drilling and supervising such boreholes worldwide. All information pertaining to the drilling process is included as part of the comprehensive technical report.

All members recently viewed a video of the inside of the borehole at La Rocque. This showed that the borehole was solid. This was clearly evidenced in that the cement could withstand some superficial scratching by the drill bit. The video showed no signs of having been compromised.

- (ii) The investigation specified that both the La Rocque and St. Catherine borehole should be drilled through the ‘stream’ and to a total depth below the ‘stream’ predicted by Mr. Langlois and Mr. de la Haye. At the request of the Minister for Planning and Environment the La Rocque borehole extended some 3 m beyond this to further try to locate a high yielding ‘stream’. At the request of Mr. Langlois the open uncased section at St Catherine was increased, again to maximise the chance of locating a ‘stream’.

The final drilled depths were: La Rocque 55.5m (182 ft) below ground level (bgl) and St. Catherine 79.5 m (261 ft) bgl. Both these depths exceed the predicted ‘stream’ depths by Mr. Langlois and Mr. de la Haye streams (La Rocque 45.7 m (150 ft) bgl, St Catherine 76.2 m (250 ft) bgl).

Details of the drilling depths are given in the summary and technical reports.

(iii) All samples and flow rates taken were fully in accordance with the experimental design of the investigation. As much data as possible was collected during the investigation.

During the first stage of the investigation (the drilling of the borehole) –

A total of 13 water samples for inorganic chemistry were taken at La Rocque at 10, 19.5, 22, 28.5, 34.5, 37.5, 43, 44, 46.5, 47.5, 48.5 50.5 and 55m bgl. Isotope samples were analysed for depths 10, 19.5, 22, 34.5, 37.5, 43, 46.5, 50.5, 55 m bgl.

A total of 9 water samples for inorganic chemistry were taken at St. Catherine at 58, 68, 70.5, 72, 73.5, 75.5, 77, 78.5 and 79.5 m bgl. Isotope samples were analysed for 58, 68, 75.5, 77, 79.5 m bgl. Above these depths no suitable groundwater was found that could be sampled.

Isotope samples for analysis were taken for every depth where a variation in air-flush yield was recorded.

In both boreholes specific electrical conductance, pH and temperature were measured every 0.5 m.

In both boreholes rock chip samples were taken and a description of rock types and hardness (penetration rate) was made every 0.5m.

At La Rocque, 35 measurements of the air flush yield were taken. A total of 31 were taken at St. Catherine. Rest water levels and water inflows were also recorded.

Detailed measurements and further isotope, inorganic chemistry and age-dating tracer gases samples were also taken during the hydraulic testing of the aquifer and from neighbouring boreholes.

Full details of all samples and results taken during the investigation, as well as, the comprehensive reporting of all activities are included in full technical report and summarised in a summary report. These can be accessed on the Environment site on the States of Jersey web site: www.gov.je.

(iv) The contractor constructed both boreholes to the required specifications and has been paid.

1.7 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR HOUSING REGARDING THE SALE OF PART OF THE SOCIAL HOUSING STOCK AND THE IMPACT OF “BUY TO LET” SALES:

Question 1

(a) What evidence does the Minister have to support the statement on page 5 of the Social Housing Property Plan 2007-2016 (P.6/2007) that “the present public sector social housing stock is larger than necessary”? Does the Minister have comparison data on the proportion of social housing stock in the hands of local authority and housing trusts against owner occupier and private rental stock in the United Kingdom and Jersey and, if so, would he make the comparisons available to members?

- (b) What criteria did the Minister use to decide which homes were to be selected for sale and, in particular, was the age of tenants or duration of tenancy taken into consideration? Will the Minister give an assurance that tenants of 60 and 70 years of age will not be evicted from their family homes?
- (c) Would the Minister inform members whether he is satisfied that the notification to tenants of the possible sale of the properties they occupy was handled with adequate sensitivity?

Answer

- (a) I should preface my replies by saying that, in my statement to the Assembly at our last sitting, I made it clear that I would be happy to discuss the Property Plan in detail with the relevant Scrutiny Panel. It seems to me that a Scrutiny Panel review of the Plan would be a more appropriate and effective forum for this sort of discussion, than a constant stream of questions in the Assembly.

The statement quoted by Deputy Southern is expanded in Sections 1.12 and 1.13 of the report (pages 18-20). These sections contain the explanation he seeks. When a large proportion of social housing tenants have no need to claim rental subsidy; when these wealthier tenants far outnumber people on the Housing Waiting List; when people with incomes much higher than the average can access social housing and claim subsidy; and when it becomes necessary to take a very liberal view of income bars in order to find a tenant for brand new property – then, I believe there are good grounds for reasoning that the number of social housing units of accommodation exceeds the number of households in genuine social housing need.

Social housing figures from the UK would contribute nothing to the argument. There is no single ‘correct’ level of social housing which could be applied to all communities, and no suggestion that the UK is a model of best practice which Jersey is obliged to imitate. Also, after 25 years of ‘Right to Buy’ in the UK, and the introduction of ‘key worker’ schemes of affordable housing, a direct like-for-like comparison of Jersey and UK social housing is simply not possible. What is clear, however, is that the Island rate of owner-occupation is low – which is a principal reason why the States last year requested the Housing Department to bring forward proposals to use social housing stock to progress a shared equity scheme, in order to encourage an increase in levels of home ownership in the Island.

- (b) The process of selecting individual properties for sale cannot be completed until tenants have been consulted on the proposals in the report. The outline proposals have been made on the basis that the properties concerned are not essential in terms of predictable future social housing need, and would find a ready market among our tenants aspiring to become first-time buyers.

There is no question of anyone being summarily evicted. For the avoidance of doubt, no tenant of 60 or 70 will be required to leave their home simply because they cannot afford to buy it. The Plan, as its title suggests, is designed to be implemented over a ten-year period, and all tenants affected by it will have alternatives explained to them. Having said that, Members should be aware that, in the interests of ensuring effective use of resources, the Housing Department, here as elsewhere, has always transferred under-occupying tenants to a smaller property. My Department always seeks to act with compassion. Tenants therefore have nothing to fear but everything to gain from our proposals.

- (c) My Department was conscious of the need to inform States Members, our tenants, and our staff, of our proposals, all at the same time. Given the difficulty of co-ordinating a

simultaneous announcement to such a large group of people, I am satisfied that it was handled with due sensitivity. Immediately following the announcement, a number of well-attended presentations have been made to tenants' representatives, and more are planned. These Residents Groups represented tenants from Le Squez, Clos Gosset, Grands Vaux, Clos de Roncier, Jardin du Soleil, Le Marais, La Collette, The Cedars, Convent Court, Caesarea Court, de Quetteville Court. In addition presentations were made to Area Panels representing, Le Geyt, Pré de Talbot, Les Cinq Chênes, Grasett Park, Jane Sandeman Court, Westley Court, Grouville Arsenal, St. Andrew's Court, Jardins des Carreaux, Clos St. André, Westmount Park, Le Verger and Halcyon House.

I should tell the Assembly that a number of tenants have contacted me to express their appreciation for the way the announcement was handled, and the way their subsequent questions have been answered by Department officers.

Question 2

Following his written answers at the last meeting concerning the impact of "buy to let" sales on the property market in Jersey what steps, if any, will the Minister take to curb the growth in such sales in Jersey?

Answer

I believe my written answer of 16th January made it clear that 'buy to let' is relatively unusual in Jersey, and I have seen no evidence to date that it puts any upward pressure on prices. I would reiterate that such properties can, in any case, only be occupied by residentially qualified people. I can therefore see no reason to consider restricting the ability of people to buy share transfer property in the Island.

The relevant written question and answer 16th January 2007 was as follows -

"(c) Would the Minister inform members whether the purchase of property by non-residents on a "buy to let" basis further restricts the supply of properties for purchase by locals and whether such purchases put additional upward pressure on prices?"

Answer

- (c) It must be remembered that only developments that are in multiple units and are sold by way of share transfer rather than by flying freehold are capable of being purchased by non locally qualified persons. Save for a few historical exceptions individual houses are not allowed to be sold in this manner. It follows that within the context of the overall controlled housing market the number available to non qualified persons is relatively small, and I have no evidence that locals are being restricted in their choice of new homes, or that such purchases are putting any additional upward pressure on prices in that section of the market. I would remind members that all such units can only be occupied by persons with residential qualifications."

1.8 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR SOCIAL SECURITY REGARDING APPLICATION FORM IS.0IT AND THE MINIMUM WAGE:

Question

- (a) Further to his response to an oral question on 16th January 2007, would the Minister inform members whether the Data Protection Commissioner was asked to comment on the questions contained in the application form IS.01T or only on the statement in Section K?
- (b) Would the Minister explain why other members of a household are required to declare assets worth over £1,000 and can he confirm that this request does not breach privacy rights?
- (c) Would the Minister inform members whether the new scheme will remove the disregard on income from the Therapeutic Work Scheme and, if so, explain whether this will remove the incentive for this return to work scheme?

Answer

- (a) The Data Protection Commissioner was sent a copy of the whole form with an explanation as to the purpose, derivation and use of the data. My Department asked for comments on the declaration as well as any other issues of which it should be aware.
- (b) Income Support is to be based on the household unit and is claimed by an adult on behalf of all members of their household. The rate of benefit will be based on components relating to the members of the household and the total of the income and assets of all members of the household. I can not see how any privacy rights are being breached if the claim is being made on behalf of all members of the household.
- (c) Current disregards and limits on earnings lead to disincentives and this can be particularly relevant to the Therapeutic Work Scheme (TWS) where disincentives exist for the employee. Under Income Support, the complete disregard will be removed. Income Support will work in a different way and incentives will be given to retain earnings rather than benefits and therefore not only will there be a disregard of a proportion of earnings but individuals will also be able to earn above the current TWS limit and still receive Income Support.

Question 2

Does the Minister support the Employment Forum's recommendation of 40% of average wage as the standard for the minimum wage and, if so, would he explain why? Has the Minister undertaken any comparison to show how this figure compares with other minimum wage standards in Europe and, if so, would he provide details to members?

Answer

The Minister accepts that in its review of the minimum wage, the Employment Forum has taken into account the impact on local businesses and economic advice regarding inflation targets for the Island and supports the Forum's recommendation of 40% of average earnings as the standard for the minimum wage, at this time.

The Minister understands from the Forum's recommendation that the figure of 40% of average earnings is not fixed for future upratings beyond 2008, and supports the Forum's recommendation that after the 2008 minimum wage rate has been set by the June 2007 average earnings data, the appropriateness of this method and the percentage of average earnings used in the formula will be reconsidered by the Forum.

In the absence of up to date figures regarding median earnings, the Minister recognises the Forum's reasoning for applying a regularly reviewed index that can be relied upon for release in June each year. The responses received by the Forum demonstrated that being able to plan prices and wage costs a year in advance in advance is crucial for the sustainability of some industries.

In comparing the recommended minimum wage figure with standards in Europe, the table below is of assistance, which presents the minimum wage as a proportion of average monthly gross earnings since 1995. The information has been sourced from the The European Industrial Relations Observatory (EIRO), which is a monitoring instrument offering analysis of European industrial relations.

The minimum wage rates referred to in the comparison table mostly relate to the adult minimum wage for employees over the age of 21 and lower minimum wage rates are payable to younger employees, whereas Jersey's minimum wage relates to all employees from the age of 16.

Minimum wage as % of average gross wage

Country	1995	1998	2001	2002	2003	2004
Belgium	52	49	na	46	na	na
Bulgaria	34	28	36	39	40	40
Czech Republic	27	23	34	36	37	37
Cyprus	na	na	na	na.	na	41
France	47-48	49	47-48	46-47	46-48	na
Greece	na	na	na	na	na	47
Hungary	31	29	39	41	36	36
Ireland	-	-	51	49	na	51
Estonia	26	27	29	30	32	34
Latvia	31	32	38	35	37	38
Lithuania	28	45	44	43	41	38
Malta	52	49	43	44	44	44
Netherlands	48	46	45	45	na	na
Poland	41	40	37	35	36	36
Romania	39	42	32	32	27	29
Slovakia	34	30	40	41	42	41

Slovenia	41	40	41	42	42	44
Spain	42	na	35	na	na	33
UK	-	-	37	38	39	40

Source:
EIRO.

1.9 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING WAGE NEGOTIATIONS:

Question

Did the Chief Minister intend to arrive at the current position of confrontation with staff representatives in wage negotiations?

Answer

There is currently no confrontation and pay negotiations are continuing.

1.10 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE CHIEF MINISTER REGARDING THE FORMAL RECORD OF MEETINGS:

Question

Following his statement during the appointment process as Chief Minister that “well-structured scrutiny is vital to the success of ministerial government”, and following the discovery by the Telecoms Review Scrutiny Sub-Panel that certain Treasury meetings with parties contracted to advise on the implications of the sale were not minuted, what steps, if any, will the Chief Minister take to ensure at all Ministers and their Departments make a formal record of all significant meetings on policy matters so that the scrutiny function can have access to full information when undertaking a review?

Answer

Firstly, let me assure members that I remain fully committed to the view I expressed in my speech to the Assembly as candidate for Chief Minister that ‘*well-structured and impartial scrutiny is vital to the success of ministerial government*’. To this end, Ministers are fully committed to cooperating with the Scrutiny Panels, and to providing them with the information they need to carry out their reviews. This information includes correspondence to Ministers, minutes of meetings attended by Ministers, and reports to Ministers, as well as the information that is conveyed directly to Scrutiny Panels by Ministers and officers.

The Deputy has asked whether the flow of information can be increased by imposing a requirement to ensure that a formal record is prepared of all significant meetings on policy matters. There would be difficulties associated with such a requirement. Firstly, the question does not appear to take note of the wide range of information that it already available to the Scrutiny Panels, and which is used by the Executive itself as the basis for policy development. Secondly, it is difficult to define what is meant by ‘significant’, and if a broad interpretation were given to this term it could be taken as

encompassing a much larger number of meetings, both formal and informal, than are recorded at present. The production of a minute, meeting note, file note, or other formal record can take up a significant amount of officer time, often at a middle or senior management level, and the production of such a record would be difficult to justify in terms of the additional benefit. In any event, it should be noted that the development of a major policy will involve the calling of planning or update meetings which are informal and at which no major decisions are taken. This is part of the normal policy-making process and it would be extremely cumbersome and costly for records to be kept of such meetings. I can assure the Deputy that all meaningful and necessary information is provided to scrutiny as a matter of course, whether in the final reports, in the record of ministerial decisions, or other documents. I am completely satisfied that there is an acceptable and effective audit trail of documents leading to ministerial decisions, and I have no doubt that, combined with meetings with Ministers and their officers, this is more than adequate to meet the legitimate interests of Scrutiny Panels.

In view of the above, therefore, I am not willing to introduce a requirement for there to be a formal record of all significant meetings on policy matters. I would, however, want to re-emphasise that I and my colleagues remain willing to cooperate with the Scrutiny Panels, and indeed a meeting to discuss this very subject is currently being organised with the Chairmen's Committee.

1.11 DEPUTY G.P. SOUTHERN OF ST. HELIER OF THE MINISTER FOR TREASURY AND RESOURCES REGARDING THE FORMAL RECORD OF MEETINGS REGARDING THE PROPOSED SALE OF JERSEY TELECOM:

Question

In light of the Minister's commitment to co-operation with scrutiny, would he explain why certain Treasury meetings with the contracted parties in the proposed sell-off of Jersey Telecom have not been minuted and, in particular, why there are no minutes of a meeting of 6th December 2006 between seven parties to discuss "the implications of the sale"? Would the Minister state how such procedures can be said to accord with good practice and explain how he considers that scrutiny can have access to full information in these circumstances?

Answer

It is by no means unusual business practice to hold informal meetings at which minutes are not taken. The meeting to which the question refers was an informal working meeting between a number of parties. There was no formal agenda, no Minister or Assistant Minister present and no decisions taken. In such circumstances it is quite appropriate for minutes not to be taken.

Quite clearly if one were to take the view that every informal meeting, or indeed discussion, between two or more parties should be minuted and scrutinised, the States machinery of government would quickly become unwieldy and inefficient. I do not believe such excessive bureaucracy is an appropriate use of taxpayer's money.

Equally, I do believe that any Ministerial decision should be properly recorded, and supported by suitable supporting background information. Any such decisions and related background papers should be and are made available for scrutiny.

2. Oral Questions

The Deputy Bailiff:

The first question is by Deputy Lewis of the Minister for Housing.

2.1 Deputy K.C. Lewis of St. Saviour of the Minister for Housing regarding sale of States housing stock homes to tenants:

Further to reports that up to 800 housing stock homes could be sold to tenants under a shared equity scheme, would the Minister assure Members that long-term tenants who are unable to purchase their homes will not be forced to relocate?

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

Yes, I can.

2.1.1 Deputy K.C. Lewis:

If tenants can afford to buy their homes through a mortgage or a shared equity scheme then I would say the very best of luck to them. As much as I appreciate the need to save money and the Minister's good intentions to maintain existing housing stocks, some of these tenants whose homes will be sold and who may not be able to purchase their homes are long-term tenants. I can assure Members that unless you have money once you are past the age of 50 an interview with a mortgage company will be an extremely short one. Will the Minister undertake to preserve the rights of tenants? Thank you, Sir.

Senator T.J. Le Main:

I am going to do everything I can to preserve the rights of all these people that we are dealing with and they will be dealt with in the kind of manner that I would want my family to be dealt with.

Deputy K.C. Lewis:

I thank the Minister for his replies.

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

Will the Minister expand his answer, from the definition of long-term tenants, that all tenants who are offered their houses and express a wish not to buy and not to move will not be subject to any eviction?

Senator T.J. Le Main:

There will be certain instances where people have not complied or are not currently complying with the terms of their tenancy. There will be people that have been extremely short-term tenants in specific properties that may wish to be sold. This property plan intends to deal with those in a sympathetic manner over a period of 10 years and everybody, as I say, will be treated in a sympathetic manner. Hopefully, at the end of the day, any arrangements will be done jointly between the tenant and the landlord.

2.1.3 Deputy G.P. Southern:

In the absence of a categorical confirmation that no tenant will be evicted will the Minister expand on which tenants and which types of tenants may be subject to eviction?

Senator T.J. Le Main:

It is not the intention of the Housing Department to evict any tenants - any tenants - from property they currently occupy. Hopefully, over a period of 10 years, if this Assembly approves the property plan over a period of 10 years - and maybe longer - then the issues will be dealt in the normal manner on moving people when their families grow and leave home or they have to downsize. But no one - but no one - will be asked to vacate against their wishes the property they currently occupy.

2.1.4 Deputy R.G. Le Hérissier of St. Saviour:

Could the Minister inform us whether there are principles and regulations governing this situation or whether ultimately it depends upon his kindness? Thank you, Sir.

Senator T.J. Le Main:

I am not really sure I understand that question. If he could elaborate on it please?

Deputy R.G. Le Hérisier:

Just to rephrase, when faced with such a situation is the Minister able to go to various rules and precedents by which to handle this or does he simply sit in the office and take personal pleadings from individuals and then make his decision?

Senator T.J. Le Main:

No, Sir, I have categorically said that if there are any tenants - any clients of ours - that feel or want to be represented by any Member of this Assembly then I will work with that Member to resolve any issues otherwise. As I say, I reiterate I would treat every tenant and every resident in the same manner I would wish to want to treat them as if it was my mother in that accommodation.

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

The Minister has just said that no tenants will be evicted. How does he reconcile that statement with the statement which has appeared in the media that the 10 people who are living in the high value properties will be evicted?

Senator T.J. Le Main:

If the Deputy of St. Martin believes the media he must be the only one in this Assembly that does so. Quite honestly, the high value properties where we know there are some very, very long-term family tenancies, the Deputy very well knows I have invited him only this week to get a hold of the family to see whether he would like to come and talk to some of these families with me. I am due to meet 2 of these tenancies on Tuesday to give them the assurances that I have been promising this Assembly. They will not be evicted and that is the categoric assurance I give.

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

Can the Minister confirm that he has already told some States' tenants that they will have to move?

Senator T.J. Le Main:

If the Deputy would like to give me the names of those tenants I will investigate but I cannot recollect having spoken to any tenants saying they are going to have to move.

2.1.7 Deputy G.P. Southern:

The Senator's answers are confusing. For clarification purposes, he has said that it is not his intention to evict anybody under his sale of houses scheme but he has listed some short-term tenants who might be evicted. Will the Minister give a categoric assurance that he will not be evicting any tenants under his housing sales scheme?

Senator T.J. Le Main:

Yes.

The Deputy Bailiff:

Very well, that brings questioning on that matter to an end. Question 2 is a question by Deputy Baudains of the Minister for Planning and Environment.

2.2 Deputy G.C.L. Baudains of St. Clement of the Minister for Planning and Environment regarding the borehole at La Rocque drilled for research purposes:

Following the Minister's statement that he is satisfied that the La Rocque borehole recently drilled for research purposes was a success, would he inform Members precisely what the drilling of the borehole has achieved and its future usefulness?

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

The La Rocque borehole was part of an investigation. It was discussed in detail and agreed by all members of the Deep Groundwater Advisory Group within a signed formal agreement. The Deep Groundwater Advisory Group was tasked to take this evidence-based approach as to the origin and magnitude of Jersey's deep groundwater resources by the former Environment and Public Services Committee, an action that I fully support. This followed a recommendation from the Shadow Scrutiny Panel in their report on the Draft Water Resources (Jersey) Law. The British Geological Survey and Entec U.K. Limited who had contributed to the Shadow Scrutiny Panel were appointed by the Deep Groundwater Advisory Group to oversee and quality-assure the investigation. Mr. George Langlois and Mr. Lewis de la Haye are both valued members of the group. They agreed to identify 2 sites where underground streams entering the Island could be intercepted. The identified sites were at La Rocque and St. Catherine. During drilling, all parameters that may indicate the presence of an underground stream were recorded and sampled. Once the borehole was complete hydraulic testing took place to determine the yield with, again, exhaustive sampling being undertaken. The investigation at La Rocque clearly showed that: (1) no significant increase in groundwater flow or underground stream was found at any depth; (2) the underground water at depth was hydraulically connected to shallow underground waters; (3) the isotopic signatures and the inorganic chemistry of the groundwater did not change at any depth and were consistent with a groundwater source originating as rain in Jersey. The results are confirmed and supported by findings at the St. Catherine test borehole. The investigation, therefore, concludes there is no evidence to suggest the existence of a separate deepwater resource that flows from outside the Island. The information obtained from this deep groundwater investigation has allowed a conclusion to the debate. Regarding the question as to the future usefulness of the bore, the borehole is on private land; the future use would be a matter for the landowner. Finally, I would draw Deputy Baudains' attention to the summary report of this work which all Members have received and to the more detailed technical report which is available by request from my department or from our website. Thank you.

2.2.1 Deputy G.C.L. Baudains:

Would the Minister confirm that the La Rocque borehole is 55 metres deep but completely blocked with debris approximately two-thirds of the way down and, therefore, cannot be used to supply water, and probably unlikely to be able to supply useful samples either? Would he further confirm that the methodology chosen to determine whether water comes from France to Jersey is incapable of making that differentiation? Perhaps the Minister would also give us his definition of the word "success".

Senator F.E. Cohen:

I can confirm that the La Rocque borehole was drilled to a final depth of 55.5 metres and, for further clarification, that the St. Catherine borehole was drilled to a depth of 79.5 metres. The borehole was not blocked at the time that the tests were carried out. I understand that one of the boreholes required clearing to allow the hydraulic tests to be carried out, which was a secondary measure, but both the British Geological Survey and Entec are entirely satisfied that the tests are satisfactory and the results are conclusive. I am satisfied that the methodology used and approved by the British Geological Survey and Entec was the best possible methodology to bring this matter to a conclusion. While I accept that the Deputy has long held views in relation to water connections with France, and that others hold similar views, I believe that having spent public money on delivering these tests and having had a conclusive result that it is time to move on now and preserve our water resources for future generations.

2.2.2 Deputy G.C.L. Baudains:

The conclusive result which the Minister refers to, would he confirm that the isotopic signature of the water at La Rocque is the same as that of nearby France?

Senator F.E. Cohen:

I can only confirm that the isotopic signature at the bottom of the borehole is virtually identical to the isotopic signature at the top of the borehole and that the conclusion of the British Geological Survey and Entec Limited have been that this indicates with certainty that the water at the bottom of the borehole came from the same source as the water at the top of the borehole. Therefore, their conclusion is that it is rainwater that fell on the surface of Jersey.

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

Would the Minister like to confirm that he has had a reply from Entec and the B.G.S. (British Geological Society) on the age of the water in the bores? Would he not agree that more work on the quantity of water below the Island needs to be done, particularly in view of the fact that a small number of 750 foot boreholes supply 100,000 people in France? It does look as if we need some deeper bores to ascertain how much water there is.

Senator F.E. Cohen:

I can confirm that the final aging reports have not been received and the information that I was provided with yesterday indicates that this will be available within 2 weeks. As soon as it is available I will of course immediately distribute it to all States' Members. As to the question of more work required, the Deep Groundwater Advisory Group agreed that these would be definitive tests in that the water diviners were given the opportunity of choosing the particular sites that they believed would allow us to drill into the deep underground streams they believed existed from France. We carried out the tests. Entec and the British Geological Survey are entirely satisfied that the results conclusively show there is no water connection but, very clearly, if we were to do additional testing that additional testing would provide further information but I certainly do not believe that it would add to the conclusions or change in any way the conclusions of the British Geological Survey or Entec which are 100 per cent unequivocal.

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

Would the Minister agree with me that we now have a definitive answer to this issue and the time has arrived for us to stop wasting taxpayers' money chasing pixies around the bottom of the garden and to stop wasting the time of this Assembly and finally put this matter to bed?

Senator F.E. Cohen:

I think that we have a 100 per cent test. I think that the results of that test are very clear to all. That is, that the British Geological Survey and Entec both agree that there are no underground water connections with France. I will, therefore, be pressing forward as soon as possible with a Water Resources Law, albeit that it will be significantly changed from the previous draft, in that domestic boreholes will be entirely exempt from any licensing and fees and that the thresholds will be very significantly increased. The current proposal is around 15 cubic metres per day. But, yes, I agree, Sir, it is time to move on. I do, however, accept and I understand and respect the views of Deputy Baudains and others that having spent public money and having had a conclusive result it is time to move on.

2.2.5 Deputy G.C.L. Baudains:

Unfortunately the Minister neglected to answer a previous question. I asked whether he could confirm that the isotopic signature for the water in the La Rocque bore was the same as the isotopic signature of water from nearby France. He did tell us, Sir, that the signature was the same apparently at the top and the bottom of the hole although I noticed a chemical analysis is entirely

different. Could he confirm that in actual fact the signature is the same as water from nearby France?

Senator F.E. Cohen:

I am not able to confirm that because I do not have the figures to hand. I will get the exact figures and I will ensure that the Deputy has them within the next 24 hours. But I think that the question is not whether the isotopic signature is the same as a particular area in France or any other particular area. It is a question of the combined tests. The combined tests clearly show, as supported by Entec and the British Geological Survey, that there is no underground water connection with France. I am sure that aging, when we get the results, will add to this information.

The Deputy Bailiff:

Very well. We will come next to a question which Deputy Lewis will ask of the Chief Minister.

2.3 Deputy K.C. Lewis of the Chief Minister regarding a ‘cap’ on population in Jersey:

It has been reported that the Guernsey Government intends to cap its population at 60,000 people for the next 60 years. What does the Chief Minister consider to be the maximum number of people for Jersey? Thank you, Sir.

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

The subject of population growth and inward migration is one of the most fundamental issues which we in the States and the public have to debate. That is why the Council of Ministers has commissioned a full review of potential changes in the population and the implications of these changes. A cross-departmental officer group was set up last year to look at the impact of population changes and the aging population on our public services, our environment, our economy and society as a whole. The report of the cross-departmental officer group will be presented to the Council of Ministers on 22nd February and will subsequently be published as part of an open consultation process. The Council of Ministers will consider the outcome of the consultation process during June of this year and the Council’s findings will be presented to the States as soon as possible thereafter. It is not possible for me to speculate in advance of this report what may or may not be a sustainable maximum number of people for Jersey.

2.3.1 Deputy K.C. Lewis:

Within the next 15 years, Sir, Jersey could have a situation whereby three-quarters of the population would be non-Islanders. We could indeed be facing a loss of heritage and cultural identity. Does the Chief Minister not agree?

Senator F.H. Walker:

There is no evidence of that at this time. In fact the proportion of Jersey people in total population has risen in recent years. There is no evidence of the problem the Deputy suggests may arise but of course all such matters will be the subject of the report and they will be presented to the States as I said in my principal answer.

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

The Chief Minister started by saying this is one of the single most important things that we have to decide. Then he said he has the top cross-department officers working on this. From what I can work out, Sir, the report will take between 8 to 10 weeks. Over the years we have had reports from Strathclyde University and O.X.E.R.A. (Oxford Economic Research Associates) which were probably more in depth and took a lot longer. Is the Minister sure, Sir, that he has the right people working on this most... this report must be completely accurate and have all the imponderables taken in. With no disrespect to the officers concerned, is he sure we have the right experts looking into the future of the population of Jersey?

Senator F.H. Walker:

Absolutely sure, Sir, and of course the group is drawing on the previous work undertaken by O.X.E.R.A. and Strathclyde and indeed previous reports on the matter by the former Policy Resources Committee. It will be a very well informed and knowledgeable document which I am sure the States' Members will appreciate when they receive it.

2.3.3 Deputy C.J. Scott Warren:

The *Jersey Evening Post* quoted last year that 120,000 people are in Jersey during the summer months. Does the Chief Minister know how many people are here now and, if so, can he inform the States' Assembly?

Senator F.H. Walker:

I have not got the exact figures at hand but it is readily available and it is frequently published by the Statistics Unit and available to all States' Members.

2.3.4 Deputy G.P. Southern:

Does the Minister not accept that in doing this report and investigation at this stage he has rather put the horse before the cart because policy is already in place and the evidence will be found now? Is he prepared, dependent upon the findings of this report, to reconsider his current migration policy?

Senator F.H. Walker:

If it is necessary to do so, but as the Deputy well knows there are 2 stages for the States to go through before the migration policy approved by this House becomes law. There is a Registration Law which would be lodged in the middle of this year and a Migration Law later in the year so the States themselves - and only the States - will have the opportunity to decide upon the final outcome.

2.3.5 Deputy R.G. Le Hérissier:

I wonder could the Chief Minister indicate whether indeed he thinks the notion of a cap is a viable notion and an option; and secondly, Sir, will he be varying the population policy to offer political refuge to former Guernsey Cabinet Ministers? **[Laughter]**

Senator F.H. Walker:

The answer to the last part of the question has got to be a very warm: "Yes", Sir. But is a cap correct for Jersey? In my view, probably not, and I think that was a feature of the migration debate that originally set up the Migration Law. Can I just make the point about Guernsey clear? Guernsey have not yet decided to cap their population at 60,000. It is a proposal at this point. It is also linked to a proposal which will allow 250 new inward migrants per annum so it is not at all what I think the thrust of the question might suggest. I would also remind the House that if Jersey currently has the same population density as Guernsey our population would today be between 105,000 and 110,000. But, Sir, we would be ready to take 3 or 4 additional people from Guernsey should the situation merit it.

The Deputy Bailiff:

Very well. We come next to a question which Deputy Southern will ask of the Minister for Treasury and Resources.

2.4 Deputy G.P. Southern of the Minister for Treasury and Resources regarding recommendations arising from Scrutiny investigation of proposed sale of Jersey Telecom:

Would the Minister assure Members that he will give sufficient time to allow full consideration of the recommendations of the current Scrutiny investigation of the proposed sale of Jersey Telecom and possible amendments suggested therein before he lodges any proposition regarding a possible sale?

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

At the present time I intend keeping to the stated timetable of lodging my proposition in February. More specifically, on the basis that the report from the Economic Adviser will be available by the end of this work, I intend to lodge my proposals in the week commencing 19 February. I would then expect the States to debate the report and proposition on 17 April - some 8 weeks later. I trust that the Economic Affairs Scrutiny Panel can also keep to their timetable. On that basis I undertake to give the Scrutiny Report the respect it merits. I will certainly seek to take on board any constructive suggestions it makes. This could involve some amendment to the proposition or considering some other options which would not delay the process leading to the States' debate in April.

2.4.1 Deputy G.P. Southern:

That answer does not give any respect to the possibility of adding value from the Scrutiny Report when it is published because it suggests that come hell or high water, whatever the details might be, he is prepared to lodge his proposal without giving proper consideration to the Scrutiny Report's findings should they be markedly different. Thereby, he will force Scrutiny to come up with amendments and a major debate rather than considering the recommendations and thereby adding value and seeking consensus from the report which might take place if he were to delay lodging. A mere fortnight would do.

Senator T.A. Le Sueur:

I think the Deputy is jumping to conclusions. If the Scrutiny Report provides something which gives me food for thought I may well want to amend my own proposition. But I still intend to adhere to my timetable. Whether those amendments are lodged by myself or the Panel or by anybody else, I think all Members will want to ensure that the House comes up with the best possible outcome.

2.4.2 Senator B.E. Shenton:

Can I just ask the Minister why he is in such a rush to push this through?

Senator T.A. Le Sueur:

I like to set timetables and keep to them. But I also think it is in the interests of an orderly and best disposal. If a disposal is to occur at all it is better to be done in a timely way.

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

Would the Minister not agree that every day that is lost in this process the company becomes worth less?

Senator T.A. Le Sueur:

That is a judgment which may well be right, Sir, but I would not be able to verify that one way or the other but it is quite likely.

2.4.4 Deputy G.P. Southern:

Does the Minister agree that on such a major decision - the first possibly complete privatisation of a public utilities company - a rushed decision is likely to be a bad decision?

Senator T.A. Le Sueur:

A rushed decision, Sir, could be a bad decision and that is why I am allowing 8 weeks at least between the period of my lodging the proposition and the House debating it. That should give all Members ample time to make a considered decision.

The Deputy Bailiff:

Very well. Let us move on to a question which the Connétable of Grouville will ask of the Minister for Treasury and Resources.

2.5 Connétable D.J. Murphy of Grouville of the Minister for Treasury and Resources regarding criteria for the allocation of funding from the Drug Trafficking Confiscation Fund:

What are the criteria used to allocate funds for the purposes allowed by the Drug Trafficking Offences (Jersey) Law 1988 to bodies wishing to receive grants in the Drug Trafficking Confiscation Fund?

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

The criteria laid down by Article 14(a) of the Drug Trafficking Offences (Jersey) Law 1988 stipulate that the monies from the Drug Trafficking Confiscation Fund are under the control of the Treasury and Resources Minister and may only be used for the following 3 purposes: promoting or supporting measures which will prevent or suppress drug trafficking or the misuse of controlled drugs; dealing with the consequences of drugs misuse; or facilitating the enforcement of any enactment regarding drug trafficking or misuse. Applications for funds are assessed by a steering group comprising of the Chief Officers from Health, Customs, Police, Probation, Prison, Education and the Treasury. The criteria adopted by the steering group to whom I have delegated the ability to approve funds for drug-related projects in accordance with the law are that they are non-recurring in nature, they are non-contentious and they cannot be funded from the existing States' department budgets. The group also assesses those applications with regard to other possible options for funding, the timescale and the viability of the proposal.

2.5.1 The Connétable of Grouville:

Would the Minister not agree that having read the list of grants that have been given, the private sector in controlling drug misuse has appeared only once? Out of £2,346,000 allocated in this sector, £1,158 has been allocated for private and charitable causes.

Senator T.A. Le Sueur:

Yes, that is in accordance with the figures that I have presented.

2.5.2 The Connétable of Grouville:

Does he not believe that more of this money should be in fact channelled outside of the States' system in order to assist voluntary groups who are working very hard indeed in this area?

Senator T.A. Le Sueur:

I am sure that if there are convincing cases to be made by voluntary groups outside the public sector they will receive a sympathetic hearing from the steering group. I suspect that if their applications are made they would be well received.

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

Could the Minister please elaborate upon what he meant by his definition within the policy of "non-contentious"? Funds will be given to people who apply to the Chief Officers' Steering Group and Ministry as long as... there was a list that he read out and then part of it was "non-contentious". Could he be a little bit more specific about what he means in regards to "non-contentious" so that

we can establish what is contentious and try to level that against what a private sector group or individual might be willing to put forward as a request?

Senator T.A. Le Sueur:

I am happy to do that. In delegating my authority to that group I delegated on the basis that the applications were non-contentious. Should there be an application which the Panel consider contentious - the way that I consider it contentious - the decision would revert to myself as the person who is legally responsible for making those decisions. So I only delegate to the extent that the delegation is for non-contentious matters.

2.5.4 The Deputy of St. John:

I was wondering if the Minister could answer, does he think it is appropriate that such funds should be used for revenue items such as the payment of civil servant salaries as in the case of the Law Officers?

Senator T.A. Le Sueur:

That decision is ultimately by the States, and not by myself, when it agreed to the States' spending plans. I think that in fact the use of the Law Officers is a very basic part of the whole aspect of dealing with drugs misuse and drug trafficking. Without those officers and without the support of the Law Officers' Department we would not get the funds in the first place.

2.5.5 The Deputy of St. John:

Would the Minister agree though that this is not necessarily sustainable as how long can we pay certain salaries for, not knowing how much money will be in the Confiscation Fund?

Senator T.A. Le Sueur:

This is indeed, Sir, dealt with on a year by year, case by case, basis. It would not be a necessarily sustainable item, I agree.

2.5.6 Deputy P.V.F. Le Claire:

Would that practice of paying for revenue items from these funds be acceptable under the principles of F.R.S.17 (Financial Reporting Standard 17) Accounting Practices or is that not applicable in this type of a scenario where the States are looking to move towards a more understandable and international compliant accounting practice? Is this not something that is not needing to be addressed and would it not fall outside of those practices if they apply?

Senator T.A. Le Sueur:

I do not believe this has anything whatsoever to do with F.R.S.17 or indeed any other accounting principles. It is a matter of policy of the States and how it applies its funds.

The Deputy Bailiff:

Very well. We come next to a question which Deputy Baudains will ask of the Chief Minister.

2.6 Deputy G.C.L. Baudains of the Chief Minister regarding impact on Jersey of the Kyoto Protocol to the United Nations Framework Convention on Climate Change:

Following the Chief Minister's announcement that he has requested the ratification on behalf of Jersey of the Kyoto Protocol to the United Nations Framework Convention on Climate Change, would he inform Members what impact the Protocol will have on the Island and whether conflicts with the objectives and commitments in the Strategic Plan will arise?

Senator F.H. Walker:

The Kyoto Protocol sets a target to cut greenhouse gas emissions to 5 per cent below 1990 levels. Jersey has already cut its local greenhouse gases by about 30 per cent since 1990 by switching to imported electricity. Jersey has also made a commitment to a solid waste strategy including a new waste incinerator; a recycling programme and composting of green waste; an integrated transportation strategy to reduce the impact of traffic by using less fuel and by reducing traffic congestion; and an energy policy which tackles energy-related carbon emissions. In addition, the Countryside Renewal Scheme will also give rise to more permanent pasture and woodland to create carbon sinks for greenhouse gases. There are no substantive conflicts with strategic objectives and economic growth is not adversely affected in any significant way because Jersey does not rely on heavy manufacturing industries. Kyoto will be almost entirely beneficial, both domestically and for our international standing. It shows our commitment to tackling global climate change, supporting the U.K. Government in seeking wide international commitment to the Protocol and making progress towards the States' strategic objectives on the environment; objectives, Sir, which I would remind the House which were approved in the Strategic Plan and indeed improved by amendments brought by the Constable of St. Helier which were also approved by this House.

2.6.1 Deputy G.C.L. Baudains:

Would the Chief Minister not agree that, for instance, a large incinerator flies immediately in the face of the Protocol generating huge amounts of carbon dioxide that are possibly not necessary? Would he also agree, Sir, that the Protocol causes us some difficulty with regard to tourism which I thought we were hoping to rejuvenate under the Strategic Plan because the Protocol itself recognises that air travel is one of the greater pollutants and we are required under part 2 of Article 2 to pursue a limitation or reduction in those areas?

Senator F.H. Walker:

The question on the incinerator is merely seeking to re-light - if that is not a pun - the debate on waste management. I would remind the Deputy and through you, Sir, the House that in fact the demand for incinerators worldwide has risen dramatically in recent years because it is increasingly acknowledged as the most efficient way of dealing with waste, coupled of course with a major... I see queries from the Deputies Benches, Sir. I invite them to research the facts. But of course any incineration waste management process has to include a heavy recycling programme as does Jersey's. So far as air travel is concerned, my own personal view is that any moves to restrict air travel as an effort to reduce emissions are absolutely doomed to failure. Air travel is an absolutely integral part of the lives of virtually everyone throughout the world - certainly the Western world - and I see little prospect of air travel reducing. I would also invite the Deputy to look at the proportion that air travel contributes to the emission problem generally.

2.6.2 Deputy G.C.L. Baudains:

I wonder, Sir, if the Chief Minister could justify what does appear to be an hypocrisy here because he has just stated that it would be ludicrous - I think that was the adjective he used - to reduce our air travel and at the same time it is required by the Convention. It does require pursuing limitation or reduction of emissions from that area.

Senator F.H. Walker:

Any initiatives from air travel are not going to be led by Jersey. They will be led by particularly the major Western nations. I frankly see, as I have already said, little prospect for any great movements in that respect.

2.6.3 Senator S. Syvret:

Will the Chief Minister undertake to place a copy of the Stern Report on the economic impact of global climate change in the Members' Room downstairs for Members to read? Would he also undertake to do the same with the forthcoming I.P.C.C. (Intergovernmental Panel on Climate

Change) Report on global climate change which is due to be released this Friday? Would he be prepared to make a statement recounting the key findings of that report to this Assembly?

Senator F.H. Walker:

Yes, Sir.

2.6.4 Deputy S.C. Ferguson:

When the Minister puts the I.P.C.C. Report for Members to read will he also point out that at the back of the report it says that in climate research and modelling we should recognise that we are dealing with a coupled non-linear chaotic system and, therefore, that long-term prediction of future climate states is not possible. The most we can expect to achieve is the prediction of the probability distribution of the system's future possible state by the generation of ensembles of model solutions. In other words, we are tying ourselves into a Protocol which would probably only reduce temperature by a fraction of a degree by 2050.

Senator F.H. Walker:

I am not a scientist and nor do I intend to enter the argument over how much of a reduction we can expect to see or what is going to cause it. From a Jersey perspective, I refer back to my main answer which shows very clearly the measures which are, I think, entirely appropriate to an Island such as ours; the measures that Jersey is taking to play its part in the international initiative to reduce emissions. I am very pleased that Jersey should be in that position.

2.6.5 Deputy G.C.L. Baudains:

Like the Chief Minister I do not wish to open a debate on waste management but can we now have his assurance that he will be opposing a new, large incinerator, which is of course a huge creator of carbon dioxide, when there are other forms of waste disposal which are much less damaging to the environment?

Senator F.H. Walker:

Is the Deputy asking me if I would oppose the introduction of an incinerator into Jersey?

The Deputy Bailiff:

Yes.

Senator F.H. Walker:

The answer, Sir, which I think he well knows is very firmly: "No".

The Deputy Bailiff:

Very well. We come next to a question which Deputy Le Hérissier will ask of the Chairman of the Comité des Connétables.

2.7 Deputy R.G. Le Hérissier of the Chairman of the Comité des Connétables regarding the savings limit (£12,114) allowable to a spouse whose partner is in care:

Would the Chairman advise Members whether it is the intention of the Connétables to retain the savings limit currently fixed at £12,114 allowable to a spouse whose partner is in care?

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

Welfare scale rates have been increased in line with the retail price index for many years. The current rates are those agreed by the Comité des Connétables and the Minister for Social Security. These rates have continued to be reviewed and increased each year in line with the retail price index. The last increase was made in October 2006 at which time the figure was increased by 2.9

per cent in line with the R.P.I. (Retail Price Index) at that time. The welfare scale rates would next be reviewed for October 2007. However, it is expected that the low income support scheme will have been introduced by that date and will have replaced welfare. Comité des Connétables will therefore no longer be responsible for any such decisions.

2.7.1 Deputy R.G. Le Hérisier:

Could the Chairman inform the House how this figure was arrived at in the round, what considerations were taken-in and what advice will the Comité be giving to the Minister of Social Security in the light of their administration of this particular figure?

The Connétable of St. Ouen:

The figure was arrived following the Working Party on Need in the 1980s and 1990s at which time a figure was identified. The rates on that figure have continually been increased year on year by the R.P.I. As far as what advice the Comité des Connétables will be giving the Social Security Minister, I have the impression that there are a number of Members in the House who do not want the Parishes involved at all in the low income support scheme but certainly if the Minister wishes advice we are there to give it.

2.7.2 Deputy R.G. Le Hérisier:

Very nicely ducked, but I have to ask the Chairman again, in the light of his experience and of his colleagues - and it is valuable experience - what advice will he be giving? Secondly, would he not admit that a figure devised in the 1980s, when the whole issue of ageing and longevity and so forth had not really impacted as it is now impacting on us, was not fully understood and that people who have made conscientious efforts for retirement are really struggling and feel, as may his colleagues, that this figure is utterly unreasonable and cannot deal with the kind of pressures placed upon elderly couples? Would he not agree with that and, secondly, what advice is he giving?

The Connétable of St. Ouen:

While not disagreeing with the Deputy, I do not believe that the Connétables on their own can reach any conclusions on that matter. Certainly, I am sure that the Minister for Social Security will take all matters into consideration when the low income support figure is added into, or factored into, the total provided. The Connétables are quite happy to be involved in any consultation on that figure.

2.7.3 Deputy R.G. Le Hérisier:

I must press this. Could I pursue the Chairman? Could he please tell me whether, in the collective opinion of his colleagues, this figure today in the light of current circumstances is a good figure? Secondly, could he say, having talked to a lot of people who come through the office doors of the various Parish Halls, what are they saying and does he agree with the generality of what they are saying about this figure, that it is totally unrealistic in the light of current conditions? It puts elderly couples under enormous pressure and it forces them down to a level...

The Deputy Bailiff:

I think you have made that point.

Deputy R.G. Le Hérisier:

Thank you, Sir, but I still have not got the answers.

The Connétable of St. Ouen:

I do not promise the Deputy is going to get the answers. I cannot, of course, talk for the Connétables collectively until I have asked them the question. Certainly, my own personal feeling is that, yes, this figure needs to be looked at but I do not believe that the scenario is as bad as the Deputy is trying to point out.

The Deputy Bailiff:

We come next to a question that Deputy Southern will ask of the Chief Minister.

2.8 Deputy G.P. Southern of the Chief Minister regarding public sector pay claims:

Following the Chief Minister's statement that he is seeking a better way of dealing with public sector pay claims what proposals, if any, does he have for resolving issues this year and next year, in 2007 and in 2008, and will he assure Members that he will not seek to limit the right to free collective bargaining during his tenure as Chairman of the States Employment Board?

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

My statement referred to the delays in reaching pay agreements with States' employees. It is quite unacceptable that public sector staff have to wait 8 months or more after the due date to receive annual pay awards. In agreement with staff representatives I want to find a better and fairer way of handling negotiations so that pay awards can be made on time. I can assure Members that I will not seek to limit the right to free collective bargaining until and unless an agreed alternative mechanism is put in its place.

2.8.1 Deputy G.P. Southern:

For the purposes of clarification, can the Minister confirm that that answer does not amount to a no?

Senator F.H. Walker:

I do so confirm. I think the answer is very clear.

2.8.2 Deputy G.P. Southern:

Does the Minister propose to limit the right to free collective bargaining during his tenure as Chairman of the States Employment Board, yes or no?

Senator F.H. Walker:

I have said I will not do that until and unless an agreed - and by agreed I mean with the bargaining groups - alternative mechanism is put in its place. If there is an agreed new mechanism which the bargaining groups themselves sign up to which can ensure that members receive their pay increase on the date they are due to receive it, rather than 8, 9 or 10 months later or whatever it may be, I would have thought the Deputy and this House would welcome it. The emphasis has to be on the word "agreed". There is no question of imposing any change to current procedures what so ever.

2.8.3 Deputy G.P. Southern:

That is what I wanted to hear on that particular point. He referred to unacceptable delays. Does he not also accept that a mechanism whereby the States' negotiators hands are tied by a policy of this House - whereby effectively the negotiation becomes accept 2.5 per cent or accept job cuts or service cuts - is not really proper negotiation and that practice is the one that is unacceptable?

Senator F.H. Walker:

I do not know to whom it is unacceptable. As I said in a written answer to another question to the Deputy, there is currently no dispute and constructive negotiations are underway today. I think the point the Deputy has to realise - and what I think he is leaning towards, perhaps he could correct me if I am wrong - is that he feels we should be offering our pay groups way above what is currently being offered and with an inevitable - certainly if there are no job reductions attached to it - increase in the overall States' pay bill. What that does to our ability to maintain States' overall expenditure which, of course, has been one of the main pressure points on all States' Members

from the public in recent years, I am not at all sure. Perhaps the Deputy might explain what lies behind his question.

2.8.4 Deputy G.P. Southern:

As you fully realise, I cannot answer questions myself but if I may proceed with a consequent question. Is the Minister content that over the period 2006/2007/2008 he will be reducing the living standards of the States' workforce over whom he has control?

Senator F.H. Walker:

That, of course, would depend on the outcome of the overall negotiations and there are alternative ways forward without reducing the living standards of States' workers. I would remind the House that by comparison with workers in the private sector - by comparison with their colleagues elsewhere - public sector employees, particularly those at the bottom end of the pay scale and, even more particularly, manual workers, are extremely well rewarded. I applaud that. I have no problem with that but realism is essential if we are to maintain any sort of control over States' expenditure. Our pay bill is more than half of our total expenditure so any attempt to control States' expenditure, which is the policy of this House, has to include pressure on our overall pay bill.

2.8.5 Deputy G.P. Southern:

Is the Minister prepared to inform the House what alternative means are available to him to avoid reducing the standard of living of States' workers?

Senator F.H. Walker:

I am not going to enter into what, in effect... **[Interruption]** I think the Deputy is almost seeking guarantees from me about how we are going to approach, or how we are approaching, negotiations. I am simply not prepared to go there.

2.8.6 Deputy R.G. Le Hérissier:

As part of the Minister's very worthwhile campaign to keep the pressure on wage costs, would he tell the House what he intends to do about this quite remarkable anomaly where people can be suspended for long periods of time but at the same time attract overtime and bonus rates on top of salaries simply being paid for non-attendance?

Senator F.H. Walker:

That is something that is being looked at and has to be improved upon. The problem though is that when criminal charges may or may not be involved there has to be a full and complete investigation which, of course, includes the police and includes the Law Officers' Department. Those investigations take time. I think it is unfair, of course, if not impossible, to suspend a member of staff who has not at that stage been found guilty of anything; there is merely a suspicion. There has to be a better way to ensure that we can bring these issues to a speedier conclusion at less cost to the public.

2.8.7 Deputy R.G. Le Hérissier:

The Chief Minister missed the point of my question. I have no problem with people remaining innocent until proved guilty and the system reflecting that. What I think concerned the public was the payment of additions to salary which they thought came only from doing the work.

Senator F.H. Walker:

The Deputy is referring to bonus payments or whatever. I am afraid there are contractual, or there were contractual, obligations. That is one of the things that is being most urgently looked at. I agree with the thrust behind the Deputy's question entirely. Whether there is a good, simple, quick answer remains to be seen but the matter is under urgent investigation.

2.8.8 Deputy P.V.F. Le Claire:

On that theme, would it not be possible perhaps to investigate whether or not when an individual is suspended that extraordinary payments are also terminated because they are not committing any work?

Senator F.H. Walker:

That is one of things that are being looked at but contractual obligations are contractual obligations. What can be done, it is too early for me to say. I think I have said all I can say, that the matter is under urgent investigation.

The Deputy Bailiff:

That brings question time to an end and we come then to questions to Ministers without notice and the first period is to the Minister for Social Security.

3. Questions to Ministers without notice - The Minister for Social Security

3.1 Deputy K.C. Lewis:

Further to the excellent question from Deputy Le Hérisier regarding savings limit, does the Minister for Social Security believe the limits should be raised given that I have had many reports from senior parishioners - and I know my colleagues have too - that they have worked hard all their lives and they dread one partner going into care with all the resultant costs? Does the Minister believe that this limit should be raised?

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

The limit that has been in existence for quite some time does need review certainly and it is the intention for when I come forward with the rates that we will have a rate which is probably more appropriate to today's setting. Members who have had the opportunity to have read the response to the consultation document will have noticed that in that I am making a recommendation that the current levels are disregarded for people's income; there will be a higher rate for pensioners. So that is certainly the intention, to have a higher rate than it would be for people in working conditions.

3.2 Deputy P.V.F. Le Claire:

In regards to the winter fuel allowance, what are the plans of his department to come forward given the recent information to States' Members that the scheme was likely to cost in excess of £900,000 and he was having difficulty seeking approval of the Council of Ministers? What is coming forward to the Assembly to give comfort to the people who cannot afford to keep up with the increasing fuel costs and to keep themselves warm that do not have unlimited means?

Senator P.F. Routier:

Members will have seen the report that we have just laid before the House which does give all the various options. I think the main problem that we are facing is what cuts are going to have to be made to enable us to afford any scheme? That will be a discussion around the Council of Ministers table to try and find somewhere where we can make some cuts to services or to other benefits so that we can afford to pay for winter fuel payments. That is probably as much information as I can give until it goes back to the Council of Ministers. We have laid it before Members; if any Members have any ideas of where cuts can be made to pay for it, we would very much welcome that.

3.3 Deputy A. Breckon of St. Saviour:

I wonder if the Minister could tell the House if the information being sought for the income support system is data protection compliant. The reason I ask that is that a written answer today said a copy of the whole form has been sent to the Commissioner with an explanation but it does not have an answer.

Senator P.F. Routier:

The Data Protection Commissioner was sent the whole form and we have had notification from the Deputy Commissioner to say that it is not the right or the focus of data protection to look at the individual questions. They would not make a judgment on that mainly because the questions fall out of a law which has been passed from this House. As long as the questions relate to the Law which this House has approved there is no need for Data Protection to look at the basis of the question. The Data Protection Officer did formally look at the declaration and made a couple of suggestions in regard to that and we have put that into the form.

3.3.1 Deputy A. Breckon:

If that is the case, can I ask the Minister who else will have access to the information and who will apply the test of whether that is compliant with data protection?

Senator P.F. Routier:

The information which is gathered from the forms will be the responsibility of members of staff of the Social Security Department and possibly, depending on the agreement that was made with any of the Parishes who are going to be involved in this scheme, anybody who had access to the information: they would have to take an oath the same as our Social Security staff would. So there are no concerns, as far as I am concerned, with regard to the availability of the information getting out from within the scheme. Certainly it will not be information that would be ordinarily available to Parish staff has been the implication. Every person that is accessing the information will be tied very closely to the income support scheme and be responsible to the Minister.

3.4 Deputy G.P. Southern:

Does the Minister, rather than his words that there is no need for the Data Protection Registrar to examine the questions asked... is it not the case, and does he not agree, that they do not have the powers and that what the Minister should have done before bringing the Law to this House was to ensure that the Data Protection Registrar had examined in detail what was contained in the Law so that if there were problems they could have been addressed?

Senator P.F. Routier:

The Data Protection Officer had looked at the Law itself before it came to this House and has not raised any concerns with regard to the Law. The Deputy is quite right that it is not the remit of the Data Protection Officer to look at the form itself and we have proceeded on the basis that the States have approved the Law and the questions that are within the form do relate to the approved Law which this House has passed.

3.5 Deputy G.P. Southern:

The Minister referred to rates more appropriate to today's setting when talking about residential care. Will he apply the same standards to the family component of income support which will replace family allowance in the light of the data that I gave him recently on the slippage that had occurred in family allowance?

Senator P.F. Routier:

This is a repeat of the question the Deputy asked me when we had one of our friendly Scrutiny meetings on Friday. I will probably give the same answer as I gave to him then. It is certainly my intention to ensure that families are protected far better than they currently are. The existing family

allowance benefits will not exist and, quite rightly, we will be replacing them with a far better system. To my mind we will be giving far more support to families than we have in the past.

3.6 Deputy R.G. Le Hérisier:

Can I build on Deputy Lewis' question and go where no person has ever gone before and ask the Minister what he thinks of the saving allowance allowable for spouses who have another partner in care and whether, indeed, he has come to the conclusion that this allowance is woefully underestimated in the light of current conditions and that is the particular line he will be pursuing in its revision?

Senator P.F. Routier:

The current level, as I said, does need reviewing and I anticipate that it will be higher than the current level. As I mentioned earlier, I have already decided that the capital allowances is in the consultation document and it is quite clear that I will be ensuring that pensioners in particular will have a far higher rate than the workers of the Island. I hope that will alleviate some of the concerns the Deputy has.

3.7 Deputy A. Breckon:

Could the Minister confirm that the information sought for income support is more detailed and intrusive than that sought by income tax?

Senator P.F. Routier:

I think one of the issues which a lot of people seem to be having difficulty with is that we are asking people for information so that we can give them a benefit which is appropriate to their needs. We need to have that information so that we can support them in an appropriate way. It is a different type of information that we ask for than the Tax Department asks certainly. We do feel that if somebody is applying of their own free will, to come and ask for support from the taxpayer which is virtually what it is - it is a transfer of payments from the taxpayers to those on low incomes - that the taxpayer and this House, and I am sure everybody, would hope that we would have the correct information to ensure that we can provide people with appropriate support. It may seem to people that we are asking intrusive questions but the reality of the matter is that we have to have the correct information to ensure that people are supported correctly.

3.7.1 Deputy A. Breckon:

Would the Minister recognise that people are not applying from their own free will, they are applying because they have a particular need and could he explain to me if my brother has a need why I should be assessed for that if I live in the same house?

Senator P.F. Routier:

What we need to get to the bottom of with every household is whether they are financially inter-dependent. A household can be made up in very many ways and we have obviously highlighted the area of people who are caring for a disabled adult. It is recognised that you can have a household that is specifically just made up of the disabled adult although they may be living with the parents and we would support that disabled adult. We can have the reverse of that as well where elderly parents are living with children. The definition of a household is very, very important. You quote a brother living with a brother. Well, it all depends on whether they are financially dependent or not. That is a judgment that needs to be made at the time of the application.

3.8 Deputy P.V.F. Le Claire:

That is very interesting. I was going to ask a different question but I will ask this one instead. Based upon that last supplementary by Deputy Breckon, what would be the situation whereby somebody finds themselves in need through no fault of their own because of an illness and perhaps has a lodger? People are entitled to have up to 5, I believe, within their household. Would that

lodger's circumstances then be investigated or would they be able to be asked questions as to whether or not their financial circumstances are inter-dependent given the fact that the lodger might be an inter-dependent part of that person's mortgage-paying ability. Would then the lodger be required to furnish all of their income and all their details?

Senator P.F. Routier:

I would imagine in those circumstances if the person who owns the accommodation has a lodger and the owner of the property was making a claim for income support, all that would be taken into consideration would be the income that the lodger paid for the rental and that would be it. It would not be the lodgers themselves because they would be considered to be a separate household.

3.9 Deputy G.P. Southern:

In a written answer to me earlier the Minister has suggested that any claim is made on behalf of all members of the household. Surely that is a re-interpretation and is that definition contained within the Law? My understanding is that claims for low income support will be made by an applicant as head of household and not on behalf of others thereby rendering information required - intrusive information required - by the department of dependents or others in the household an invasion of privacy.

Senator P.F. Routier:

The test really is about whether they are financially inter-dependent. So what we need to ask is do they rely on each others support for living. That will be a judgment that will have to be made when the assessment is being made face-to-face with various assessors.

3.9.1 Deputy G.P. Southern:

But the question I was referring to and the answer refers to, is the requirement to declare all savings or all assets over £1,000. That is not about inter-dependence. That is about people's private assets. Does the Minister not agree that in that case there is a privacy issue?

Senator P.F. Routier:

If people are settled in a household and they are inter-dependent they would have to declare assets over £1,000. It is not intrusive. I think every member of this house would want us to be sure that we are using our taxpayers' money in an appropriate way. Why should we be paying money to people who have assets over £1,000 or more? I just cannot understand that. If that is what the Deputy is suggesting, that we should be paying income support to people who have high assets, well I am surprised. I know I am perhaps going off and not answering the question.

3.10 Deputy C.J. Scott Warren:

The Minister will know that I have contacted him regarding this issue and the confusion people within households have had and the concern they have all had to give information which the person claiming then has to sign is correct. You did tell me at the time that you were looking at a way to further clarify the form to stop this concern; that people have to give information when they are not part of that individual household but live in the same house but they are not financially inter-dependent. Has the Minister managed to further clarify the form and alleviate this distress to members of the household of somebody claiming?

Senator P.F. Routier:

The form itself has not altered since we last spoke and the current form will not exist in the future. When the support comes into place the process will be that people will call into the department and have a face-to-face assessment with people and they will be able to talk them through. The Deputy mentioned that some people may have been distressed by the form. I have to say that the flow of forms that we are getting back into the department now is very good. We are very pleased that the forms are still coming in. There are some people who have been concerned, who have phoned the

department, and we have given them as much assistance as we possibly can, even to the extent of arranging home visits to sit down with them to talk through the form. As I say, the form itself will not exist in the future; it will be a more relaxed approach to applying for income support.

The Deputy Bailiff:

Very well. I am afraid that time has expired on that. So we come now to the questions of the Minister for Housing.

4. Questions to Ministers without notice - The Minister for Housing

4.1 The Deputy of St. Martin:

As being one of the small numbers of States' Members who have consistently opposed the sale of States' properties held in trust, I am delighted to see that the House is now being asked not to approve future sales. Will the Minister inform Members why he has such a major u-turn of this policy?

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

Some of the Trusts, half way through their borrowings, are now starting to accumulate considerable funding and in future any funding that they accumulate they can go ahead now and create and procure more social housing in the Island of their own accord. Subsequently, I have ceased recommending to the Treasury Minister any further letters of comfort.

4.2 Deputy C.J. Scott Warren:

Can the Minister explain why he has sent out 5,000 letters in order to try to sell 800 States' homes when he has since informed States' Members, and has put on teletext, that only 10 properties would be affected?

Senator T.J. Le Main:

All tenants were sent out letters on the basis that the property plan clearly identifies - not in the high value properties but otherwise - that there will be an amount of properties which will be available to be purchased by, hopefully most of them, sitting tenants. That was the case on the issuing of all letters and it was felt that it was in the best interests of all our clients that they should receive a letter explaining exactly what was happening, as were the States' Members on the day of the lodging.

4.3 Deputy C.J. Scott Warren:

I thank the Minister for the first part of my question but there has been information given to States' Members and put on teletext that there were only to be 10 properties sold. I would like this explained, please.

Senator T.J. Le Main:

That is not true. The issue is that up to 800 properties are proposed to meet the Strategic Plan aims of creating home ownership within our tenants. At the present time 208 have the permission of this Assembly out of those 800 for sale to La Marais and Le Squez and that is taking place very, very successfully. The 10 that I think that the Deputy is talking about that we are seeking permission to sell are, I think, 26 high-value properties; several of those are already empty at this present time. We do recognise that there could be anything between 5 and 10 long-term tenants that have to be treated with compassion and have to be treated probably differently from many others who may have been short-term tenants or otherwise. There could be up to, as I say, between 5 and 10 tenants. Nobody will be evicted; nobody will be asked to move out of their homes. The property plan seeks the permission of this Assembly that over a period of time, when we can come to an amicable arrangement with the tenants, that those properties will be sold on the open market to realise funding to continue our property plan.

4.4 Deputy S. Pitman of St. Helier:

Could the Minister explain what consultation was carried out with tenants on his housing property plan?

Senator T.J. Le Main:

The officers have had considerable consultation with all the residents' groups. In virtually every estate in this Island the residents have appointed representatives and our officers have been out and have had numerous full discussions with the residents' associations and residents' groups on behalf of all the tenants. The list is an A4 page long of consultations that have taken place with the residents' representatives of those properties.

4.4.1 Deputy S. Pitman:

If such a comprehensive consultation was carried out as the Minister has just informed us, why has there been so much outrage among his tenants about this subject? Why have so many distressed tenants been calling their Deputies? Why were tenants notified on the day the proposal was put to the press and why is it that some tenants have yet to receive any notification that their homes will be sold off?

Senator T.J. Le Main:

There are many tenants whose homes are not going to be, or have been identified to be, sold off. Let me just explain to the Deputy that why there has been some concern by tenants is because there have been some utterings by Members of this Assembly to the media which have been manifestly wrong having not read the plan. It is quite clear in the plan that no one will be forcibly evicted or asked to leave their home yet one or 2 Members of this Assembly have made headlines in the *JEP* and otherwise making utterances that were totally wrong and malicious. That is why people are concerned and I can assure the Deputy and Members of the Assembly that I intend to speak to any of the residents to give them the assurances they need. I started that with Mrs Minihane of Age Concern, the senior citizens, and I shall be very soon, as a guest speaker on their behalf, giving assurances to people.

4.5 Deputy S.C. Ferguson

The Minister is proposing to use capital for revenue purposes. What plans does he have for renovations once this money runs out? He has not been able to cope in the past. Once the stock is reduced he will have less income to use for renovations so he is going to have a bigger problem.

Senator T.J. Le Main:

No, the issue is quite clear at the present time that the funding can take place over the period of 10 years or so by the sell-off of property that does not fit our portfolio and is not needed in this current climate. Amazingly at the moment we have more people paying full fair rent in our portfolio than people on the waiting list and that shows we are housing far too many people at the present who can afford to go in the private sector. We believe that we can create what the Strategic Plan says and what all the bankers tell us, and the advice given by the late Mr. Groombridge some years ago when they audited the issues on housing. We are very comfortable that we can sell-off and maintain existing demand on housing and we can fund it all ourselves without added funding.

4.5.1 Deputy S.C. Ferguson:

But you are still using capital for revenue. Would the Minister accept the principle that the funds raised should be ring-fenced for capital use only?

Senator T.J. Le Main:

No, the capital raised from the sales of these properties will fund and put into place the amount of property that we need for a period of time. Currently we have far too much property; it is unmanageable and has been for a number of years. By reducing our stock to the exact needs of our

clients at this present time and for the future 10 or 15 years, the funding by creating home ownership, the huge benefit of people in this Island for the first time ever, tenants of the States of Jersey --

The Deputy Bailiff:

Very well, Minister.

4.6 The Deputy of St. John:

Is the Minister satisfied that the manner in which his department communicated with tenants affected by the property plan was satisfactory and, should a similar communication exercise be adopted again, is there anything that he would change about the communication process?

Senator T.J. Le Main:

The process was fine, it is just that there was a difficulty with the contract with ProMail. ProMail delivered the following day many of the letters that should have been delivered on the day in question. The process was good. It was very difficult, if I may add, when we were trying to lodge the report and proposition for Members' attention on the Tuesday and we wanted to make sure that all our clients were involved on the same day. We were let down by ProMail and that is being investigated at the present time.

4.6.1 The Deputy of St. John:

Have the tenants been written to again since giving clarification of some of the points that were raised particularly by the media? Has the Minister made any attempts to write to them again and allay some of the fears that they may have had because I am getting calls at the moment from your clients that are quite concerned about the whole issue? Has he any intention of writing to them again and clarifying the issues?

Senator T.J. Le Main:

As I said before, there has been extensive consultation with the residents' associations and representatives of all the issues. If the Deputy is talking about one or 2 properties that may be in his Parish then if there is a difficulty there I am more than happy to go and visit them with him. In fact, I have said this to all Members of this Assembly, that if any of the Members have any difficulties with people who are not aware or unsure, I am more than happy to meet with the current Deputy or Connétable or Senator and go and visit those people personally.

4.7 Senator B.E. Shenton:

What qualification does the Minister have that has helped him to determine that this is a good time to sell assets and has he taken advice from the Economic Adviser on this matter?

Senator T.J. Le Main:

Yes, full consultation and advice from the Economic Adviser from the Treasury and the huge experience of the department. As I say, the Strategic Plan instructs us to create home ownership by shared equity to raise the level of home ownership in this Island from 59 per cent to a more acceptable level which in other countries, and places like Guernsey and the U.K., are more like 70 per cent plus. So we are very confident that this is the right time and this is the right thing. I have to say that in this last week we have had 180 extra tenants who have put their names down to purchase. This is wonderful news for Jersey and for the people of Jersey.

4.8 Deputy A. Breckon:

I wonder if the Minister could tell the House what the predictable future social housing need is?

Senator T.J. Le Main:

As I have explained, and Deputy Breckon knows, the Scrutiny process will scrutinise the property plan. This is an internal document which puts our house in order for the next 10 or 15 years. The issue of our social housing, as I have said, there is a process where there will be a total review of social housing in this Island; the needs, the role of the Trust and the role they play, regulation, whether the Housing Department should become a corporate body and everyone will be issued at the end of the year a green paper for consultation and discussion. It cannot be right that the Housing Department sets the fair rents, it cannot be right that we are regulating and there should be common waiting lists and many other issues. That is taking place at the moment and will be ready by the end of the year for Members.

4.8.1 Deputy A. Breckon:

I think that was a: "I do not know". What I would ask the Minister is he has mentioned a total review of social housing policy and a green paper at the end of the year. Would it not be useful if that was with the plan for what is proposed now as opposed to after?

Senator T.J. Le Main:

The plan is a plan about meeting the aims in the Strategic Plan that this Assembly has approved and it is also to put our house in order. We have had a major problem on funding. We have been waiting 2 or 3 years for the low income scheme to come into being and various other issues. We have now got £6 million a year funding extra for the next 5 years and we have a huge opportunity to create home ownership and put our stock back to order. It is a new plan to put our house in order.

4.9 Deputy R.G. Le Hérissier:

Would the Minister not accept that we are about to create one of the biggest policy blunders of all time in terms of the Trust insofar as the Trust for the finest of reasons were given massive public subsidies by the rent rebate scheme, by the sell-off of estates at peppercorn sums? This has led to the accumulation of vast surpluses. Has the Minister got control over these surpluses as a way of handling social housing or have we now lost control over the situation?

Senator T.J. Le Main:

I would like to make it quite clear that the Deputy is probably trying to mislead the Assembly again. Quite honestly, rent rebates are paid not only to Trusts; they are paid to all people who need help and assistance. It is not because they are a Trust that they automatically pay rent rebate. It is the client who receives the rent rebate and the client will get it whether in private accommodation or Trust accommodation. That is quite clear. The other issue is that we have not lost control. There are strict agreements in place with the Trust that any accumulated funds will come back to the States eventually if they are not used for the procurement of further housing stock for social housing as required. The Trust will not be allowed to just go ahead and keep building and building if there is no identification of further need. Any accumulated funds in the future will come back to the coffers of the States of Jersey.

4.9.1 Deputy R.G. Le Hérissier:

Given that the Minister said quite rightly that shared equity tenant ownership is the way forward, is it not ridiculous that he has given another branch of the housing industry the right, it appears, or the finance to be able to move ahead with a big housing programme? How will he physically stop this housing programme and at what point will he take the surpluses back?

Senator T.J. Le Main:

As I explained, all the housing Trusts, all the social landlords, everybody involved including all States' Members will be involved in the way we are going to look at it in the next 12 months. So all that will be addressed within those investigations and I welcome Deputy Le Hérissier to attend.

The Deputy Bailiff:

That concludes the questioning of the Minister of Housing. I am sorry, Deputy, there are a number of other...

Deputy C.J. Scott Warren:

I have to make a point of order here. The Minister has said there was malicious comment in the *Jersey Evening Post*. While I accept that Zimbabwe was not a good example for displacement and I did not get the chance to ask this. The Minister knows from the editor of the *Jersey Evening Post* that I made no likeness at all to either he or Deputy Hilton being like Robert Mugabe, firstly. Also, I think the malicious comment is anti our agreed Code of Conduct and I would ask him to withdraw that comment. We are not supposed to, I believe, say that about other Members.

Senator T.J. Le Main:

I am not prepared to withdraw that.

The Deputy Bailiff:

It is right that Members are not to impute improper motives or to use derogatory language about other Members, to use offensive or insulting language about any Member of the States.

Senator T.J. Le Main:

I am not imputing that at all. I said: "So-called malicious statement".

The Deputy Bailiff:

Are you withdrawing any suggestion on your part that what Deputy Scott Warren said was malicious?

Senator T.J. Le Main:

I did not speak about Deputy Scott Warren at all.

The Deputy Bailiff:

So if you did, you are withdrawing it.

Senator T.J. Le Main:

I did not speak about Deputy Scott Warren at all. I mentioned no names. There have been several comments in the media.

The Deputy Bailiff:

So you make no allegation that what Deputy Scott Warren said was malicious?

Senator T.J. Le Main:

I mentioned no names at all.

The Deputy Bailiff:

You make no allegation that what Deputy Scott Warren said...

Senator T.J. Le Main:

I cannot make an allegation because I have not mentioned her name.

The Deputy Bailiff:

Minister, please answer my question. Is it correct, therefore, you are making no allegation that Deputy Scott Warren...

Senator T.J. Le Main:

I have made no allegations against anyone or Deputy Scott Warren.

The Deputy Bailiff:

Very well.

Senator T.J. Le Main:

Although I am not happy with what she said in the media [Laughter] and, in fact her behaviour allying me to Robert Mugabe caused no end of distress to my family and I abhorred it.

The Deputy Bailiff:

The Deputy has confirmed today that she regrets that and did not compare you to Robert Mugabe so she has not made that allegation, not persisted in it. You have said you are not happy. That, of course, is the prerogative of any politician not to be happy about what other politicians say. There is nothing improper in that. I think this incident is now closed. We will move on to item K which is the Chairman of the Economic Affairs Scrutiny Panel will make a statement concerning the progress of the review of the proposal to sell Jersey Telecom.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

5. The Chairman of the Economic Affairs Scrutiny Panel regarding the progress of the review of the proposal to sell Jersey Telecom

5.1 Deputy G.P. Southern (The Chairman of the Economic Affairs Scrutiny Panel):

I will do my best with this. Members may recall that on 26th July 2006 the Economic Affairs Scrutiny Panel formed a Sub-Panel to consider the proposed sale of Jersey Telecom. The Sub Panel on Telecoms Privatisation had hoped to complete its evidence gathering by the end of December 2006 with a view to presenting its final report to the States via the main Panel in January 2007. Unfortunately, this target date was put at risk on 2nd October 2006 when the Minister for Economic Development requested that the Jersey Competition Regulatory Authority, the J.C.R.A., produced a report on the privatisation proposal with terms of reference that fell squarely within the remit of what was, by then, an established Scrutiny review. This development, coupled with the timetable to which the Treasury's own consortium of advisors were operating, put the Sub-Panel's target date in jeopardy. Towards the end of November 2006 the Sub-Panel learned that the States' Economic Adviser had been instructed to oversee the economic analysis and the key issues surrounding the structure of the sale of J.T. (Jersey Telecom) and to advise the Council of Ministers on those implications. His task was to include a review of work carried out by both the City Group consortium and the J.C.R.A. following which he was expected to produce a report of his own. On 4th December 2006, I wrote to the Minister for Treasury and Resources advising him that the Sub-Panel could not hope to present a considered and thorough report to the States unless it had been granted access to the body of evidence being amassed regarding the proposal to sell. In this case, the evidence included the findings of City Group and its associate advisors' analysis as well as the J.C.R.A.'s own report which, in turn, contained information provided in a report by Robson Rhodes. Finally, there was the report of the Economic Adviser; that is a total of 5 highly detailed reports to assimilate and evaluate. Ideally the Sub-Panel would have liked to have had the opportunity to re-interview one or 2 key witnesses following analysis of all the above reports although the Sub-Panel has been left in little doubt that any attempt to do so would have generated significant criticism from the Minister of Treasury and Resources who has for some time appeared anxious to sell-off the company in the shortest possible timeframe. In any event, I advised in my letter that the earliest possible date on which Scrutiny could conceivably present its report to the States would now be today, 30th January 2007. Scrutiny has to be afforded the opportunity to evaluate all the available evidence in order that it can fulfil its role and add value to the decision-making process. Sadly, this process has been affected by delays. The J.C.R.A. missed its deadline of 31st December 2006 by 2 weeks. Scrutiny did not receive City Group's final report until late in the day on 16th January 2007. In turn, the Economic Adviser who required these reports in order to

complete his own body of work has been delayed. As of Friday, 26th January 2007 the latest communication received at the Scrutiny Office suggested that the Economic Adviser's assessment would not be available before 1st February 2007. In fact, the Economic Adviser suggested that: "I am still in the process of analysing these reports and many others and the content and nature of my advice will be determined by that work." Evaluation by Scrutiny of these final reports has been made even more critical by virtue of 2 developments. Firstly, the Sub-Panel has learnt that the Economic Adviser, officers from the J.C.R.A., members of the board of Jersey Telecom, members of the City Group consortium and an officer from the Treasury attended a meeting on 6th December 2006. The agenda for that meeting included a discussion of the economic implications and the objectives of the J.T. sale. Scrutiny has been told that no minutes, file notes or summaries of that meeting exist. Second, the Sub-Panel has been unable to establish the fee structure under which the City Group consortium will be paid in the event that the States decides to sell. The Panel wishes to advise the Assembly that the report prepared by the Sub-Panel will be presented to the States as soon as possible following receipt and analysis of the Economic Adviser's report. Scrutiny trusts that the Minister for Treasury and Resources will then take into account the findings and recommendations of the report produced by the Sub-Panel before lodging his own proposition. In the intervening period the Sub-Panel hopes that Members will appreciate that the short delay in completing this considerable body of work has not been of its own making.

The Deputy Bailiff:

Are there any questions arising out of that? Very well. We come next then to a statement which the Minister for Treasury and Resources will make regarding the proposed sale of the former Sunshine Hotel and Cottage.

6. The Minister for Treasury and Resources regarding the proposed sale of the former Sunshine Hotel and Cottage

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

On 10th January 2007, I presented to the States a report on decisions made under Standing Order 168 which included the sale of the site of the former Sunshine Hotel and Cottage for a consideration of £2,100,000, that being the highest offer submitted following an open invitation to tender. I was informed towards the end of last week that J.F. Marett and Son Limited, which had submitted the highest tender and with whom a contract could have been concluded, would not proceed with the purchase of the sites and that their offer of £2,100,000 was withdrawn. Having considered the next highest tender for the sites, I have decided not to accept this tender. Property holders will now meet with the Minister for Housing to review the position before a decision is made on whether or not to re-offer the site for sale for development to first-time buyers or what other options are available.

6.1.1 Deputy J.A. Martin:

I am sorry to learn that the bid was pulled out. Given that we are awaiting the population report which will look into the age in population and the impact on everything else, would the Treasury Minister give us a serious assurance that another option to be considered - which is also much needed in the housing plan - is that this site, as already owned and already been paid for, will be seriously considered for sheltered housing as it is an ideal position for the elderly?

Senator T.A. Le Sueur:

I am happy to confirm that I shall examine as wide a range of options as possible in conjunction with the Minister for Housing and others and I certainly take on board the point that it may well be a suitable site for sheltered housing. We have to evaluate and find out.

6.1.2 Deputy A. Breckon:

I wonder if the Minister could confirm that I advised him that I was seeking to lodge a report and proposition not to sell this land at the tender price.

Senator T.A. Le Sueur:

I can confirm that, yes.

6.1.3 Deputy A. Breckon:

Could the Minister give an assurance that you will keep Members informed after the position has been reviewed with the Minister for Housing and others?

Senator T.A. Le Sueur:

I am sure that can be done. Without knowing at this stage what conclusions the Minister for Housing and myself might come to. It is difficult to say what form that might take.

Deputy A. Breckon:

I did not ask him what form. I said, could he give an assurance that he had informed Members?

Senator J. Le Sueur:

Yes, Sir.

6.1.4 Deputy J.B. Fox of St. Helier:

The States continue to rent a considerable amount of property which, we are told, will be for 5 years, 9 years, et cetera. Could part of the review be to look at the properties that we are still currently renting and see whether this site would not be better used to facilitate some long-term occupation by building our own for long-term use? Thank you, Sir.

Senator T.A. Le Sueur:

To the extent to which that will impact on the options for the site, I will certainly do so, Sir, but I do not really want to open this up into a complete discussion with the Housing Minister on his property plans for the whole of the Island's social housing policies. This is an area for which the Treasury Minister is responsible as representing property holdings but housing policy is a matter for the Minister for Housing.

Deputy J.B. Fox:

I just wanted to clarify, I was not seeking it for the Housing Minister, I was seeking it for Property Holdings for which he is responsible. Thank you.

Senator T.A. Le Sueur:

I note that.

The Deputy Bailiff:

Very well. We come next to a statement which the Minister for Planning and Environment will make regarding the appointment of Assistant Minister.

7. Minister for Planning and Environment regarding the appointment of the Assistant Minister

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

Having obtained the approval of the Chief Minister, I am advising the States that I have appointed the Deputy of Trinity as the new Assistant Minister for Planning and Environment to fill the vacancy arising from the retirement from the States of Mr. Richard Dupré, the former Constable of St. John. The Deputy of Trinity has been a member of the Planning Applications Panel for the past

year and I have great confidence in her abilities. I would like to place on record my thanks to Mr. Richard Dupré, the former Assistant Minister, for his support and hard work and, in particular, for chairing the Planning Applications Panel through the period of its transformation to meeting in public. Thank you.

The Deputy Bailiff:

I should just remind Members that the result of that is that the Deputy of Trinity ceases to be a Member of the relevant Scrutiny Panel under Standing Orders.

7.1.1 Deputy A.E. Pryke of Trinity:

I would just like to thank the Minister for inviting me to be his Assistant Minister and for the confidence he has in me and I look forward to working with him and the department. Sir, it certainly will be different from being involved with Scrutiny over the last year and I would like to thank the Members and especially the officers of the Education and Home Affairs Panel under the chair of the Deputy of St. Martin and also the member of the Sub-Panel that were formed for the Overdale and dairy review. It has been an interesting and challenging year but one that I have thoroughly enjoyed. It has been a pleasure working with all the Panels. I look forward to this new area of responsibility and the new challenge that lies ahead. Thank you, Sir.

7.1.2 The Deputy of St. Martin:

I can assure you I have not seen the Deputy of Trinity's notes but I would like to have a few words of appreciation to the Deputy, Sir. Deputy Pryke, the Deputy of Trinity, has been a valued, conscientious and hard-working member of the Social Affairs Panel and more lately of the Education and Home Affairs Scrutiny Panel. We are particularly grateful for the manner in which she chaired - indeed the professional and expert manner in which she chaired - the Overdale review. The Deputy of Trinity will be sorely missed by our Panel but, indeed, I think the Scrutiny overall cannot afford to lose members of her calibre. Sir, we wish her well in her new endeavours and we assure her that we would be delighted to have her back should she find the grass is not quite as green on the ministerial benches. **[Laughter]**. Thank you, Sir.

The Deputy Bailiff:

Any questions arising from that? No? Then we come to a statement to be made by the Chief Minister concerning an anthem for Jersey.

8. The Chief Minister regarding an anthem for Jersey

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

I would like to notify Members that, with the support of the Minister for Education, Sport and Culture - Senator M.E. Vibert - and the Assistant Minister with responsibility for Culture - the Deputy of Grouville - a competition is to be held to seek an anthem for Jersey. Members will know that the number of occasions on which the Island wishes to celebrate its own distinct identity is increasing. Many of these relate to sporting occasions when Islanders receive a medal or other recognition as events involving other islands and, indeed, sometimes other countries. The Island Games and the Commonwealth Games are well-known examples. It has rightly been pointed out by some of those participating that there is at present uncertainty as to the anthem which should be played. Ma Normandie is often relied upon because of its association with our past but, of course, it is a piece of music which has itself no connection with Jersey. Indeed, it has quite different associations for many. Following discussion with the Assistant Minister, Deputy Carolyn Labey, the Deputy of Grouville, and with the valued support of the Bailiff, it is intended to mount a competition to seek a specific Island anthem which might be suitable for such occasions. On the assumption that the competition produces something of appropriate quality, I intend then to bring to the Assembly a proposition seeking its formal adoption as Jersey's anthem. I should make it quite

clear that this is not to be a replacement for the National Anthem, which will continue to be played in recognition of our constitutional position and of our loyalty and affection for the Crown. I hope, however, that the opportunity for the Assembly to endorse an anthem to be used to reinforce our sense of identity in the circumstances I have mentioned will be widely welcomed.

The Deputy Bailiff:

Are there any questions?

PUBLIC BUSINESS

9. Draft Employment Tribunal (Amendment) (Jersey) Regulations 200- (P.135/06)

The Deputy Bailiff:

Very well, that brings us to Public Business and the first item is the Draft Employment Tribunal (Amendment) (Jersey) Regulations - Projet 135 - lodged by the Minister for Social Security and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Employment Tribunal (Amendment) (Jersey) Regulations 200-. The States, in pursuance of Articles 82 and 104 of the Employment (Jersey) Law 2003, have made the following Regulations.

The Deputy Bailiff:

Minister, do you propose the principles?

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

Yes, I do, Sir. I just wondered whether the House may be inclined to take it as amended from the amendment which I have, which all it does is alter the coming in to force dates. Other than that, perhaps an indication on that?

The Deputy Bailiff:

Does the Assembly agree to take the Regulations as amended by the Minister? Yes.

Senator P.F. Routier

The main purpose of this amendment is to increase the rates of remuneration for the Employment Tribunal members to rates that will attract and retain competent, qualified people and to co-ordinate the timing and the extent of Tribunal increases with increases in the Royal Court Commissioner's rate in the future. I propose that the daily sitting rates for the Employment Tribunal members, for the Chairman, to match the current Commissioner's rate of £736; for side members an equivalent percentage increase to that of the Chairman to £97; and the Deputy Chairman, 75 per cent of the Chairman's rate of £552. I believe it is appropriate to reflect the increased responsibility and workload assumed by the Deputy Chairman. She has taken on an increasing amount of work in recent times and her workload is not a lot different to the Chairman. So I recommend that to Members - that would be effective from 1st June 2006 is what I am proposing. I would also like to take the opportunity to make 2 additional amendments which have been suggested to us. Firstly, it is to accurately reflect the Appointments Commission role in the appointment of Tribunal members. The Chairman of the Appointments Commission has advised that the procedure set out in the current Regulations should be amended so the Minister makes the recommendations about appointments after consulting the Appointments Commission. The Commission does not, on its own, recommend individuals which is the requirement of the existing legislation. Finally, to increase the maximum number of side members that may be appointed to the Tribunal from 6 to 8 on each side in order to allow the Tribunal to appoint 4 new members, 2 to represent employees and 2 to represent employers. The Tribunal has occasionally experienced difficulties in forming a Panel of 3 due to limits on members' availability and conflicts of interests often occurring. This

additional flexibility is required to ensure the adequate rotation of members. I make the proposition, Sir.

The Deputy Bailiff:

Is the principle seconded? **[Seconded]** Does any Member wish to speak on the principles of the Regulations? Very well, would all those in favour of adopting the principles kindly show. Those against. The principles are adopted. Minister, do you wish to propose, after I have asked Deputy Breckon, whether he wishes to have this referred to his Scrutiny Panel?

Deputy A. Breckon (Chairman of the Health, Social Security and Housing Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Do you wish to propose the Regulations *en bloc*, but reminding the Members of the amendment to Regulation 6?

Senator P.F. Routier

If I may do so, Sir, I would propose them *en bloc* and point Members to the amendment.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on any of the Regulations? Would all those in favour of adopting Regulations 1 to 6, and Regulation 6 as amended, kindly show. Those against. They are adopted. Do you propose the Regulations in Third Reading?

Senator P.F. Routier

Yes, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Would all those in favour of adopting the Regulations in the Third Reading kindly show. Those against. The Regulations are adopted in Third Reading.

10. Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 4) (Jersey) Regulations 200- (P.174/06)

The Deputy Bailiff:

We come now to the Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 4) (Jersey) Regulations - Projet 174 - lodged by the Minister for Economic Development and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Sea Fisheries (Miscellaneous Provisions) (Amendment No. 4) (Jersey) Regulations 200-. The States, in pursuance of Articles 2, 4, 25, 26 and 29 of the Sea Fisheries (Jersey) Law 1994, and having consulted with and obtained the concurrence of the Secretary of State, have made the following Regulations.

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

Members will be aware that the landmark Bay of Grouville Management Agreement is designed to protect our fisheries stocks. The Management Agreement arrangements are working very well and generally the results of the work of the Management Agreement and the work of both Jersey and French fishermen is extremely good. We have a strong industry and there are strong stocks. The value, for Members' interest, of lobster and crab fishery exports in Jersey is around £8 million per

annum. Each year about 150 tonnes of lobsters and 400 tonnes of brown crabs and approximately 200 tonnes of spider crabs are taken from our seas. This is an excellent position for Jersey's fisheries stocks. Jersey fishermen have been using tags on crab and lobster pots since October 2005. The tags are currently controlled by condition attached to each Jersey fisherman's licence. It was the Fishermen's Association that asked for the tagging system. They purchase tags themselves and distribute them and use this device to put a top limit on the number of pots that are set in the sea. Currently, I am advised, this is approximately 49,000 pots although there are only 30,000 that have been issued. The Jersey system mirrors that of the French and, indeed, the tags are purchased from the same supplier in France. The French have had a pot tag system in place for a number of years. However, while we use a licence condition to administer the issue for Jersey vessels, the current arrangement does not apply to French vessels. The fishermen have agreed that all pots in the sea need to be tagged - that is for both the Jersey and French fishermen - and thus their numbers limited. The purpose of the Regulations before the Assembly is, effectively, to allow the authorities of Jersey to control French pots set in Jersey waters. Currently, while there are limits on numbers of French pots overall in French waters, effectively, what could happen is a French fisherman could put all their quota in French waters and put other pots in Jersey waters and we would not be able to do anything about it. It is currently, in our view, a lacuna, and that is the purpose of the Regulations. So, I move the Regulations in the preamble.

The Deputy Bailiff:

Are the principles seconded? [**Seconded**]. Does any Member wish to speak on the principles? Very well, would all those in favour of adopting the principles kindly show. Those against. The principles for the Regulations are adopted. I must now invite the Chairman of the relevant Scrutiny Panel - which is Deputy Southern, Chairman of Economic Affairs - whether he wishes to have this matter referred to him. He is not here. Who is the Vice-Chairman of his Panel?

Deputy K.C. Lewis:

He is not here either, Sir, but I do not believe the Panel, as a member of the Panel, if I may, do not believe the Panel is interested.

The Deputy Bailiff:

You are a member of the Panel? Very well. Here is the Chairman, Deputy Southern.

Deputy C.J. Scott Warren:

There was an error on the cover of the proposition and I think it has been changed since to Economic Development from Planning.

The Deputy Bailiff:

I am advised it is not an error, Deputy. It is correct. That has been changed. Now, Deputy, sorry, do you wish to have this matter referred to your Scrutiny Panel?

Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel):

My apologies for not being in the House earlier, Sir, but the member of my committee is absolutely correct. I do not wish to have this referred to me.

The Deputy Bailiff:

Very well. Then, Minister, how do you wish to propose the Regulations?

Senator P.F.C. Ozouf:

I think *en bloc*, Sir. If I may just point out Deputy Scott Warren is partly right because the original propositions were, of course, lodged by the Minister for Planning and Environment but as the Assembly will recall, responsibilities for fisheries passed from Planning and Environment to Economic Development. However, it is right to say that, just as in agricultural matters, while

legally the responsibilities fall within Economic Development, the officers are still in the Environment Department and it is, in fact, the Environment Department who have prepared this, and a senior fisheries management officer who is well known to this Assembly is the person who has brought forward the arrangements and, indeed, advised me on the provisions. So the Deputy is party right but it is just subject to the transition. Sir, the articles are effectively mirroring the arrangements that are in place for Jersey fishermen and so I propose them *en bloc*.

The Deputy Bailiff:

Are they seconded? **[Seconded]**. Does any Member wish to speak on any of the Regulations? Would all those in favour of adopting the Regulations... I do beg your pardon.

10.2 The Connétable of St. Ouen:

Can I just ask a question, Sir? Could the Minister, for the sake of the landlubbers among us, explain what a lost pot is, please? **[Laughter]**

The Deputy Bailiff:

Does any other Member wish to speak? I assume the answer is not as simple as a pot which is lost, but there we are.

10.3 Senator P.F.C. Ozouf:

I think it is, Sir. **[Laughter]** With that, I propose the Regulations *en bloc*.

The Deputy Bailiff:

Very well. Would all those in favour of adopting all the Regulations kindly show. Those against. The Regulations are adopted. Do you propose the Regulations in Third Reading? Seconded? **[Seconded]** Does any Member wish to speak in Third Reading? Would all those in favour of the Regulations in Third Reading kindly show. Those against. The Regulations are adopted in Third Reading.

11. Draft Sea Fisheries (Minimum Size Limits) (Amendment No. 3) (Jersey) Regulations 200- (P.148/06)

The Deputy Bailiff:

We come next to the Draft Sea Fisheries (Minimum Size Limits) (Amendment No. 3) (Jersey) Regulations 200-, Projet 148, also lodged by the Minister for Economic Development and I ask the Greffier to read the citation.

The Greffier of the States:

Draft Sea Fisheries (Minimum Size Limits) (Amendment No. 3) (Jersey) Regulations 200-. The States, in pursuance of Articles 2, 6 and 8 of the Sea Fisheries (Jersey) Law 1994, and having consulted with the Secretary of State and obtained his concurrence, have made the following Regulations.

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

Currently, we do not have a minimum size for prawns fished in our waters. It is appropriate that our legislation is harmonised with that of neighbouring seas, particularly in the context of the Grouville Bay Agreement. This is appropriate and these measures should cover not only professional fishermen, which was the purpose of the last Regulation, but both amateur and professionals. This is a small impact but, nevertheless, it is appropriate that fishing Regulations are brought in line with our immediate neighbours, particularly the minimum size that exists in the Normandy waters but also, I am advised, in the area of Brittany too. So this is a relatively simple issue. It is in place in the neighbouring waters. We probably should have done it before now but it

is appropriate that we have a minimum size for prawns. So I move the principles of the Regulations.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on the principles? Deputy Baudains?

11.2 Deputy G.C.L. Baudains:

We are told it is essential. I wonder, and I also wonder, Sir, whether the Minister has ever tried measuring a prawn. They are pretty uncooperative little creatures. **[Laughter]** I do say that not in jest but to the practicalities of it because, seriously, it would take ages to go through a catch of prawns to make sure that none of them is a millimetre under 40. Yet, somebody, somewhere, one day, will end up in court for landing a prawn that is a millimetre or 2 undersize and I wonder how ridiculous that will seem in the eyes of the public. Sir, it is in my view nonsense, and I wait with interest also to hear from the Minister the evidence that he has that over-fishing of prawns is a problem. Let us not forget either that this legislation is purported to bring us into line with that which exists across the water and, of course, those of us who visit French ports will be aware that when we are looking at the fish in their markets that we could really be excused for believing they have no minimum sizes at all. I can recall seeing sole, for example, at a nearby French port half the size of my hand. Clearly, they do not pay the same attention as we do to Regulations. So, I wonder, Sir, what we are achieving with this piece of legislation today. A Law, Sir, that will undoubtedly land some poor low-water fisherman in court for having landed an under-sized prawn while I believe the French, as they are wont, will probably ignore the rules. I am really not sure I can support this, Sir. To me it has all the hallmarks of bureaucracy gone mad.

11.3 Deputy R.C. Duhamel of St. Saviour:

Two things: can the Minister advise the House of the likely number of times that an individual prawn, at the minimum size referred to in the Regulations, will have bred before being caught? Secondly, can the Minister advise the House on whether or not he is aware of any gender differences in the population of prawns in terms of size?

11.4 Senator J.L. Perchard:

I would like just comment on the pastime that my family has been involved in on a low tide for, well, ever since I can remember, and my grandfather would remember as well. That is low-water shrimping at St. Catherine's, and it may be that we have landed, and we are probably guilty of landing a 49 centimetre prawn in the past **[Laughter]** - a 49 millimetre prawn, in the past, Sir, and I am terrified of the thought of, on a low tide on a Sunday afternoon having to justify my one and a half pints of catch to a team of inspectors at St. Catherine's. Will this legislation apply to domestic, personal catches by people like my grandfather and my children?

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

I would like to say that on my last expedition to the Minquiers last September with my prawning net I came back with nothing so I can only presume that the prawn industry has been well cleaned out so I welcome Members to support this proposition. I think Members, Sir, and maybe the Minister will clarify this, will be aware that there are different fisheries for prawns and, in fact, you have prawn nets which are operated obviously by low-water fishermen and the commercial pot fishery, and I would like to think, Sir, that this measure is directed towards the commercial fishery which will not affect the low-water fishermen at all. Thank you, Sir.

11.6 Deputy J.B. Fox:

I think there is always a need to have laws brought in that protect, in this case, our fisheries stock. There are also other laws brought in that we have heard of over the time with enforcing things like juvenile smoking or juveniles drinking or any other form of being. If you do not have something to support to stop abuse then you will not be able to stop it and, certainly, when I was in South Africa,

they do have people there that have measurements for various fish sizes, et cetera. But also for the youngsters it is an educational tool. It is an educational tool to show them that if you do take away or you kill something that is smaller it is not able to grow to a size and that in time there will not be any of those stocks left. So, I think, yes, this is important. But I agree, commonsense has to prevail and there is always a danger when someone brings out the rule book on every occasion. But I think it would also be prudent if it is like, again with South Africa, they have a measurement on the side of the wall where they go fishing so people - the parents - can again use it to teach their children what is an appropriate size or what is not so it is not guesswork or anything. So, yes, I support this but treated in its wider sense, not just in its most narrow. Thank you, Sir.

11.7 The Deputy of St. Martin:

I think Senator Ozouf has my sympathy because I carried out his role for 2 or 3 years when I was with Agriculture and Fisheries and it always seems to be when we start talking about the size of prawns and the size of horns and ear tagging and all that, it always raises amusement to the Members but, at the same time, I think I am following Deputy Fox who has almost said the words I wanted to say, so I will not say too much more other than to say, I think this is a commonsense approach. I think we have to know where we stand and, really, I do not think we could have - what would we call them: the prawn fisheries officers, I suppose - watching people coming out of St. Catherine's. I am sure a commonsense approach will be taken and I do think it is a necessary piece of legislation if only to preserve and protect our stocks.

11.8 Deputy G.W.J. de Faye of St. Helier:

I am very grateful to Senator Perchard for his intervention and I shall take great care when paddling in the waters of St. Catherine's in the future. Can the Minister confirm that, in fact, these Regulations will not apply to leisure fishing around Channel Island waters? Also, for the sake of clarification - and this is mainly because I have always had difficulty in telling the difference between a horse and a pony and was baffled by an explanation that it was something to with a number of hands that they had **[Laughter]** which has always puzzled me - would the Minister confirm whether it will be possible or not to land undersize prawns by calling them shrimps or are shrimps something different? **[Laughter]**

The Deputy Bailiff:

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

11.9 Senator P.F.C. Ozouf:

I was beginning to regret taking the responsibilities of fisheries. I was warned that when everyone brings legislation and Regulations, as Deputy of St. Martin said, that there are all sorts of hares running. I cannot think of a maritime analogy for that. Can I just say that there were some wise words spoken by Deputy Fox and the Deputy of St. Martin. I think everybody in this Assembly knows that they are former police officers and the issue of proportionality is absolutely important. We are not re-inventing and inventing anything new here. A minimum size which is applicable to professional fishermen and amateur fishermen exists in the Normandy area. It exists in the Brittany area. We have also learned, and I did not know, that it exists in South Africa. We are not inventing anything new. It is regarded, and it should be regarded, as the guiding principle. I have spoken to the senior official with responsibility for our maritime and asked him exactly the question about what happens, effectively, when there is a 49 millimetre prawn - I think it is the same thing, by the way, if it is a prawn or a shrimp, it is, of course, the Latin explanation of the... but if I have the shrimp or prawn thing wrong then I will advise Members later but we are dealing with prawns here. I think they are the same things as shrimps. The fact is, there is the issue of proportionality, as I have said. If a professional fisherman is coming in with a catch of which there is a significant number of prawns which are under 50 millimetres, think clearly, there will be a report filed and it will be up to the prosecution service to decide whether or not there is a case to be answered for. If

it is one prawn or 10 prawns or 5 per cent of the catch which is below, then clearly they will take each case on its merits. It is the guiding principle which is important and that should be the guiding principle that is effected by everybody. Deputy Duhamel asks me questions to which I am afraid I do not know the answer but I will certainly come back to him in relation to the gender issues. But the fact is, we should not be taking out of our sea prawns, in large numbers, that are clearly less than 50 millimetres. That is not good conservation and good management techniques and I am sure that all Members who have spoken, including Deputy Baudains, would agree with me that what we should be putting in place is appropriate frameworks to protect and enhance our fisheries stock and we should be doing everything - this Assembly should be putting in Regulations and legislation and we should be encouraging both our amateur and our professional fishermen to carry out good management and wise management. That is what we are trying to do. So, I am afraid the issue of gender does not really fall... I do not think it is relevant. What I will say is that this issue has been advised and recommended by the Sea Fisheries Panel. It has been recommended by the Bay of Grouville Management team that are both the French and Jersey fishermen and this Assembly should take proper advice as I needed to. I might not know the answer to every single gender issue but I do know when sensible and qualified people give advice, and not only is that advice something that this Assembly should listen to but also we should be guided by the best practices of our neighbouring neighbours in both Normandy and Brittany. So, I hope I have allayed Members' concerns about this issue. It is a small issue but, nevertheless, an important one. It is an important guiding principle which, no doubt, the authorities will be sensitive and appropriate in the way they enforce it. Sir, I move the principles.

Deputy R.C. Duhamel:

On a point of clarification, the reason for asking the question was not to be facetious or anything else but there is a serious biological issue. If there is a species differentiation in terms of size, then the minimum size limit as being set, for example, takes out larger males as well as smaller females and it is the females that add to the breeding stock. I would like a written reply to the question circulated to Members of the House as soon as the Minister is able to achieve it.

Senator P.F.C. Ozouf:

I am happy to do that but it does not change the principle and I cannot envisage any situation whereby we would have a different minimum size limit for a male or female prawn. But I am happy to provide the information to the Deputy and I will circulate it to him by email. I move the principles of the Regulations.

Deputy R.C. Duhamel:

A final point of clarification, Sir. The whelk fishery was based on that principle and individuals were taken from the population before they were able to breed.

The Deputy Bailiff:

Would all those in favour of adopting the principles please stand.

Deputy G.C.L. Baudains:

Could we have the Appel, Sir?

The Deputy Bailiff:

You asked for the Appel? The Appel is asked for on the principles of the Regulations and I invite Members to return to their seats and the Greffier will open the voting.

POUR: 44	CONTRE: 1	ABSTAIN: 0
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Senator F.H. Walker	Deputy G.C.L. Baudains (C)		
Senator W. Kinnard			
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			
Connétable of St. Ouen			
Connétable of St. Saviour			
Connétable of St. Mary			
Connétable of St. Peter			
Connétable of St. Clement			
Connétable of St. Helier			
Connétable of Trinity			
Connétable of St. Lawrence			
Connétable of Grouville			
Connétable of St. Brelade			
Connétable of St. Martin			
Deputy R.C. Duhamel (S)			
Deputy J.J. Huet (H)			
Deputy of St. Martin			
Deputy P.N. Troy (B)			
Deputy C.J. Scott Warren (S)			
Deputy R.G. Le Hérissier (S)			
Deputy J.B. Fox (H)			
Deputy J.A. Martin (H)			

Deputy G.P. Southern (H)			
Deputy S.C. Ferguson (B)			
Deputy of St. Ouen			
Deputy P.J.D. Ryan (H)			
Deputy of Grouville			
Deputy of St. Peter			
Deputy J.A. Hilton (H)			
Deputy G.W.J. de Faye (H)			
Deputy J.A.N. Le Fondré (L)			
Deputy D.W. Mezbourian (L)			
Deputy of Trinity			
Deputy S.S.P.A. Power (B)			
Deputy S. Pitman (H)			
Deputy K.C. Lewis (S)			
Deputy of St. John			
Deputy I.J. Gorst (C)			
Deputy of St. Mary			

The Deputy Bailiff:

Now, Deputy Southern, do you wish this matter to be referred to your committee?

Deputy G.P. Southern (Chairman of the Economic Development Scrutiny Panel):

No, thank you very much.

The Deputy Bailiff:

Very well. Minister, do you propose the Regulations?

Senator P.F.C. Ozouf:

I think the Regulations are short, sweet and can be proposed *en bloc*.

The Deputy Bailiff:

You propose Regulations 1 and 2? Are they seconded? **[Seconded]** Does any Member wish to speak on either of the Regulations? Very well, would all those in favour of adopting Regulations 1 and 2 kindly show. Those against. The Regulations are adopted. Do you propose the Regulations in Third Reading?

Senator P.F.C. Ozouf:

Yes. I can answer the issue of the shrimp and prawns. They are not the same. They are related decapods. I am grateful to the Minister for Planning and Environment for the information.

The Deputy Bailiff:

Does any Member wish to speak in Third Reading? Would all those in favour of adopting the Regulations in third reading kindly show. Those against. The Regulations are adopted in Third Reading.

12. Draft Sea Fisheries (Log Books and Landing Declarations) (Jersey) Regulations 200- (P.149/06)

The Deputy Bailiff:

We come next to the Draft Sea Fisheries (Log Books and Landing Declarations) (Jersey) Regulations 200-, projet 149 lodged by the Minister for Economic Development and I ask the Greffier to read out the citation.

The Greffier of the States:

Draft Sea Fisheries (Log Books and Landing Declarations) (Jersey) Regulations 200-. The States, in pursuance of Articles 2, 8 and 29 of Sea Fisheries (Jersey) Law 1994 and having consulted with the Secretary of State and obtained the Secretary of State's concurrence, have made the following Regulations.

12.1 Senator P.F.C. Ozouf:

I should have probably asked for this proposition to be taken immediately after P.147 because, effectively, it is brought to this Assembly for consideration for exactly the same reasons. There is a lacuna in so far as French boats do not have to complete and keep track of - by the log book legislation - all the fish that they are taking out of Jersey waters and, effectively, this is not going to require any further log books or any new information to be created. There is no additional bureaucracy but it does require entries in the standard E.U. (European Union) forms for French fisheries when they are in Jersey waters. It is for exactly the same reasons as I explained to the Assembly for P.147. So, I move the principles of the Regulations.

The Deputy Bailiff:

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

12.1.1 Deputy G.C.L. Baudains:

I just seek clarification. Perhaps I do not understand this proposition but does this Regulation apply to all J-registered boats? Because if it does I am concerned that this may require... as we all know our fishing fleet consists, in the main, of quite small vessels and if these are required to have log books where they did not before - some of these boats may not even have the facility to carry something like that on board - I would be concerned. If, in fact, the Regulations only apply to the larger boats - perhaps boats over 30 feet or of that order - I may be able to support it but I do have concerns that if it is going to apply to every J-registered boat it may be unworkable.

The Deputy Bailiff:

Does any other Member wish to speak? The Deputy of St. John?

12.1.2 The Deputy of St. John:

I wonder if the Minister could clarify another point. Are these log books subject to mandatory inspection or do they just have to present their log books every time within 48 hours of a catch or is

it some sort of mandatory inspection regime, in which case do you have the administration to cope with this type of operation?

The Deputy Bailiff:

Does any other Member wish to speak? Very well - I beg your pardon. Deputy Ferguson?

12.1.3 Deputy S.C. Ferguson:

I would ask the Minister just to explain why the margin of tolerance is so large. Twenty per cent does seem fairly large.

The Deputy Bailiff:

Does any other Member wish to speak? No? Then I call upon the Minister to reply.

12.1.4 Senator P.F.C. Ozouf:

We are dealing with the principles of the Regulations and the principles are that French boats will be required to keep in the log books that they already have - their E.U. standard log books - they need to document their activities in Jersey waters and that, as I understand it, is what we are bringing into line. Effectively, we do not have a requirement for French boats to be documenting, effectively, what their activities are in Jersey waters and that is the purpose of the legislation that is before the Assembly. So, I would repeat that I am advised that the log books that are being described - and there are examples in the back-end of the Regulations - are standard E.U. log books. Therefore, there is not any additional requirement that French fishermen are going to have to carry it out and they can be written in the French language. They are the standard E.U. variety. In relation to the inspection, they are there for the fisheries patrol officers to review. I am not entirely clear, but I will report back to the Deputy of St. John - again, I will circulate an email - of exactly what the arrangements are for the standard inspection of them. I am not sure what the frequency of the inspection is but the most important thing is that we are requiring them to be documented for whatever purpose is required for Jersey boats and French boats in French waters, *et cetera*. So, this is effectively dealing and closing the gap of a lacuna. I move the principles.

The Deputy Bailiff:

Very well, would all those in favour of the principles kindly show. Those against. The principles are adopted. Deputy Southern, do you wish this matter referred to your Scrutiny Panel?

Deputy G.P. Southern (Chairman of the Economic Affairs Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

Very well. Do you propose Regulations 1 to 10 in the schedules, Minister?

12.2 Senator P.F.C. Ozouf:

I am advised these are the standard and mirror arrangements that are in place for Jersey boats and I did not answer the question of Deputy Ferguson, who has just left, in relation to the margin of tolerance but these are tolerances that are advised upon by the professionally qualified sea fisheries officers and they are the standard ones that exist in the Bay of Grouville Agreement and they are discussed by the Fisheries Panel. It is the industry that is advising, with the people we have advising the States, and that is the reason for the tolerance. If there is any information I think is appropriate to tell Members I will circulate it at a later time. So, I move the Regulations *en bloc*.

The Deputy Bailiff:

Seconded? [**Seconded**]. Does any Member wish to speak on any of the Regulations or schedules?

12.2.1 Deputy C.H. Egré of St. Peter:

I am somewhat surprised that in the listing there is no mackerel because that is a fairly fundamental stock around our shores, for all sorts of good reasons. I just wonder why it is omitted.

12.2.2 Senator B.E. Shenton:

Also, funnily enough, the common prawn is not included, either.

The Deputy Bailiff:

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

12.2.3 Senator P.F.C. Ozouf:

I have been told that you can get into deep water in relation to fisheries matters and that there are some really fishy questions that you can be thrown. The issue of mackerel? I do not know the reason for that but I imagine it is... I am advised...

The Deputy of St. Peter:

It is on page 20, Sir, so I apologise for missing it.

Senator P.F.C. Ozouf:

Right, so the Deputy is very observant. It is there, so that deals with that question. I cannot remember what the other question was.

Senator B.E. Shenton:

And the prawn is on page 19, Sir. **[Laughter]**

Senator P.F.C. Ozouf:

That is right. Yes, the common prawns. I am not sure I understood what Senator Shenton was getting at there. Is he saying it is not there?

Deputy R.C. Duhamel:

Shrimps are on page 19, Sir. It depends if you call it shrimp or prawn.

The Connétable of Grouville:

Excuse me, Sir. The common prawn is on page 19, near the bottom.

Senator P.F.C. Ozouf:

I am obliged to the Constable of Grouville and I do not think we want to go after any other red herrings **[Laughter]** but I would propose the Regulations *en bloc* with the assurance that they are the mirror image of those that are applicable to Jersey vessels.

The Deputy Bailiff:

Very well, would all those in favour of adopting the Regulations and schedules kindly show. Those against. They are adopted. Do you propose the Regulations in Third Reading?

Senator P.F.C. Ozouf:

Yes, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]**. Does any Member wish to speak in Third Reading? Would all those in favour of adopting the Regulations in Third Reading kindly show. Those against. The Regulations are adopted in Third Reading.

Senator P.F.C. Ozouf:

Sir, in Fisheries debates I was asked very different questions and I can report to the Assembly on the sex issue of prawns. **[Laughter]** I am advised that both sexes of common prawn found locally mature between 30 and 44 millimetres, thus within the minimum size limit of 50 millimetres. It will mean that all prawns will mature and reproduce once before reaching the minimum size above which they may be caught and some individuals that mature at a smaller size may in fact spawn twice before reaching 50 millimetres. I hope that answers Deputy Duhamel's questions of this morning.

13. Fulfilment Industry Policy (P.152/06)

The Deputy Bailiff:

We come next to Fulfilment Industry Policy - projet 152 - lodged by the Economic Affairs Scrutiny Panel and I will ask the Greffier to read the proposition.

The Greffier of the States:

The States are asked to decide whether they are of the opinion to;

(a) To request the Minister for Economic Development:

(i) To centralise policy regarding fulfilment industry under a dedicated post for e-commerce, to offer more direct political support for the industry and promote diversification through the growing e-commerce sector;

(ii) To undertake a further review of the fulfilment industry in order to obtain a fuller and more comprehensive understanding of its current and potential role in Jersey's economy;

(iii) To direct the Jersey Competition Regulatory Authority in accordance with the provisions of Article 9 of the Postal Services (Jersey) Law 2004 to investigate cross-subsidy between Jersey Post International Limited and Offshore Solutions Limited and to report its findings to the Minister for onward transmission to the States;

(b) To request the Chief Minister, following consultation as appropriate with other Ministers and the Attorney General, to review the current mechanisms across all ministerial departments for appeals against ministerial decisions under statutory powers and the mechanisms to deal with requests for reconsideration of such decisions and to establish a code of practice in respect of such appeals and requests for reconsideration to ensure they are just and fair and to bring the code to the Assembly for approval by 30th April 2007.

Senator P.F. Routier:

I would like to declare an interest in this matter. My son works in the fulfilment industry so I do not think it appropriate I should take part in the debate other than I do recognise that Part (b) is not related solely to the fulfilment industry and it is a wider issue. But I think it would be better that I did not take part in the debate at all.

The Deputy Bailiff:

Thank you, Senator.

The Deputy of St. John:

I have a similar interest, albeit in Guernsey, and I was wondering if I could take your guidance, Sir, as to whether I should remain in the Chamber or not. I do not think that this will give me any pecuniary advantage as the...

The Deputy Bailiff:

Sorry, you have an interest in the fulfilment industry?

The Deputy of St. John:

Yes, but in Guernsey. So, I just wanted to declare that interest and if you feel, Sir, that it is inappropriate for me to remain in the Chamber, I will be happy to withdraw.

The Deputy Bailiff:

But you have no financial interest in the fulfilment industry in Jersey?

The Deputy of St. John:

No, I do not, Sir.

The Deputy Bailiff:

It is certainly an interest, which is right of you to declare. Whether it is a direct pecuniary interest, I suppose the argument would be that if the industry here becomes much more successful that might impact on Guernsey and therefore make Guernsey less profitable. I think it is matter for you, Deputy.

The Deputy of St. John:

I think, Sir, in the interests of good governance it is better that I withdraw. Thank you, Sir.

13.1 Deputy G.P. Southern:

I will try not to detain Members too long over this because we have a measure of agreement between Economic Development and the Scrutiny Panel. However, before we go any further, Sir, I would like to ask your advice on Part B of the proposition which suggests that we co-ordinate and organise appeals mechanisms and this was something that came out of our review and we have agreement to the principle from the Council of Ministers but a problem around the date: my date suggests by 30th April something can be done. They are saying: "We agree with you in principle but we need to look at review mechanisms but we have already started and it looks fairly complicated. We will not be able to get there before the end of the year." How shall we proceed with the actual proposition? Can we amend it, Sir? Is that sufficiently minor?

The Deputy Bailiff:

You are content with the December date?

Deputy G.P. Southern:

I am content, Sir.

The Deputy Bailiff:

Yes, the Greffier has advised me this might happen and there seems to me to be 2 ways of proceeding. The first and perhaps the simplest would be that now that we have Hansard, it could be noted that you have accepted that although the resolution will say April, everyone is accepting that, in fact it will be done by December. That seems the pragmatic way of proceeding because then the Minister will not be in political hot water provided he comes back by December. So that would seem to be the simplest way. It might, technically, be open to an amendment if one were sought to be lodged in that the States can reduce a minimum lodging period if they are of the opinion that, if adopted, the amendment would not make any significant change. So I suppose one could ask the States to agree to reduce the lodging period to zero. But, in all the circumstances, you might think it is better to proceed by the first method.

Deputy G.P. Southern:

Am I to interpret that as a steer to the former? [Laughter]

The Deputy Bailiff:

No, it is a matter for you entirely, Deputy.

Deputy G.P. Southern:

It seems to me, Sir, that in order to maintain clarity, if we can propose an amendment to my date to the end of the year then that is absolutely clear and we know where we stand and I do not think anyone in the House is going to be making a fuss and putting a hurry-up, and certainly I will not.

The Deputy Bailiff:

Who wishes to make the amendment?

Deputy G.P. Southern:

I wish to make an amendment from 30th April this year to 31st December.

The Deputy Bailiff:

Very well, we will need to record that in writing appropriately, but your amendment is to replace the date of 30th April 2007 in paragraph (b) with 31st December 2007, is that right?

Deputy G.P. Southern:

Yes, Sir.

The Deputy Bailiff:

Do you then ask that Members should also reduce the lodging period to allow you to debate it today?

Deputy G.P. Southern:

I do, indeed, Sir.

The Deputy Bailiff:

Is that seconded? [**Seconded**]. Does any Member wish to speak on the proposition, therefore, that the lodging period should be reduced so the matter can be debated today? Very well, would those in favour of adopting that proposition kindly show. Those against. Very well, there you are. You can now propose the proposition, no doubt as amended, Deputy.

13.1.1 Deputy G.P. Southern:

Another first. As I said at the beginning, I do not intend to keep the Members too long but I do believe there are a number of serious issues that are pointed out by not just one but, in fact, 2 Scrutiny reports that have been laid before the House which are relevant to the issues before us today. To set the scene, if you like, for why this particular proposition has been brought today, the context has to be the change of policy earlier in the year -in February - which resulted ultimately, I believe, in the loss of almost 70 jobs on the Island in the fulfilment industry. The starting point is the growth of the fulfilment industry itself and, I believe, the lack of control that has been exerted over that industry for a number of, certainly, months and, perhaps, years. The point being that - and it is in the key findings in the impact of the fulfilment industry on the local economy in the report SR7 of 2006 on page 29, where it says clearly: "The Panel considers that failure to control growth in 2005 was not due to any defect in policy but to a lack of will to apply that policy properly." There was, thus, no need for the Minister to introduce a tougher, revised policy in February 2006. The facts are that at the time the Minister had sufficient powers to control and direct growth in the industry and rather than choose to amend decisions that had been made - to change decisions - he chose to change policy. The justification for this change of policy was that if we did not change policy and do something the U.K. Government might act on its own behalf to make sure that we controlled the growth of the fulfilment industry. But this, I believe, was based on a false premise that the U.K. Government was about to act and was a response not to the U.K. Government but to the pressure from a pressure group formed, the Federation for Private Business, which was highly effective on raising the media profile and making a fuss about what was a perfectly legitimate activity. That was made worse, I believe, by the Minister's agreement with those critics of the Island that the activity that we were permitting through the Island was, in fact, a sham and the

decision to change policy was, in fact, a mistake which could only result in the loss of jobs in Jersey and the creation of jobs elsewhere. The point is, and again on page 38 of our report, it states: "The Panel's view is that the Minister's actions have failed to remove any pressure on the Island's fulfilment industry from either the U.K. Government or U.K. media, but have shifted attention to Play.com and other local whole-chain companies." The fact is that any action that we took made absolutely no difference to the volume of goods in this particular area going into the U.K. and the supposed loss of revenue that the U.K. Government was seeing. That has not been changed. That has continued to grow. The facts are that what was TescoJersey.com has simply shifted - it is now in Switzerland, - it is TescoSwitzerland.com and is doing exactly the same business as it previously was from Switzerland into the U.K. with exactly the same sort of goods. Our action has merely shifted that employment possibility and those possibilities from Jersey. It has exported jobs to Switzerland. So, in fact, acting in the way we did produced, I believe, serious impact upon our economy and accepting the so-called sham nature of what we were doing has set back development in the fulfilment and in the e-commerce sector by some years. Having said that, I move on to the direct recommendations that came out of our investigation as they are put forward before the House today and I am glad to see that the first one - the creation of a so-called e-tsar, which I believe has been long overdue and an opportunity missed - meets with the agreement and acceptance of the Economic Development Minister. Just briefly, I will refer you to a quote from a report which states around this, I believe, missed opportunity which has been there for a number of years and we must take hold of now: "If the Bailiwick fails to create an attractive environment for e-commerce then businesses will migrate to locations where the telecom's infrastructure, e-commerce legislation and I.T. skills meet their requirements. The businesses that stay will struggle to compete. A vicious circle of failing revenues, skills migration and loss of confidence will send the Bailiwick spiralling down. However, if the Bailiwick moves quickly then we can use e-commerce to underpin its sustainable development." It finishes: "The economy can enter a virtuous circle of increasing business innovation, revenue growth and skills acquisition as it builds a worldwide reputation for e-commerce." That comes from page 38 of our report under the title "Missed Opportunities". The Bailiwick referred to is not Jersey. It is Guernsey. The date of that report was 1999. Eight years ago Guernsey was alive to the opportunity and, I believe, acted to promote that opportunity. We are already 8 years behind, at least, in competing properly in this area. That said, I welcome the creation of a new post to supervise and promote and grow this particular sector which takes me on to (a)(ii) - to undertake a further review of the fulfilment industry to obtain a fuller and more comprehensive understanding of its current and potential role in the Island's economy. As I say, the results of the change in policy this year resulted in the loss of 13 companies - pick-and-pack fulfilment companies - in the industry many of which were in Offshore Solutions Limited, the fulfilment branch of Jersey Post. The reasoning given for the change of policy was a very simplistic divide between 2 sectors of the industry. One, the whole-chain company, where the Jersey-based company owns the product, highly profitable, producing profit levels higher than some of those produced in the finance sector, versus the so-called pick-and-pack merchants who were delivering goods in exactly the same way, goods imported wholesale from the U.K. or from the U.S. into the Island and posted out to the U.K. but not owning those goods. Delivering the fulfilment services on behalf of another company. The argument was made that the profit levels in the one were so low as to be not worthwhile compared to profits in the other. But the case was made, and I believe correctly made, in the report and certainly in the investigation that we did, that there was serious undervaluing of the range of ancillary activities that contributed to the gross value added of these particular companies that were seriously underestimated. Intermediate companies where all the activities involved in creating and maintaining a business were, in fact, substantially overlooked and this comes back to this fundamental change that could have been made to the application of the original policy if you administer R.U.D.L. (Regulation of Undertakings and Development Law) properly you can control the industry and you can create value. The simple trick would be to limit expansion by the mechanisms that exist, and have existed for many years within R.U.D.L., which is that you say you may expand but you may not expand your employment.

You may not take on extra staff. Expand as you will, but you will have to do it by some automation process and therein add value to the process of what you are doing. I believe that is the key decision that should have been made. Jersey Post could and should have been allowed to expand its activities, but only if it can provide the investment into automation to add proper value to the whole system instead of just saying, as happened - and it was not this Minister's decision, it was the previous Committee's decision - that they were allowed to expand massively the amount of employment they wished to undertake and thereby somewhat skewing the market. But I believe that the e-commerce appointment about to be made, the first thing he or she will wish to do is to examine where he is at. Now, I believe the report that was produced by O.X.E.R.A. did not truly, properly measure what was there. That situation has changed. We have significantly altered the nature of the industry. I think the first step we need to do is to examine where we are now so we can decide where we are going forward. It is about these ancillary activities. It is about all the side issues, the extra activities that go on in and around an industry that add value to that industry, not the least of which is the legal aspects of setting up companies to conduct e-commerce and the provision of websites. These again are highly technical, highly specialised areas that inevitably are attached to the industry as a whole. Therefore, the simple view taken by O.X.E.R.A. - a limited one - does not value this burgeoning industry properly. So, for example, in the Minister's comments, he talks about the principal accountabilities of his new post, to benchmark Jersey's e-commerce performance against that of its global competitors and best-in-class industry standards in order to ensure that Jersey reaches and maintains and remains at the forefront of international e-commerce business. I ask Members how he can do that unless he has a thorough and accurate understanding of the value of e-commerce, which will include that basic fulfilment business, and then ensure that the e-commerce strategy, when implemented, contributes significantly to economic growth as measured by G.V.A. (Gross Value Added), evidenced by increased business activity and profitability across all interactive media. Again this targeting of G.V.A., but he or she must know exactly where he stands before he starts to act. So despite the opposition of the Minister to (a)(2), I believe it goes hand in hand. It is the natural partner to the appointment of the e-commerce tsar, the position of responsibility. The first thing you would do, we will find out where we are now so we can decide what we need to do to get better. (a)(3), to direct the Jersey Competition Regulatory Authority in accordance with the provisions, to investigate the cross-subsidy between Jersey Post International Limited and Offshore Solutions Limited and to report its findings to the Minister for onward transmission to the States. Again the Minister says this is not strictly necessary, and many Members might consider: "Well, hang on. O.S.L. has just closed down with 70 job losses, so therefore it would only be a historic examination of what has been going on". But nonetheless, I believe it would be valid in the context that here was what was, in the past, a government department acting with a cross-subsidy which would be unacceptable in any other business in the private sector competing with businesses in the private sector. That was allowed to continue for a number of years, much to the disappointment if not anger of individuals out there in the private sector who were running to catch up with this subsidised industry and to compete with it on a completely uneven playing field. I think there is a principle there that needs examination as to how we conduct business on the Island: that we do not allow unfair cross-subsidy in the way we have been doing in any sector, whether it is publicly owned or privately owned. If the Minister's comments had said a few of the words on the end: "I am aware that the J.C.R.A. is investigating as part of its efficiency review what is going on in the Post Office or what has gone on in the Post Office" then that would suffice me and perhaps we would not have to push this to a vote. But in the absence of those key words - and I do not think that they are there; I would be very glad to hear that they are and I will give way...

Senator P.F.C. Ozouf:

Can I just remind the Deputy that I did answer a question on 21st November where I said very clearly to the Deputy that it was my understanding that the important issue of cross-subsidy was

being addressed by the J.C.R.A. and therefore they are dealing with it and they know about it? They know this Assembly's views about it and therefore this Assembly can take the assurance that this issue of cross-subsidy does not require further direction from this Assembly because it is being done.

Deputy G.P. Southern:

I have now been told another time, a second time. Thank you, Minister, and thank you for the words. But those words, while they may have been given in answer in the House, I do not believe are contained in your comments - you can rub my nose in it later, if you wish. But if that is the case, then I will not bring (a)(3) to the House and we will drop that one. It is happening anyway. There will be a report. On that assurance, I am quite happy. Finally, (b): one of the issues of basic appeal positions where, in this particular department and certainly early on when we were investigating how people who have been affected by a change in policy of the Minister could appeal, there appeared to be some confusion early on. It seems that the department had not thought through clearly who was responsible for reviewing any decision. It seems to me that, certainly at one stage, they were tempted by the Minister having made a positive decision to be reviewed either by his officers or by the Assistant Ministers; wrong way round. I believe they got it sorted as we were studying what was happening. But nonetheless, the whole principle of a Minister reviewing his own decision and not having a second pair of eyes following any decision which materially affects somebody's ability to make a living in the Island is a serious one brought up for us. We consider that if this was happening here, was it happening elsewhere; had appeal mechanisms been reviewed in the context of the new setting-up of ministerial government with its reduction in numbers, which makes things much more difficult? This called for a review of how people can appeal, and how it is communicated to them; clearly, what the mechanism for appeal is was probably overdue. This particular issue flagged it up. As someone has already mentioned, it goes wider than just fulfilment, it goes wider than just the Economic Development Department or Ministry, but nonetheless is a valid one which has been accepted. So with that, I propose the proposition.

The Deputy Bailiff:

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

Senator F.H. Walker:

May I just ask for clarity over (a)(ii)? If I understood correctly what the Deputy was saying in his speech - and I ask him to confirm or not - he would be satisfied if the newly-appointed executive that fills the post for e-commerce undertook the review; is that the case?

Deputy G.P. Southern:

Yes, Sir, there is no indication in the proposition that somebody else has to do it. It does not have to be an independent, but they had a review of where we are now. That is perfectly acceptable to me. It is something I would have expected. It is almost foreclosed from the appointment of you personally into the job. The first thing we want to do is say: "What do we know? What can we trust? Where do we go?"

Senator F.H. Walker:

In that case, it seems to me to be something that one would expect that newly-appointed executive to do in any event. The Deputy, it seems to me therefore, has achieved all his objectives from this proposition. I wonder, and I would put it to him, of course, whether there is need for the debate to continue.

Senator P.F.C. Ozouf:

I think probably I need to have my say on a few things there [**Laughter**], in the shortest possible time of course, Sir.

The Deputy Bailiff:

Very well. Do you wish to avail yourself of the opportunity now?

Senator P.F.C. Ozouf:

You will call me, Sir?

The Deputy Bailiff:

It is a matter for you, yes.

13.2 Senator P.F.C. Ozouf:

Deputy Southern is quite right. There is a large measure of agreement, I think, between the Economic Affairs Scrutiny Panel and myself. I have to say that I am pleased about that and I am pleased to hear him say that in this Assembly because when I have read the media reports about the issue of the fulfilment review, members of the public and indeed other Members might have been persuaded that in fact there was not agreement by us, and that Economic Development had done something seriously wrong and indeed that what we had been doing had been fundamentally flawed because I do not think that we have. Over the last 14 months I have probably spent more time on the issue of online retailing on fulfilment virtually than anything else. That gives Members an indication of the importance but also of the seriousness of the situation that we were faced with. I think Deputy Southern cannot quite say it, but I think he agrees with the majority of the policy that I have properly implemented. He said in his opening remarks - reading between the lines I am saying that he said this - that there was effectively a disconnect between the policy that was issued by the previous Economic Development Committee and a decision made by that Committee. I see him nodding in agreement. That effectively, in short summary, is the situation I found myself in. I found myself with a policy that had been agreed, researched by 3 former major Committees of the States' policy resources - well, it had been researched by Economic Development but it had been adopted by Policy and Resources, Finance and Economics and the old Economic Development Committee. But effectively, there was a disconnect between one decision of that former Committee, which I would represent to this Assembly has caused quite a serious amount of difficulties for me and has caused quite a lot of issues for the industry, and I do not believe has done the Island's reputation any good at all. Economic Development must look after 3 issues. We must look after the Jersey economy. We have got to protect our reputation. That is in the preamble of the Regulations of Undertakings and Development Law: to protect the financial integrity of the Island. Thirdly, we have to allocate manpower resources in a manner which is best calculated to deliver the best economic result for Jersey. Now, sometimes these issues are in conflict. That is exactly what we have had in the situation with fulfilment. The revised policy was effectively a tightening up of the 2005 policy - which I wish had been implemented properly but it was not, and so I needed to update it in the light of new information and tighten it. I reiterated to Members in a statement on 7th November that I thought that the revised policy was calculated and designed to effectively manage both the economic resources of the Island and allocate them appropriately but also maintain our international reputation. There is a measure of agreement, so I can, I think, summarise very quickly the areas that we agree on. In relation to (a)(1), we agree that there is huge potential for growth in e-commerce. I think that the Island can be quite proud of what we are already doing. The likes of some of our online retailing would not have been here without the seed-corn funding that this Assembly gave in the I.T.I.S (Income Tax Instalment System) vote. Members in the Assembly back in 1999 will remember that effectively £10 million was given to kick-start the area of e-commerce and there have been a lot of fruits which have been harvested since then in the area of e-commerce. I think there is huge potential. We did not need, with respect to the Panel, for them to tell us that. We agreed with that, and I put in place a number of months

ago the requirement of putting in a dedicated officer to help take us further in terms of e-commerce. So we agree on that, and I can tell Members that as far as we are doing, we have not got that dedicated post at the moment, but my chief officer and the Economic Development team are, as we speak, investigating new opportunities for e-commerce which are very exciting for the Island and I am extremely optimistic about. So I do not think there is any problem. We accept (a)(1): we were doing it, and it is in our plan and it is funded. The issue of (a)(2), in relation to the further review: I am grateful for the clarification that the Chief Minister obtained. If it is just simply asking that dedicated e-commerce person to carry out a review - if that is what effectively the Panel wants - then I can agree with that because what I did not want to do was to send out a message that somehow we wanted to restart the whole of the investigation into online retailing and fulfilment. This Assembly can be assured by the fact that there have been huge amounts of research carried out on online retailing and fulfilment, starting with the O.X.E.R.A. report and going on. I have to say that there is a measure of disagreement in relation to that O.X.E.R.A. report and the Deputy has said that he does not agree with the economic calculations of the benefit of 3.P.S.s (third party service providers), only I think what he is saying is effectively there should be a multiplier added to the £24,000 worth of economic benefit for 3.P.S. versus the W.C.C. (whole-chain companies) which is £100,000. But if that argument is right, then there is a multiplier for the £100,000 as well. So, effectively, the Deputy is kind of arguing against himself there because if there is a multiplier for the £24,000, there is an even better multiplier for £100,000. But what I am very clear about is that there is not a requirement to carry out a whole root-and-branch review of the whole industry again. If that is the message the Assembly is telling me, then that is what I agree with because we have already had a great deal of investigation. Dare I say, the Scrutiny Panel themselves have investigated the matter and they have not come forward with any replacement policy. There is nothing in their report which says that we should replace our policy. They are just saying: "Do more work about it." I have to say that I take some comfort from that because clearly I think that demonstrates the fact that there is a measure of agreement. What there is not agreement in - and I think I must take this opportunity to explain to the Assembly - is the seriousness of the threat. It is said, and it has been said, that, effectively, I yielded to media pressure; that we yielded to pressure of effectively a lobby group for small business. Now, I agree again with the Deputy that the Small Business Federation uses conveniently the Channel Islands and Jersey, effectively to try and explain away the difficulties that they have in competing with the new bricks-to-clicks world - the new world of online retailing. There was an article in last week's *Economist* - as Members know one of my favourite publications - a very accurate report in relation to the effect that supermarkets are having on the small High Street retailers, and also the effect on small High Street retailers of music downloading. That is the real effect that it is having on small shops; effectively independent stores in market towns up and down the United Kingdom and further afield. I am afraid that I agree with the Deputy entirely that Jersey has been used very conveniently by the small business group, effectively as the reason why they have suffered such difficult times. There is a market in transition and people have to, I am afraid, react to new markets. But what the Assembly does need to know is that there was and still remains the very important relationship with the United Kingdom and the fact that the U.K. can make decisions which are calculated to be in the best economic interest of the United Kingdom. But I do not want any Members of this Assembly to be under any illusion of the serious issue that we had to deal with in terms of the U.K. Treasury. This issue has been mentioned specifically and Jersey has been mentioned in both a pre-budget statement and the statement by the Chancellor of the Exchequer. I have absolutely no doubt that if I had not made the decision that I made in February and onwards of last year, then there would have been precipitate action against Jersey. I almost say that Members can either believe me or not, but I pretty well stake my political reputation on that fact. I have to say that if we would not have acted, I believe that in the pre-budget statement or the budget statement, action would have been taken against Jersey and certainly the Channel Islands. I have discussed this with the Chief Minister, I have discussed this with the Counsel of Ministers, and I think that they are in agreement with me, but that is its seriousness. So I do not want any Member to be in any illusion of the lack of sincerity of

the issue of the threat because it was there and it has been a clear and present danger and I have to say that I do not think that the threat has entirely gone away. That does not take away from the fact that I also need to make decisions which are calculated to be in the best interests of Jersey. We all know the employment market is working well. The economy of Jersey is working well. Where would you put 100 jobs? Would you put them into a low-value sector such as the 3.P.S.s or would you put them into the W.C.C. with 100,000 G.V.A. per capita? Deputy Southern himself appears to have changed his position on this because he and I were in agreement a couple of years ago of the serious threat of the decisions that were made a couple of years ago. He has been one of the first to tell this Assembly - rightly so - about the importance of allocating resources to the best economic outcome of Jersey. In relation to (a)(3), I think the Deputy has accepted the assurance that the J.C.R.A. is looking into matters. The J.C.R.A., to the extent to which they are willing to report some of those issues to us, must also make their decisions and publish them on websites. But I will ask them specifically about the issue because I know some Members are very concerned about the cross-subsidy issue in relation to O.S.L. The final issue is also agreed I have to say, but I do need to say something about the issue of the appeals process because there has been some criticism of that. The Scrutiny Panel, I think, were correct in pointing out to us that while there was in our minds and indeed the department's minds a very clear administrative appeals process available and that there are different hierarchies of appeals that could be taken, people who were getting a refusal were not clear. Immediately that that issue was brought to our attention, we revised our procedures and every refusal now has a clear plain English explanation of what the appeals process is. I request for reconsideration by the Minister. I know the Deputy is not happy about the fact that a Minister may review a decision. But if new information comes to light, that is appropriate, in my opinion, and that does not take anything away from an applicant's ability to both go to an administrative review or judicial review or the appeal straight to the Royal Court. The Scrutiny Panel says that it is a long procedure and an expensive one. If I may say, in my experience of appellants going to the Royal Court, I certainly have represented constituents that have been to the Royal Court in relation to planning matters, which is effectively where I have lifted most of the arrangements that we have now in Economic Development for appeals. The Royal Court bends over backwards to deal with people who are litigants in person if you are dealing with a small company. So I would say to this Assembly that the Royal Court is excellent in dealing with people who have a *bona fide* application for appeal to be made and the Court is sympathetic to litigants in person and all the rest of it. I think that the appeals process is appropriate, but we have learnt and we have documented it in a more appropriate way. So there has been a great deal of discussion about fulfilment in the media, both here and in the United Kingdom. I suspect that this issue has not yet concluded. I suspect that there are still going to be pressures which are going to be heaped upon us, particularly the Small Business Federation now threatening a judicial review in the United Kingdom. But I say to this Assembly that I believe that we have made the right decisions, albeit that we were faced with a very difficult decision of having to overturn and row back from, in my view - with respect to those people concerned - one single, erroneous decision that was made by the E.D.C. (Economic Development Committee). I am confident about online retailing. I am confident about the Island's potential for e-commerce. And with this new post in place, I am sure that we will be able to harness even more of that activity in future. I think there is a huge measure of agreement. Actually, we are not arguing about very much now, so I will sit down and shut up.

13.3 Deputy G.C.L. Baudains:

It is not unusual for me to be somewhat confused after listening to the Minister for Economic Development, and I regret to say today is no exception. Unfortunately, procedures do not allow me to ask the Minister to respond, so I will address my comment to the proposer of this proposition and ask him if he can assist me in his summing up to clarify...

The Deputy Bailiff:

Deputy, can I just inquire for a moment how long do you think you are speaking for?

Deputy G.C.L. Baudains:

Very briefly, though I normally am, Sir; a couple of minutes.

The Deputy Bailiff:

Very well.

Deputy G.C.L. Baudains:

We are all aware of the Minister's policy earlier regarding U.K. pressure and what appeared to be his greatly reducing our fulfilment industry as a result. Now, as I understand it, the position is that he wants to grow the industry and yet I am not aware of any policy change that has happened in the interim. So I would ask the proposer of the proposition if he can help me in that regard. What is the present policy? Finally, Sir, I would also like to encourage the proposer of this proposition to see it through to a vote and not to withdraw it as I believe has been suggested because if that were to happen, I believe we will be left in limbo with no substance to refer back to and to hold people to account for in future. Thank you, Sir.

LUNCHEON ADJOURNMENT PROPOSED

The Deputy Bailiff:

Yes, the adjournment is proposed, so we will reconvene at 2.15 p.m.

LUNCHEON ADJOURNMENT

PUBLIC BUSINESS (resumed...)

13. Fulfilment Industry Policy (P.152/2006) (continued...)

The Deputy Bailiff:

Very well, so we resume the debate on the Fulfilment Industry Policy. Does any other Member wish to speak?

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

I wondered if we were going to get this far, but obviously we have. It seems that we have agreement across the House on (a)(i). In fact, it is already underway, the appointment of a tsar, so I will not address that any further. The review of the fulfilment industry quite rightly does not say in the wording an external review, a paid review or anything like that. I would be concerned if the new tsar did not carry out a review anyway because that would be necessary. Even though in the job description the person concerned will be well experienced, they will still need to look at the situation from perhaps a slightly different point of view. So I am very happy with that. So (a)(i) and (a)(ii), I am very happy with; (b), no problem there in that the Council of Ministers has indicated that it can do the necessary and will do by 31st December 2007. The only area I have a problem with is (a)(iii). Now, here we are talking about instructing an independent regulatory body to do something. This independent regulatory body, the J.C.R.A., has, I believe - and certainly Deputy Southern mentioned this in his speech - been carrying out a review over the past 6 months or so into all the workings of Jersey Post. Now, assuming they have done that thoroughly, and I am sure they have done in that amount of time, they will be well aware of the areas that might need looking at and might not need looking at. They apparently have already confirmed back in November that they were carrying out a review of the O.S.L. position. I do not think it is right that we should be instructing an independent regulatory body and effectively saying: "We know better than you. This is how it should be done", whereas they are appointed to be the specialist in this area and make up their own minds as to what needs to be looked at and what does not need to be

looked at. So I am worried about the position we get ourselves into if we start instructing the J.C.R.A., the J.F.S.C. (Jersey Financial Services Commission) *et cetera*, how they should behave and what they should be doing and looking at. It is laid out in the Law, the items they should be looking at and how they should look at them, and it is up to them to follow their duty. However, if the Scrutiny Panel is concerned, and they obviously are - I accept that without any reservation - then there is nothing to stop them writing to the J.C.R.A. and pointing this out. If they are in any doubts about the J.C.R.A. finding this necessary area to look at, if it is necessary, then it seems to me they have every right and perhaps even have a duty to point it out to the J.C.R.A. There is no need to bring that sort of thing to the House here for us to make a decision on and spend time debating. So I would say that as far as (a)(iii) is concerned, we should not support that, but I would support the Scrutiny Panel writing their own letter to the J.C.R.A. and setting out their case. So I am quite happy to vote for (a)(i), (ii) and (b), but I am going to vote against (a)(iii). Thank you very much.

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

I wonder if I should perhaps add something about (a)(iii) and Article 9 which I had not been going to do at this point but perhaps it is a good point to do it. I do not, in fact, think that Article 9 extends far enough to cover what is asked for in (a)(iii). What Article 9 says is that the Minister may, if he or she considers it desirable and in the public interest, give the authority written directions in respect of the principles, procedures or policies to be followed by the authority. I do not think that giving a direction in respect of principles, procedures and policies would extend to holding a particular investigation into a particular matter. I mean, there may be room for argument, but it appears to me that it is quite possible that it does not extend that far. The other point in respect of Article 9 is that the Minister, by virtue of paragraph 4 of that Article, is not to give directions or guidance without first consulting the authority.

The Deputy Bailiff:

Deputy Southern, if I may, I just want to draw that to your attention, clearly in view of the advice, for me to give some thought as to whether (a)(iii) is appropriate.

Deputy G.P. Southern:

I may not have made it clear earlier, but given the circumstances and the assurances that I got from the Economic Development Minister that this was happening anyway, I thought I had indicated that I was quite prepared to withdraw (a)(iii) in any case.

The Deputy Bailiff:

Sorry, I did not quite gather that. Very well, so in fact it is (a)(i), (a)(ii) and (b) in which the Assembly is interested. Very well, does any other Member wish to speak then? No, well, I will then call upon Deputy Southern to reply.

13.5 Deputy G.P. Southern:

The Minister has pointed out the high degree of agreement between the 2 of us over much of the issues that lie before us. I am tempted, so I will do it. Indeed it might be possible to say that never, never before in the history of conflict has there been so much agreement between an Economic Minister and his nemesis. But that agreement, while I am glad to be able to see the 3 recommendations go through with almost complete agreement, does not extend to the essence of the decision to change policy back in February. The Minister seemed to suggest that the Panel and I were in agreement with that change. I repeat the likelihood of any action by the U.K. Government was absolutely minimal. There was no need for the Minister to agree with the forum for business - the pressure group - that such activities were a sham. Two budgets following have seen no action and indeed statements from the Paymaster General that they clearly recognise that the problems on the High Street with C.D. shops are not largely down to Jersey activity or to low-value consignment release, but to the activities of larger retailers in their very environment. The most recent

development, the request for a judicial review if the Government does not act within 2 months, is clearly a piece of posturing that once more gains headlines but, quite frankly, is absurd. To suggest that there would be a judicial review of an activity undertaken by all members of the E.U. without exception because, quite frankly, it is simply not economic to chase this V.A.T. (Value Added Tax) revenue, is absurd. There was no need to act. That action did result in 70 job losses. Those job losses could and should have been foreseen at the time. They have effectively transferred work from Jersey to Switzerland in this case and have done nothing to ease the situation whatsoever. Just briefly, in addition, the Minister asks where are we to put those 70 jobs; where are they best found. Is he suggesting that 70 pick-and-packers that used to work for O.S.L. can be transferred magically into high-value jobs? Of course they cannot. He is not talking about creating 70 jobs for these workers. These workers will be out of work, possibly on welfare, as of this month. That is the net effect of this policy change and there is no agreement between me and the Minister over this issue. Deputy Baudains asked me to tell Members or to tell him what the policy is. The new policy is that any whole-chain company, any Jersey-based, Jersey-owned company can continue supplying any goods into the U.K. under low-value consignment relief. Any non-Jersey company using pick-and-pack third party service provider will not be allowed to do that in the area of C.D.s and D.V.D.s because that is where the fuss is. They are perfectly free to send any other products, computer accessories, pharmaceuticals, into the U.K. *ad nauseum* because nobody has made a fuss about that yet. But the indication is should chemists or computer accessory suppliers on the High Street start to make a fuss, the Minister will fold once again. Equally, the high-moral principles behind this action of the Minister are remarkably absent when we look to Europe because anyone can set up in the Island to export through fulfilment, through pick-and-pack, third party service provider into Europe, all goods, whether they be D.V.D.s and C.D.s or pharmaceuticals or computer accessories or whatever, under low-value consignment relief because yet again they have not made a fuss and the consumers in those countries are quite happy to receive goods at below the going rate compared to what they can get elsewhere. It is a good business; the moral ground is not there because what we have is a policy that has been formed not in response to any moral ground, not in response to any practical grounds, not in response to any pressure from governments, but pressure from the forum for private business. That is the reality, and I am afraid that should we get into trouble either in Europe or either with other goods, that we will end up doing exactly the same, washing our hands of it and walking away and saying: "Oh well, we will not do that business" and transferring jobs elsewhere. That is the sort of support we have demonstrated from this Minister. So no agreement there. However, total agreement that we should go ahead and try and do something, try and resurrect a proper place, an efficient place among fulfilment and attached e-commerce, that the first job such an appointment, a tsar, will have to do is to find out exactly where we are and agreement that, although a wider issue, appeal mechanisms should be reviewed. I put those 3 articles, Sir.

The Deputy Bailiff:

Deputy, I think you need to have the leave of the Assembly to withdraw (a)(3). Do you ask for that leave?

Deputy G.P. Southern:

With the House's permission, if I can withdraw (a)(3), I would be grateful.

The Deputy Bailiff:

Does everybody agree to withdraw (a)(3)?

Senator P.F.C. Ozouf:

May I ask the Deputy a point arising from his concluding remarks?

The Deputy Bailiff:

Yes.

Senator P.F.C. Ozouf:

He says that there is no risk, yet the Panel is being made aware of official correspondence with the United Kingdom Government, which has not been published in the report but the Deputy is aware of it. How can he tell this Assembly that there is no risk when he has in his files and in Scrutiny that I have given evidence of the clear concern of the U.K. Government as expressed in letters from U.K. Treasury senior officials and the Paymaster General of the fact that there is a risk? I am concerned that the Deputy, in his concluding remarks, runs the risk of misleading the Assembly about information that he has that others Members may not be aware of.

Deputy G.P. Southern:

As the Minister full well knows, my words, I believe, were minimal. The risk is minimal, not none. Secondly, the letter that I have seen which he interprets to mean some form of action is possible was issued directly after the change of policy. So, his change of policy had no effect either on the revenues missing from the U.K. Government and the overall net worth of that, nor absolutely solidly on the behaviour and likelihood of any action from the U.K. Government. I stick with my words: such a risk was minimal.

The Deputy Bailiff:

Very well. The matter before the Assembly is paragraphs (a)(1), (a)(2) and (b) of the proposition. All those in favour of adopting it, kindly show. Those against? The proposition is adopted.

14. Draft Planning and Building (Amendment No. 4) (Jersey) Law (P.157/06)

The Deputy Bailiff:

We come next to the Draft Planning and Building Amendment No. 4 (Jersey) Law P.157 lodged by the Minister for Planning and Environment. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Planning and Building Amendment No. 4 (Jersey) Law 200-; a Law to amend further Planning and Building (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council have adopted the following Law.

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

I am pleased to present to the States this further amendment to the Planning Law, as I believe it will bring a number of significant improvements to the way it is operated and for the people who use the system. Four separate amendments are proposed. The first relates to planning applications being made with the knowledge of the owner of the land. Members may recall my surprise last year when I learned that there was no legal requirement for landowners to sign the application form or otherwise be notified when someone else was making an application on their land. I undertook to correct what in my view should be a requirement. This is what this particular amendment seeks to do. The proposed amendment is for a system of notification by the applicant to the landowner. Members will be aware that Senator Norman has lodged an amendment which would make it a legal requirement for the owner's signature to be on every application form. This, however, removes any discretion I have to waive this requirement, either when it is in the public interest to do so or when it is impractical for the owner to sign but a representative could sign on his behalf. I have lodged an amendment to Senator Norman's proposal in which I cite examples of where it has proved necessary to waive the requirement. I understand that the Senator accepts this as reasonable and sensible, and if he accepts my amendment, I will be happy to accept his. **[Laughter]** Either way, it will make it impossible for an application to be made without the owner's knowledge. When we come to the articles, it would seem sensible to propose the articles as amended by the amendments. The second amendment concerns the constitution of the Planning Applications Panel. It has operated now for over 13 months and, for the last 7 months, it has met in public. It is my

view, and I know that view is shared by members of the Panel that a membership of 3 is insufficient to represent a sufficiently broad range of Island interests. Additionally, and particularly since the meetings became open, I consider that so few members exposes the individuals concerned to unreasonable individual scrutiny. So I would like to increase the number of members on the Panel. The amendment proposes up to 9 members, all of whom would sit to consider applications. The quorum would remain as 3. I have heard that concerns have been expressed that increasing the numbers to a maximum of 9 would bar those members from joining Scrutiny. I am advised that the only member of the Panel barred from Scrutiny is the Assistant Minister, who is a member of the Executive and that the other 8, if indeed 8 are appointed, are eligible for Scrutiny except for the Environment Scrutiny Panel. The third amendment is an enabling provision which will allow building by-law compliance to be certified for specified reasons by authorised professionals other than the Building Control Surveyors and the Department. The provision will be used where the Building Control Section does not have the capacity or skills to undertake such functions. This will be advantageous to applicants and the department. The fourth amendment is intended to afford protection from enforcement action against unauthorised works carried out 8 years or more previously. At the present time there is no limitation. This creates a risk for new purchasers of property and places an onerous burden on the purchaser's lawyers to protect their clients by researching all works undertaken since the planning and building by-laws were introduced in 1964 and 1956 respectively. Equally, it places a burden on the Planning Department in producing replies to property search inquiries. The proposal is supported by the Jersey Law Society. I propose the amendment.

The Deputy Bailiff:

Are the principles of the law seconded? **[Seconded]** Does any Member wish to speak on the principles of the Law? Very well, all those in favour of adopting the principles of the Law, kindly show. Those against? The principles are adopted. Now, Deputy Duhamel, as Chairman of the relevant Scrutiny Panel, do you wish to have this matter referred to your Panel?

Deputy R.C. Duhamel (Chairman of the Environment Scrutiny Panel):

No, Sir.

The Deputy Bailiff:

Thank you. Minister, may I suggest that you propose Article 1 where there is no amendment, and then we will come to Article 2 and you will need to formally propose Article 2, and then we will take Senator Norman's amendment. If that is passed, then we will take your amendment, and then we will return to consider the Article as adopted. So, may you propose Article 1?

Senator F.E. Cohen:

I propose Article 1, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does any Member wish to speak on Article 1? All those in favour of adopting Article 1, kindly show. Those against? Article 1 is adopted. Minister, do you want to propose Article 2?

Senator F.E. Cohen:

I propose Article 2.

The Deputy Bailiff:

Seconded? **[Seconded]**

14.2 The Deputy Bailiff:

Then here we have an amendment lodged by Senator Norman, so I will ask the Greffier to read the amendment.

The Greffier of the States:

In proposed new Article 9(3) for proposed sub-paragraph (b), substitute (b): “If the applicant is not the owner of the land to be developed, assert certificate by the owner of the land certifying the owner approves the application being made.”

14.2.1 Senator L. Norman:

Just briefly, as the Minister has said, until recently, as most of us would assume, any applicant for a planning application would have to sign, himself, the application form, and the owner of the property. But we now know that is not the case. Not only does the owner not have to approve an application under the current Regulations, he does not even have to know about it until he reads it in the *Evening Post* columns. The Minister’s amendment goes halfway to correcting the situation by ensuring that the owner has knowledge of any application for planning permit on his property. My amendment requires his approval. Without my amendment, for example, it would be perfectly possible for a potential developer to put a note through my letterbox to tell me that he was planning to put an application to build 3 bungalows in my back garden. Living as I do, Sir, in St. Clement, that is quite a likely scenario. **[Laughter]** The Minister has indicated that he is prepared to accept my amendment, so I make the proposition, Sir.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on Senator Norman’s amendment?

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

As someone who is involved in development, I would wish to say **[Aside]** Sir, to defend developers, I do not think developers do go around putting in plans on people’s properties without consulting with the owner. I would advise Senator Norman that if he is interested in selling his garden, I would be glad to do so. **[Laughter]**

The Deputy Bailiff:

Does any other Member wish to speak?

14.2.3 Deputy G.W.J. de Faye:

It has been a position for some time that there has been no requirement for an owner to give any level of permission or indeed acknowledge that a planning application is taking place in respect to their own property. I do not personally believe there is anything particularly sinister, untoward or unacceptable about that state of affairs within the current legislation. Indeed, if anything, it may be that the amendment being put forward by Senator Norman will have probably an unfortunate effect by deterring possible developers from proceeding with projects that may be of benefit to individuals or the Island as a whole because of this insistence of an owner being a consultant and effectively being required to give some form of permission. I think this is a well-intentioned amendment, but one which may well have unforeseen consequences of a negative order in respect of the development of property as a whole. On those grounds, I really feel it is not a particularly clear improvement to the legislation which, up until now, does not appear to have caused any significant damage whatsoever. After all, the owner of the property still retains ownership and ultimately can refuse to have any development take place whatsoever. It is though, I would suggest to Members, a rather nice position to be in if a prospective developer is able to arrive at your front door requesting a cup of tea and a discussion with plans that either are approved or about to be approved and suggesting that you may, should you wish, be entitled to a very large reward in response for you parting with your property. But there is no requirement or onus on an owner to perform in that way. It seems to me this is an unnecessary change to the Law.

14.2.4 Deputy C.J. Scott Warren:

I am somewhat amazed by the Deputy's speech because I think this is a completely reasonable amendment and, because of obviously the following amendment from the Minister of Planning, I think it is likely to be amended. I totally support this. I think it is a terrible shock to anyone to see an application is on their land that they did not know about, and obviously there are circumstances where that may have to happen. But I fully support Senator Norman's amendment. Thank you.

14.2.5 The Connétable of Grouville:

I am grateful to the Minister for bringing this to the House because I think I was the instigator of the complaint originally in that we had the mobile phone companies going around and putting in applications on people's land, even where they had been refused by the owner. This happened in Grouville on 2 occasions, and that is why I then brought it to the attention of the Minister and I believe that his Bill is good and I think the amendment is excellent as well. Thank you.

14.2.6 Deputy J.B. Fox:

Yes, I would support this amendment. We read in the papers about the abuses that are going on when people knock on especially elderly people's doors and all sorts of things are said or done that puts them in fear, and they pass over and sign all sorts of things. This will just provide another little safeguard against such things, and the amendment that will be coming up shortly will also cover the other aspects where it is not practical. So I would go for this amendment. Thank you, Sir.

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

I would just like to ask one question. I understand about the developers and so forth, but what happens if, say, it is for the good of the Island and whether it be a road, or sewerage or something and obviously the owner does not want it, what happens then? Is there an answer to this because sometimes it is going to happen occasionally that the owner is not going to want something to happen because he does not want the disturbance, but it might be for the good of the Island. I am wondering if this is covered.

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

I think this amendment is an extremely good one and it is long overdue because despite what we have heard from Deputy de Faye earlier on, I can assure Members that there are a lot of people that have been put to a lot of distress with the sort of bully-boy tactics that do go on out there. I think the quicker this is enacted, the better for all.

14.2.9 Deputy G.C.L. Baudains:

Yes, just to comment that it does obviously seem appropriate to have this amendment, but of course it does cut both ways. A developer can put in all the plans he likes but, even if he has his plans approved, that does not give him the right to walk into your property, demolish it and build what he wants to. It all has to be with the owner's consent. So it seems to me what we are talking about, really, is a matter of courtesy and possibly saving the Planning Department from unnecessary time spent investigating applications which probably stand no chance of being carried out.

The Deputy Bailiff:

Does any Member wish to speak?

14.2.10 Deputy S.C. Ferguson:

Members have talked about the protection for old people against bully-boy tactics but when you have an elderly person of uncertain vintage who can be bullied by cowboy builders, doing £500 worth of repairs for £10,000; how much more could they be bullied by a developer determined to get their signature on a form? Have we any safeguards built-in for such an example?

The Deputy Bailiff:

Does any other Member wish to speak? Very well, I call upon Senator Norman to reply.

14.2.11 Senator L. Norman:

Thank you, Sir, yes, just briefly. Deputy de Faye is absolutely correct; the Law as it presently stands, has not caused a lot of damage. That is possibly because most people assume that the Law would require the owner to sign the application in the first place. It certainly has caused some embarrassment certainly to one telecom company and the Rector of a certain Parish church last year, when this flaw in the Law was discovered. But what this amendment does, it defends the right of the property owner - the small property owner, the large property owner - to decide what happens on his property, to the degree that it can do and also prevents, as far as possible, any embarrassment to the landowner, to have applications placed for development on his property that might be controversial, which he does not want and he does not want to have any part of. It is a total protection for the owner of the property. Deputy Huet had made the point of what happens if there is a development to be made in the public interest? Well, certainly we still have the compulsory purchase powers that the States have always had and the Minister has made a further amendment which we will be discussing, if this amendment is approved, which would allow him to make decisions in the public interest. Just briefly, to Deputy Ferguson, I do not think there is anything that my amendment or the Planning Law can do to prevent intimidation. That is something which is very much a matter of criminal law and hopefully will be taken very seriously if it happened. I maintain the amendment, Sir.

The Deputy Bailiff:

All those in favour of the amendment of Senator Norman, kindly show. Those against. The amendment is adopted.

14.3 The Deputy Bailiff:

We come next to the amendment lodged by the Minister and I will ask the Greffier to read it.

The Greffier of the States:

In proposing Article 9, after paragraph 3, insert the following paragraph: “(4) where (a) paragraph 3(b) applies in respect of a proposed application and (b) the owner of the land refuses or is unable for any reason to certify his or her approval of the application being made, the Minister may nevertheless accept the application for consideration if the Minister is satisfied that to do so would be in the public interest”; and renumber the subsequent paragraphs accordingly.

14.3.1 Senator F.E. Cohen:

Senator Norman’s amendment is very sensible. My amendment to his amendment, however, enables the Minister for Planning and Environment to waive the requirement for the landowner’s signature only in exceptional circumstances. The owner’s signature was formally a Committee and ministerial rather than a legal requirement. Previous experience shows that it is necessary, from time to time, either to waive the requirement totally or to allow someone to sign on the owner’s behalf. Two instances come to mind where it would be desirable to waive the requirement, and we have had examples of both in the past where the States have decided to acquire a site by compulsory purchase against the owner’s wishes and the owner refuses to sign. The second is where the owner is abroad, incapacitated or otherwise unable to sign but there is someone else who could sign on the owner’s behalf and the owner is willing. Senator Norman has agreed that this proposal is both reasonable and sensible and thus, if the States agrees with the amendment, I obviously have accepted his, and I move the amendment.

The Deputy Bailiff:

Is the amendment seconded? **[Seconded]** Does any Member wish to speak on the Minister’s amendment?

14.3.2 Deputy K.C. Lewis:

Thank you, Sir. I am in favour of this proposal and amendment. I remember the shock on the clergy and parishioners of St. Saviour when the mast was proposed for the St. Saviour's church. At best, it is good manners. I have one question regarding the Minister for Planning and Environment; the requirement for the landowner's signature in exceptional circumstances - the waiver - what have you in mind there? Is it some kind of compulsory purchase, if there was a road widening or what are these exceptional circumstances? Thank you, Sir.

14.3.3 Deputy G.C.L. Baudains:

Thank you, Sir. The Law currently requires a notice to be erected for any applications, Sir. I wonder if the Minister could tell us what would happen if, in the rare event that he may decide an application should go ahead without the owner's consent, if the owner really does not want such a notice erected on his property?

14.3.4 Senator L. Norman:

As the Minister said, I am quite content to support this amendment. It is a fail-safe device, it is a backstop but one that I would expect to be very rarely used. The Minister, in his report, indicates 2 areas where it could possibly be - one is when the States have required a site by compulsory purchase. I feel that should very rarely require for this Article to be used because it is the Minister who brings the proposition for compulsory purchase and it is the Minister who decides on the merits of a planning application, so there should be no difficulty whatsoever in that situation of approving his own plans. Where the owner is abroad or incapacitated, fine, no problem with that, but surely I would still expect that the owner would give some indication, either by email or whatever, that he does approve of any application for a development on his own property. So, on that basis, I am quite happy to accept the amendment, Sir.

The Deputy Bailiff:

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

14.3.5 Senator F.E. Cohen:

Deputy Lewis raised the issue of what would be exceptional circumstances. I have given an indication of 2 exceptional circumstances; one, compulsory purchase; the other, where the owner is abroad. I envisage this being used very, very infrequently and I do not think we can outline every possible area where this exception provision would be used. Deputy Baudains raised the issue of how you would force a notice to be placed on a property with an unwilling owner and I am not sure of the answer. I will research the answer and get it to him within 48 hours and Senator Norman's questions are, again, answered by the fact that it would be very rarely used and yes, wherever possible, one would seek to have an indication that the owner, who is incapacitated or abroad, does consent. Thank you.

14.4 The Deputy Bailiff:

Very well, all those in favour of adopting the amendment, kindly show. Those against. The amendment is adopted. We therefore return to the debate on the Law itself and in particular, Article 2 which is currently the matter before the Assembly. So Article 2, in its amended form, is now before the Assembly. Does any Member wish to speak? Very well, all those in favour of adopting Article 2, kindly show. Those against. Article 2 is adopted. Do you wish to propose Articles 3 to 5 *en bloc*, Minister?

Senator F.E. Cohen:

En bloc, Sir.

The Deputy Bailiff:

Seconded? **[Seconded]** Does anyone wish to speak on any of the Articles 3 to 5? All those in favour of adopting Articles 3 to 5, kindly show. Those against. Articles 3 to 5 are adopted. Do you propose the Bill in Third Reading, Minister?

Senator F.E. Cohen:

I propose the bill in the Third Reading, Sir.

The Deputy Bailiff:

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

15. Draft Regulation of Investigatory Powers (Jersey) Regulations (P.162/06)

The Deputy Bailiff:

We come next to the Draft Regulation of Investigatory Powers (Jersey) Regulations 200-, Projet 162, in the name of the Minister for Home Affairs and I will ask the Greffier to read the citation.

The Greffier of the States:

The Draft Regulation Investigatory Powers (Jersey) Regulations 200-. The States, in pursuance to Article 29(2) of the Regulation of Investigatory Powers (Jersey) 2005, have made the following Regulations.

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

Thank you, Sir. This is something of a minor housekeeping matter. It brings forward an amendment that was agreed at the time of the main debate on the Regulation of Investigatory Powers Law in March 2005. It was agreed that the Social Security Department should be designated as a relevant public authority in respect of Schedule 1 of the Law for the purposes of Chapter 2 of Part 2 of the Law. The amendment to the Law empowers the Attorney General to authorise relevant persons within Social Security to obtain and disclose communications data and, in certain circumstances, to require a postal or telecommunications operator to disclose data. Communications data comprises information about communications, not the content of communications. But the inclusion of the Social Security Department will enable its officers with the proper authority to obtain, for example, the full name and address details from the relevant service provider in respect of investigations where contact with the individual concerned is by means of mobile telephone only. There are no financial or manpower implications arising from these Regulations and I make the proposition.

The Deputy Bailiff:

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

15.2 Deputy G.C.L. Baudains:

Thank you, Sir. I am not at all happy with this proposition because, to me, it is not clear why it is necessary to obtain names and addresses of the owner or of the user of a mobile phone and, I am not sure, but I presume the Minister is aware, that not all mobile phones are owned by account holders. Many are prepaid and those phones could be second, third or fourth hand, could be from another country, might even be stolen. How on earth one can get reliable information from that, I am not quite clear and I am hoping that the Minister, in her summing-up, can inform me on that matter because how on earth one could get reliable information from such telephones, or for what purpose it is needed, is certainly not clear to me.

The Deputy Bailiff:

Does any Member wish to speak on the principles?

15.3 Senator P.F. Routier:

Yes Sir, perhaps I might be able to help the Deputy and other Members. Certainly, with regard to trying to identify people, what has become clear in recent times is that mobile phones are being used quite a lot within the construction industry and for health and safety matters... and only mobile phones are being used within the construction industry, especially among sub-contractors, and it is the only method of trying to contact some people to get their names and addresses. So we have identified there being a need for that, and it is only on the Attorney General's approval that this route can be followed. The Deputy does highlight the ownership of mobile phones and it could be from various places and all the rest of it, but it is just another tool to help us to try and identify people. It is specifically important with regard to health and safety matters on construction sites where we are noticing that we are needing to carry out more investigations in that area and, as I say, there is the safeguard that it is only the Attorney General who can authorise that it is followed, and it is just an additional tool. It is not the fail-safe of being able to contact people, it is just, hopefully, a method where we can track people down.

The Deputy Bailiff:

Does any other Member wish to speak?

15.4 Deputy J.B. Fox:

Yes, it is an area that I had not taken too much attention to and I find it interesting that the Minister for Social Security refers to it as a matter of identification whereas, unless things have changed recently, is that the Social Security card can be in any name a person likes because it is a social security, it is not a form of identity. Presumably...

Senator P.F. Routier:

This just relates to mobile phones and absolutely nothing else. It is just relating to mobile phones.

Deputy J.B. Fox:

This is true but a mobile phone could equally have any name it likes, so I do not see the purpose of this law, Sir. Thank you.

The Deputy Bailiff:

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

15.5 Senator W. Kinnard:

Thank you, Sir. As Minister of Home Affairs, I am just responding to what was going to be an amendment, I believe, by the Social Security Committee, as it was then and it was the agreement between Social Security and Home Affairs that we would take this matter forward, that there was not a need for an amendment. I think that Senator Routier has really explained the reason for the request from his department in the first instance and I think, to help Members perhaps understand, the type of communications data might, for example, enable the department to find out the location from which calls are made, so it may enable, therefore, the department, when they are investigating a particular individual who is suspected of committing a particular offence under Social Security Law, it may enable the department to track that person down. Whereas, without that kind of information, it may prove impossible. The Senator also referred to the fact that this is just a possible tool from a range of other tools. So finally, Sir, I am just responding to a request which the House, at the time of the debate, Sir, seemed content that it should go forward and therefore I maintain the proposition.

The Deputy Bailiff:

All those in favour of adopting the principles of the Regulations, kindly show. Those against. The principles are adopted. Deputy of St. Martin, I think this falls within the remit of your Scrutiny Panel?

Deputy of St. Martin (Chairman of the Education and Home Affairs Scrutiny Panel):

We do not wish to scrutinise anything.

The Deputy Bailiff:

Thank you. Very well, Minister, do you propose Regulations 1 and 2?

Senator W. Kinnard:

Yes, Sir, if I may propose Regulations 1 and 2 *en bloc*?

The Deputy Bailiff:

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

16. Draft Income Tax (Amendment No. 28) (Jersey) Law 200- (P.168/06)

The Deputy Bailiff:

We come next to the Draft Income Tax (Amendment No. 28) (Jersey) Law 200-, Projet 168, lodged by the Minister for Treasury and Resources. I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Income Tax (Amendment No. 28) (Jersey) Law 200-; a Law to amend further the Income Tax (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law.

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

Thank you, Sir. Yes, Sir, there was a time when the whole of the Income Tax Law only related to a few pages. Nowadays it seems that the Law is getting larger and larger and even a relatively simple amendment like this often runs to several pages. One of the reasons for that is that Jersey is less and less able to consider its laws and policies in isolation. We have to take account to what is happening in the world around us and react accordingly. The fiscal strategy which the States adopted in 2004, and of which the move to Zero/10 formed an important part, was driven partly from a policy of maintaining good international relations but primarily from a policy of remaining commercially competitive. The move to Zero/10 was driven by a combination of both those reasons. I have spoken about the fiscal strategy many times in recent years, often at some considerable length. Members will be relieved to know that I am not going to do that today, partly because I think Members are already well aware of the arguments, but mainly because the principle of moving to Zero/10 was agreed some time ago and what we have before us today is the legislation, or in fact the first part of the legislation necessary to put Zero/10 into effect. The move to a Zero/10 corporate tax structure can hardly be called a simple amendment and therefore Members should not be surprised to learn that my proposition runs to 60 or so pages. However, of those 60 pages, 30 of them contain the Law and the other 30 pages contain an explanation of the Law, and half of that explanation is simply a reprint of a report I presented to the States last October. That report followed a significant consultation process on proposals I had published earlier in the year in May. The outcome of that consultation process was a desire, by virtually everybody, to keep the Law simple and to keep amendments to the existing Law to a minimum.

When we began drafting this Law a couple of months ago, I found that keeping it simple was easier said than done. As a result, we decided to bring the amendments in 2 parts and what we have before us today is the first of those 2 parts. So, before I go into the detail of this Law, perhaps I should remind Members of the steps we have taken in order to get there. As I say, recognising this was a significant change to our tax system. We decided to embark upon what you might call a root-and-branch review of the whole of that tax system and so that consultation document was perhaps broader than many people expected. But it was just a consultation document; it was issued in order to stimulate discussion and to elicit responses and, in that respect, it worked. We received a variety of responses but the overall message, as I say, was to keep the Law as simple as possible and keep amendments to a minimum. But in parallel with that consultation process, we also engaged with a Sub-Panel of the Corporate Affairs Scrutiny Panel and we have worked alongside that Panel throughout the development of this Law. Their comments, and particularly their interim report which they published in October, has influenced the content of this draft Law and I hope that their subsequent report published last week will also help Members in evaluating the proposals before us today. No doubt the Chairman of that Panel; Senator Perchard, will wish to add his own comments later in the debate. I am not going to put words into his mouth but I do believe that that report from his Panel indicates support for many of the changes we have proposed and the omissions we have made from the original consultation document. In simple terms, Sir, what we have before us today is the new legislation for Zero/10, insofar as it relates to the companies themselves. The trickier part - and that will take a bit longer - is to deal with the aspects as they are related to the shareholders of those companies. But fortunately the 2 areas can be split without too much difficulty and that is what this Law contains. Finally, Sir, in that consultation there were a few peripheral matters which, we agreed in October, were not directly related to Zero/10 but which were still important and, although they have been shelved for the time being, I shall be referring to them later in the year. But what we wanted to do was to bring forward, at this stage, what was essential to bring Zero/10 into effect within the required deadlines, and for existing companies that will be from January 2009, but for new companies, formed after June 2008, the Law will come into effect immediately. That is because when we agreed to reform our corporate tax structure and had our discussions in 2003, we were given a period of 5 years in which to make these changes and that 5-year period extended from June 2003 to June 2008, but because of the logistical difficulties in trying to change a tax in the middle of a tax year, it has been agreed we will do it for existing companies - that is the relevant date of 1st January - at the start of a new tax year. If I turn then, Sir, to the present draft Law, it falls into 3 or 4 major parts and I shall deal briefly with each of those in turn, although not necessarily in the order in which they occur in the Law. Firstly, the Law emphasises that the standard rate of corporate tax from 2009 onwards will be zero per cent. There will be limited exceptions; the first being for financial services companies which will be taxed at 10 per cent, and the other for local utility companies which will continue to suffer tax at 20 per cent. There is also a provision for when a company changes its status during the course of a tax year. Some concern has been expressed in the consultation about whether the definition of a financial services company can be sufficiently robust. A financial services company is defined in the Law and has been the subject of considerable discussion but should it turn out in the end that that is not quite sufficient Article 12 will give us the power to amend that quite easily. Concern, I think, has also been expressed that the 10 per cent rate is not what was expected of the E.U. Code of Conduct group. What I would say here, it is a feature of the way in which an acceptability of the E.U. Code group has been done elsewhere to the satisfaction of that group. What they have said is that you can have an exception to the rate, provided that that exception issues a tax at a higher rate and because that has been accepted elsewhere, I have no doubt it will be equally acceptable for Jersey. The second aspect of this Law deals with taxation of property income under provisions, what is technically known as Schedule A. At the present time, property rental income is charged a tax under Schedule A at 20 per cent and property development is charged under Schedule D, again at 20 per cent. Under the new provisions of Zero/10, property development would no longer be taxable; it would be taxable at the zero rate and that would mean, of course, that any property

developers with U.K. shareholders would not contribute to the Jersey Exchequer. What this does in this draft Law is to assess property income from property development, under Schedule A and ensure that that property development income continues to be taxed at 20 per cent to the benefit of the Island. There is also a simplified form of taxation in respect of collecting tax from non-resident landlords and the Law gives us the power to deduct the tax at source, where there is no landlord present in the Island. Thirdly, there is a section dealing with the basis of assessments to income tax. This is really a technical sort of amendment, the sort that accountants love because it allows you tax paying opportunities and the chance to pay a little bit less tax. But really that is not favourable to us as the States and the discussions are that we would simplify the basis of assessment of tax so that in future all tax would be assessed on a current year basis. There are transition provisions within the Law to make sure that that can be done in a fair way and although there may well be some minor gains and losses in this one current year, it will replace the situation where there are sometimes major gains and losses every year, as there has been in the past. This change will make the tax Law both easier to understand and, at the same time, reduce the opportunity for tax planning. It is what one observer to the Scrutiny Panel called a win-win situation. The remainder of the Law is taken up with minor technical issues, together with a strengthening of Article 134(a), which is the general anti-avoidance provision, which is extended to deal with groups of transactions. I think, Sir, that one of the issues which is not dealt with at this stage, but is clearly an issue to be looked at, is that of the shareholders, particularly shareholders who are non-residents in Jersey and I just refer briefly to the proposals that were put forward to the Scrutiny Panel by former Jurat Peter Blampied, which have been a subject of discussion with that Panel and myself and will form ongoing discussions, because I believe that that is the only possible solution to how we might extract some tax from those non-resident shareholders. So what Members have before them today, Sir, is a proposition which is a stand-alone proposition dealing with the basic principles of Zero/10. It is those principles which are primarily of interest to the outside world. How we tax the local shareholders of that is really more a matter of domestic taxation. It is the principles - the core principles - that we need to adopt and agree as soon as possible in order to give the States and the Island, and particularly the business community, the certainty we need in approaching the future. Sir, I propose the principles of this legislation.

The Deputy Bailiff:

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

16.1.1 Senator J.L. Perchard:

It has already been said by the Minister it was in June/July 2004 that it was agreed by this Assembly that the Island would change its corporate taxation structure to the Zero/10 system, Sir. While the old arrangements were still serving Jersey very well, they were coming under increasing attack from the E.U. and the O.E.C.D.'s (Organisation for Economic Co-operation and Development) concerns over harmful tax competition. Those Members in the States at the time will remember it was quite a traumatic time for the Treasury. So, in order to comply with the E.U. and O.E.C.D. demands, the States agreed that, given a level playing field, Jersey would end the distinction between locally and non-locally owned companies. On that day, the Zero/10 structure was conceived. Our tried and tested system which enabled a 20 per cent rate to be levied on Island businesses and a reduced or zero rate for our offshore clients was to be discarded. Under Zero/10 Jersey will impose a general rate, as the Minister has said, for companies of zero per cent with special rates of 10 per cent for financial service management companies and 20 per cent for public utilities. Members will be comforted to note that the Minister has confirmed that Part 5 of the draft Law provides for profits and gains arriving from the trade of property development, rents and other receipts in respect of land to be taxed under Schedule A. It is proposed that Schedule A will continue to apply to all persons, including zero-rated companies, at the rate of 20 per cent, which I think we all welcome. I am disappointed, however, that the Minister has chosen to withdraw from

the proposals to tax foreign superannuation funds who currently enjoy a tax-free status in the property rental market. I believe this anomaly should receive his urgent attention. Despite proposing a 10 per cent and 20 per cent tax rate for particular sectors, the common rate for Jersey-registered companies, if we approve this legislation today, will be, as I said, zero per cent because the zero per cent is the general rate for all companies rather than a special rate exclusively for the finance industry. I understand that it will satisfy our commitments to those concerned over what they call harmful tax practices. So back in 2004 the principle of Zero/10 was understood and agreed by the States, with the proviso that there would need to be a level playing field in place to ensure that Jersey would not be competitively disadvantaged. A positive message was sent out to the O.E.C.D. and the E.U. but, more importantly, the message that Jersey was open for business was sent to our own business community who naturally required assurance and certainty. Agreeing the principle of this move was one thing but the detail of such complex financial legislation is of course another. Members will be aware that I have been chairing a Sub-Panel which has examined the Treasury's original design proposal. We presented our initial report to the States in September last year and in that report we offered our support for the proposal to move to a Zero/10 taxation structure and I would like to confirm that my Panel still believes that this move is essential in order that the Island remain competitive with other jurisdictions. Sir, the fact is the zero part of the legislation has been forced upon us by the E.U. Jersey had to either change or lose business, jobs, prosperity and all the many positives brought to the Island by the finance industry. The 10 parts of this legislation is also necessary, as competitors like Guernsey and the Isle of Man are adopting similar competitive structures, as are the fast emerging financial jurisdictions in the Far East. Again, I believe we had no real choice, as it would be exceptionally difficult, virtually impossible probably, for Jersey to compete if our financial services companies were taxed at a rate higher than 10 per cent. However, while agreeing with the principle of Zero/10, the Panel did not support all the details of the original Treasury plan. In fact, we were critical of several of the aspects of the initial proposal and are pleased to see that the Treasury have since dropped many of the contentious areas challenged in our report of last September. We said that the R.U.D.L.; the Regulation of Undertakings and Development levy, should be abandoned and the Treasury have done so. We said that deferred distribution charge should be abandoned; again, the Treasury have done just that. We felt that the proposed 100 per cent deemed distribution charge was impractical and unworkable; the Treasury agreed and have withdrawn the proposals from today's draft legislation, agreeing that this requires further work. Sir, I think it is necessary to say at this point that we recognise the importance of successfully implementing modified look-through proposals as soon as possible and I give the assurance that my Panel will be positive and constructive in our efforts to assist the Minister in this endeavour. Members will be aware that the Treasury Minister presented revised Zero/10 proposals, R.80, to the States in October last year and that the draft legislation was lodged in December. My Panel presented its second Zero/10 report to the States just last week after reviewing R.80 and the draft legislation before us today. We concluded that we accept the requirement for the broad approach of Zero/10. However, we do have 2 major concerns; firstly, this legislation, which we are being asked to approve today is only, as the Minister has already said, the first part of the Zero/10 system. What we have here are only the basics of Zero/10, the enabling legislation which is the removal of exempt company and I.B.C. (International Business Company) regimes, which are no longer deemed acceptable under the E.U. Code of Conduct directives. This draft legislation provides for their removal and their replacement with a general zero per cent tax rate for companies with a 10 per cent and a 20 per cent rate for specific businesses. Today I hope that Members will support the Minister's amendments to the Income Tax (No. 28) Jersey Law, enabling the birth of Zero/10. But with this new arrival, Sir, as we agree to abolish and reduce corporate taxes, comes the burden of the black hole. Members should note that what is missing from this legislation are all the essential provisions to replace those corporate taxes; provisions to ensure that Jersey residents who own companies or businesses continue to pay tax on the profits of those businesses - provisions that are vital to help fill the black hole. When studying the draft 2007 budget I note that the Treasury aims to collect approximately £200 million in income tax from

companies under our current system. Under this draft legislation before us today, we will still collect some of this tax from our 10 per cent finance companies and our 20 per cent utilities, but without robust shareholder tax legislation, well over half the £200 million will be lost. That is why it is so critically important that the shareholder tax proposals are effectively implemented to get these losses down from well over £100 million to the £80 million or £90 million predicted in the black hole. Yes, shareholder taxation proposals are promised in the second part of the Zero/10 Law due in May, and my Scrutiny Panel will examine these proposals in detail but, based on our work on the initial design proposal, my concern is that while Part 1 of the draft Law was relatively simple and uncontroversial, Part 2 will be difficult, both conceptually and in terms of legal drafting. A situation that must be avoided would be for the second part of the legislation to introduce inappropriate or inadequate measures to collect tax, which would inevitably increase the opportunities for tax planning and therefore require a draconian anti-avoidance regime to be put in place. This would send us, unfortunately, down a similar route to that of the U.K. where I am told the Chancellor is forced just about every year to bring new amendments to plug holes in the Law resulting in a highly complex and expensive tax system. This is not a desirable situation for Jersey as there could be damage to the relationship between taxpayers and collectors. Damage that would reduce the Island's ability to compete with other jurisdictions. Sir, I recommend to the House that we approve these amendments to the Income Tax (Jersey) Law today and at the same time trust that the Treasury can get Part 2 of the legislation right. If not, we will be left with an enormous black hole in our revenues and no one to plug it except the employees and hard-working families and people of Jersey. Secondly, and very worryingly, the businesses in Jersey which are owned off-Island will pay no tax under Zero/10. This not only exacerbates the problem for the States' revenues, but it also gives these businesses a massive advantage over our Island-owned businesses. It has been said that these off-Island owned companies will be no better off because they simply will end up paying more tax in the U.K., but I suggest that with the wealth of tax planning expertise available on the Island this view is probably naïve. The fact is that under Zero/10 off-Island owned businesses will inevitably be able to benefit from tax-free profits to reinvest and compete, unfairly, with our own businesses. I asked the Treasury Minister how long will it be before there are no Jersey-owned companies left trading in our Island unless he brings in provisions to protect them? The Regulation of Undertakings levy, or R.U.D.L., was the Treasury's attempt to address this problem, but unfortunately R.U.D.L. was a non-starter. It was easily exposed as cumbersome and inadequate and simply not up to the job for which it was intended. My Scrutiny Panel highlighted R.U.D.L.'s deficiencies and I expect that Members have noted that R.U.D.L. has been abandoned by the Minister. But, of course, the problems that R.U.D.L. was designed to address have not gone away. The inequity of non-locally owned trading companies contributing absolutely nothing in tax revenue still exists. My Sub-Panel has been studying alternative proposals to collect a tax contribution from these businesses and reduce this discrimination against Island-owned businesses, and we believe that we may have found a workable solution. We have shared our thoughts with the Treasury Minister and I ask him again to examine our proposals seriously and urgently for 2 very important reasons: firstly, revenue contributions from the sector will naturally be very welcome when balancing our public finances; secondly, the requirement for fair play. For the sake of Jersey's indigenous businesses, we must ensure a level playing field. So, in conclusion, Sir, of course we would have preferred to stick with our current tax system, but in today's international trading environment that option is simply not available to us. So this move today, I put it to Members, is essential in order that the Island meets the demands of the E.U. while remaining competitive with other jurisdictions. I urge Members to support the Income Tax (Amendment No. 28) (Jersey) Law today and at the same time offer their full support to the Minister, who now has to wrestle with the technical complexities that will arise under the shareholder legislation being brought to the States later this year. I cannot stress enough the importance of the Minister resolving these issues successfully and in good time. I conclude, Sir, by assuring the Minister of my Panel's continued support and involvement to assist in this process.

16.1.2 Deputy R.C. Duhamel:

Members will be aware that when we discussed these issues earlier on, not in this States but for a previous States Assembly, I voted against. The whole proposition worries me, Sir, because we appear to be creating our own black hole. From my understanding of it, we appear to be pushing ourselves further and further into only one way of fulfilling it. That means increased immigration. We have had a set of figures passed around from the department to us today which tells us how the tax shortfall has been calculated. Indeed, I am surprised, as indeed other Members must be, to note that the size of the loss, the black hole, has gone up. I thought it was of the order of £80 million and out of that £80 million we were going to have half of it secured by G.S.T. (Goods and Services Tax) contributions, which we hope to keep at as low a level as possible. Secondly, there was going to be an element of contribution from businesses through immigration of the order of the creation of 500 jobs per annum, which would contribute the remainder. We are given figures today on our desks that show that it is not £80 million; it is £120 million. That is another £40 million. What is surprising is that out of the gross losses now, as they are given to us, we are told that the potential yield from attribution and distribution basis, personal tax revenue from Jersey-resident beneficial owners of non-finance companies is only of the order of £30 million to £25 million. That still leaves a sizeable chunk, not £80 million but £80 million to £94 million. If Members do the sums - and they can only be sums because there is not much science behind it at the moment - if we consider the jobs coming to the Island to work in the finance industry and they are earning perhaps £50,000, and if we assume for the sake of argument that 20 per cent of that income, the gross income, will be paid in tax - and that is a high estimate - we get to a figure of, say, £10,000 contribution per person paid as ordinary tax as a worker in the industry. Dividing the one by the other gives rise to a potential rate of immigration which must be higher than the 500 jobs that we have been told about. Now, a lot of Members are worried about allowing the Island population to climb and climb out of control. It does strike me, Sir, that we will need of the order of 5,000 to 6,000, maybe even a few more, contributing members of the finance industry to pay their way at £10,000 each to offset the losses that we are told have arisen. I wonder, Sir, why we are doing all of this. I have had papers passed to me, and I am working in other areas now so I am by no means an expert. I am being told from the Code of Conduct discussions that this is a political argument and this is not a legal position. We do not have to do these things; we are being encouraged to do them. Indeed, when we had the discussions very early on in the day with the then President of Policy and Resources, we were told quite clearly that we would move if there was a level playing field. Now, things that are coming out from the Code of Conduct Group is that... and from the Netherlands there is a *Code of Conduct Group Report*, 27th April 2006, and I will just read a few lines: "In the opinion of the Netherlands, however, some 26 countries were participating in this exercise. The instrument of political peer pressure has worn out. The Code may have changed the landscape of international taxation, but it did not create a level playing field as was intended, and the Netherlands do not see this happening in the future with the non-statutory instrument of the Code of Conduct. The focus of national legislation has prevented us from taking necessary community actions." It goes on to suggest that: "Being a political body [the Code of Conduct Group], the Group cannot guarantee equal treatment, which is what we were doing this for or what we were saying how we were going to act. We will act if we are being treated fairly and there is a level playing field, but the body is saying that being a political body or group they cannot guarantee equal treatment or consistency and, therefore, cannot guarantee a level playing field in the long run." Now, this is not my report, Sir, this is the Code of Conduct Group, and they go on further to suggest that: "The work of the body should concentrate on establishing E.U. legislation to cut across the political processes that we seem to be tying ourselves into expecting that everybody else is going to play fairly." In business, it is my experience - limited as it is - that people do not play fair in business. You are out to get as much as you can for yourself and for your families and for people you think about, not other countries. So, as I say, I am not convinced at this stage. I certainly was not convinced a number of years ago when I voted against the principles that there is going to be a level playing field. If and when it comes, it is certainly not going to be 2008. It

might well be 2018, in which case we have a lot more time to consider how this Island sets out fairer, in my view, ways of taxing people and moves towards a betterment of the systems that we have in place which do pick up on the principles of fair play across the board, taking into account E.U. interests as much as our own. I could go on, but I think because this is solely about the preamble, bearing in mind that I did vote against the principle in the first place, there is nothing that I see here, Sir, that fills me with confidence that if we do support these principles... even though it is late in the day, I would hesitate before I put my name to them and would suggest that we think again, even at this late stage. If we do not, I think we will have the chicken coming home to roost and it might well be that we are going to have to accept a greater move towards immigration into the Island, which is what some of us do not particularly want. I mentioned at one of the previous meetings of States' Members, in discussing these things about 18 months ago, that in assessing any economic migrant to Jersey what we should be doing is not just looking at how much they are going to pay by way of tax contribution - which may or may not be guaranteed - but to try and find some fairer way of assessing the amount of monies that would have to be expended by the Jersey Government - by us, by the States - on providing not only for those persons working within the finance industry or elsewhere, but indeed for the other people who can and will and should come with them. For every economic migrant there may well be children, there may well be non-working spouses, and all of these people coming to the Island will have to benefit in the services that this Island provides by way of health and education and all the other things to boot. To merely say that for every economic migrant coming to the Island we do not have to worry about those things and we just look at the one side - the plus side - that you are going to get your £10 grand per person or whatever is not really playing the game. I think I begin to be a little bit more comforted if indeed on the back of the policies which indicate that we must be suggesting that there are at least of the order of 500 job opportunities required - in my calculations I think it is going to be more than that, and if it is not more than that it is certainly 500 per year for at least 10 years, so that is another 5,000 jobs overall, plus all the people brought over as part of families - I think we should really be assessing how many people first of all we would like to see come to the Island and to try and put a figure on it in terms of the infrastructure costs that every particular person coming to the Island needs to be supplied with. Without those figures, Sir, I cannot possibly put my name to this and unfortunately I will have to vote against it. Thank you, Sir.

16.1.3 Deputy S. Power of St. Brelade:

I too have concerns about the figures that were circulated this morning. On page 2 of the Treasury's tax shortfall, I would like further clarification from the Treasury Minister as to how the gross loss which is now indicated of between £107 million and £119 million has gone up from the indicated loss of £80 million last early autumn. I would like clarification from the Treasury Minister on that. I would also like clarification from the Treasury Minister on some comments that were made by the Director General of the European Community Internal Market Financial Services last summer, Mr. Gerben Everts, when he said that the European Community as a whole has no reason to be negative about Jersey as a finance centre and that we should let market forces rule and promote competition. In other words, what he said was we should carry on just what we are doing for the time being. So, therefore, my interpretation of this gentleman's comments is that our finance industry is free to carry on its rapid expansion. But no doubt there will be opposition to abandon Zero/10 despite its huge complexity and administration cost to the industry. With finance related business already exceeding a £billion in Jersey, and that yields over £200 million in profit to the Jersey economy, I think to damage this now will cause us even further problems in the future. I think Deputy Duhamel and Senator Perchard also referred to expected tax losses in yields and I have huge concerns about that. Where I stand at the moment I am also opposed to the Zero/10 proposal and I will be voting against this today. I do not think we need it. I do not think it is a level playing field under E.U. Code of Conduct for Business Taxation. We do not need it and we do not need to be obliged to adhere to it. It always was voluntary anyway. It advertises us as a zero tax haven. The Institute of Directors has said that Zero/10 is too complex. There are large

deficits and we cannot afford it. Finally, can I remind Members that the finance industry is booming. I said it has made over a £billion profit in the last year and has generated £200 million in tax. We will lose some of that. There are other factors that I worry about, slightly different to Deputy Duhamel. We have an ageing population and we have higher projections for inflation ahead. There is a concern out there about indirect taxes. Cost of living this year is 3.6 per cent. The Citizens Advice Bureau says that we have over 2,000 on the Island with debt problems as it is. Large Jersey companies will not have to pay any tax soon. So, Sir, I will be opposing.

16.1.4 Deputy G.P. Southern:

I come on the end of a chain of people expressing reservations about this proposal before us, and I hope I do not differ too much from my own Chairman on the Corporate Services Zero/10. But, as he knows, the words on a black and white page cannot express reluctance or any other emotion to agree to any particular statements. Nonetheless, my Chairman has expressed quite well a lot of the reservations we have about what is proposed before us today. Perhaps the first thing to state is that there appears to be a certain degree of naivety attached to the proposals as they are developing, not least because as we move further down the line to Zero/10 we have to accept that we are introducing a multiple rate of taxation. Taxation will be 0/10/20 per cent in this Island, not - as it has been in the past - 20 per cent. To suggest that that will not make a difference in the co-operation intrinsically and hitherto met from large sectors of society with paying their tax... if everybody is paying 20 per cent then fair enough, everybody tends to co-operate. Where is the advantage in moving income around in order to avoid tax? As soon as you introduce a multiple tax rate you introduce the possibility of getting more of your income on to one of the lower rates. That is a marvellous incentive for anybody to manage their tax who previously might not have considered it. On that, the Treasury Minister has the following to say. It is on page 23 of our report. The Minister agreed that Jersey's tax system was becoming more complex and I quote: "I do not think the days of simple tax, the days of dead simple tax, are over. I do not want to make it any more complicated than I can possibly avoid." I say: "But nonetheless, it is becoming complicated." To which the Minister replied: "It is becoming more difficult than it was, but I think the political direction, if you like, to the Comptroller of Income Tax would still be to try and apply a lighter touch." The Comptroller of Income Tax is not going to be able to apply a lighter touch. He is vigorously beefing-up his anti-tax avoidance measures. He is beefing-up 134(a), taking on unprecedented powers hitherto on the Island to search, to sniff, to hunt down any measure that he deems to be essentially there for tax avoidance. So it will not be a light touch and as that, if you like, tacit agreement between the taxpayer and the tax hunter is broken by increasingly rigorous methods, then the problem exacerbates. In introducing these multiple tax rates we are inviting some tax loss greater than we currently meet. But the problem gets worse, I think. It is not just the anti-avoidance measures which we are going to have to start hunting-down tax avoidance with, breaking the hitherto relatively straightforward relationship between taxpayer and tax gatherer. My Chairman correctly gave due praise to the Minister for removing a lot of the material - the detail - which we considered to be either unworkable or difficult or downright impossible. However, that has not taken the problem away. All the Minister appears to have done is parked those problems. Those problems still need solutions and those solutions will be difficult solutions, not least where there is still a possibility of the company acting as agent for the shareholder. Now, these are the sort of measures that we have backed away from, quite rightly, but which the Isle of Man has gone for: company acting as agent for the shareholder in order to obtain taxation. Those measures, we suspect, will not pass the E.U. Code on Business Taxation, and yet we have parked this solution and the only solution seems to be... and again I turn to our report on page 28 where we say: "Any shareholder who *in extremis* cannot pay the deemed distribution charge because distributions have not been received from the trading company in which he has a beneficial share may claim not to be assessed on the deemed distribution, the notice of assessment being raised instead on the trading company itself as agent for that particular individual shareholder." Now, that is going to ride straight into the buffers of E.U. business taxation. We cannot go there. Why is this important?

Because this is a mechanism for making sure that we extract all of the taxation that we think we can get legitimately from companies and shareholders on the Island. Every time we do not go there or cannot go there, we lose some more revenue. Where is that revenue to fill the black hole- the so-called black hole - going to be made up from? It is going to be made up from residents on this Island paying income tax, G.S.T. and suffering '20 means 20', whether middle earners or lower earners. This is effectively transferring the burden from companies to ordinary working people, and that is the net effect. So, once again I shall not be voting for these measures and I cannot bring myself to vote for them because it seems to me we made a poor decision in going down this route in the first place - and I voted against it - and it seems to me the more we try and fudge and mix and match and mend the worse things are getting. This is no better illustrated than the proposal to extract something from non-resident-owned shareholders of zero-rated companies on the Island. The original attempt was a so-called R.U.D.L. charge which a mere glimpse revealed was not going to be able to be made to work. It was a non-starter from the very beginning. However - and here I differ from some of the Members of my Panel in putting any faith whatsoever in the Schedule A so-called Blampied proposals - my assessment of what we have been advised by the accountants is that a deemed rent payable by a company is a non-starter completely; the U.K. Government will not even look at it for double taxation purposes; that a real rent paid to a company set up solely with the function of owning the property and receiving the rent may be deemed as qualifying for double taxation, thereby not disadvantaging that company in the Island, which is what the Treasury Minister is aiming for. I have severe reservations that that "may" can be transformed into a "will" and will qualify. I believe that further investigation - and that investigation must be done and must be done absolutely thoroughly - will reveal that even that method of extracting some money from foreign-owned non-finance trading companies will be closed to us. Each time we do that we lose some more revenue, and each time we do that it brings us closer, ever closer and closer, to the day when the circumstances have changed to the extent that the Minister will be forced to raise the rate of G.S.T. That has always been the case. Provided that the black hole is not greater than we imagine it to be or predict that it is going to be, then I will stick to 3 per cent, says the Minister. The day is coming closer when that 3 per cent may well have to be raised because we do not have any other alternatives. So, on those 3 grounds alone, on the complexity and the anti-avoidance measures required, on the parking of problems which we have no evident solution for which add to the size of the black hole, and on the hope that we can get something from non-resident, non-finance trading companies in the Island, it is little more than a hope. I will be voting against this measure again, even at this stage, and I would urge Members who have their doubts to make sure that they vote against it as well.

16.1.5 Deputy R.G. Le Hérisier:

I will not go into the detail previous speakers have gone into. I wonder if I could ask one or 2 naïve questions; purposely naïve questions? I have always been intrigued, Sir, and I have never quite got to grips with it and we are still obviously struggling with it; this issue of the fact that the finance industry itself will pay a special tax of 10 per cent. Every time that has been mentioned the Treasury Minister has always been pressed to say: "Well, can you give us the proof that the E.U. accepts it?" Skilful politician that he is, he has never been able to come here and shake a letter around and say: "Here is the categorical assurance." His latest assurance today is of the nature that no one has told us it is not going to be outlawed, which is not the highest level of enthusiasm. So I wonder if he could clarify that. But what intrigues me further - and this is another naïve question - is this issue of why this is justified in the report on the basis of being allowed because it only applies to a limited sector of the economy, whereas generally zero per cent would be acceptable. It strikes me, Sir, if you are applying this to the main driver of the economy, it is very hard to call that a limited sector. If it is a limited sector, why on earth can we not apply that to the other parts of the economy, particularly to rectify these incredible gymnastics we are having to perform and which have not as yet resulted in any happy landing; these incredible gymnastics where locally based companies are to receive equal treatment to those who will not be paying tax and who are owned

beneficially elsewhere. I found that always very difficult. Just a general point, partly to answer on behalf of the Minister to people like Deputy Southern, while it is good to talk about the Isle of Man, we have got to remember that the Isle of Man went in a very substantial way decades ago down the indirect taxation route with, of course, V.A.T. and it has a most generous settlement which it receives every year from the U.K. Government. That gives it a flexibility which we, with our very simple tax system, of course cannot offer. That is all I would like to say, and to congratulate the Scrutiny Panel. It is a great pity we never had the answers, but I know how they struggled. Thank you.

16.1.6 Senator F.H. Walker:

With the exception of that last speech and, of course, that of the Minister and Senator Perchard, we have heard some staggeringly ill-informed speeches in this debate. Staggeringly ill-informed. I would say to Deputy Duhamel, Deputy Power and Deputy Southern that the speeches they made - the fact that they are voting against this proposition - amounts to nothing less than playing Russian roulette with the whole of the Jersey economy and the livelihoods of everyone in this Island. Deputy Duhamel starts off from several false premises. He suggests that the figure - the black hole so-called - has gone up. It has not. Effectively it has come down, albeit only slightly; in effect it has remained reasonably static. Comparing like for like is not what he is doing. He has got his figures completely wrong, which suggests a considerable lack of research into a very important topic. Therefore, his concerns as expressed in his speech about yet more immigration are totally again without foundation. I can tell the Deputy this, Sir. If we did not introduce Zero/10 then the last thing that would be worrying Deputy Duhamel would be inward migration; that is the very last thing that would be worrying him. In fact, he would be very seriously concerned about where the future of Jersey lay for everyone who relies on the Island for their livelihoods and, indeed, where it lay for their families as well. But the alternative, as was argued very strongly and accepted by all but I think 4 Members of the States last time Zero/10 was debated, is awful. If we think the black hole is a problem - and, of course, it is, hence the debate and the need to come up with measures to fill the gap, as it were - then we really do not want to look at the alternative. The alternative is far, far worse. If there are any concerns among Members about increasing the rate of G.S.T., well, vote against this proposition, see what happens to the economy, see how public services have to be funded then without the huge contribution from the finance industry and all the consequential knock-on effects, and then take the choice. What do you want? Massively increased taxation or massively reduced public services? Because you will need one or the other, if not both. So I urge Members who have spoken against this proposition, Sir, to do their homework again. They have failed totally to come up with any alternative, other than Deputy Duhamel who said: "Do not bother to do it" based on some comment from a European official. Where is Deputy Duhamel's research into the attitude of the Code of Conduct Group? Where is it? Of course the Treasury and Resources Minister is kept fully up-to-date with where the Code of Conduct Group are at all stages. We have very close contact with the U.K. Treasury so we know there is no question of the Code of Conduct Group accepting a position where Jersey just ignores the Code of Conduct generally and carries on going as we are. We would love to carry on going as we are. Who would want to create this position if we did not have to, either because of E.U. position or because of competitive pressure? Who would want to? But the fact is if we want to protect our economy, if we want to protect the Island, we have no choice. I think Members should note that none of the speakers in opposition have come up with a single alternative to Zero/10 other than do nothing, which is complete and total fantasyland - absolutely impossible - as verified by what I think was a very well written, knowledgeable and informed report from the Corporate Services Scrutiny Panel and, indeed, the speech from its Chairman, Senator Perchard. I am quite amazed also that the Scrutiny Panel, having spent much time in assessing the evidence, finds its own findings now opposed by (a) a member of its Panel; and (b) the Chairman of the Chairmen's Committee. They are always telling Ministers that we should follow, listen to and accept the findings of Scrutiny. It seems to me, Sir, like a little bit of double-handedness in this context. There are issues to be resolved; that

has been well acknowledged by the Treasury and Resources Minister. We all know there are issues to be resolved. They have been very well highlighted by the Scrutiny Panel and I think they have done the States a service with the clarity of their comments and recommendations. There are issues to be resolved but the alternative to adopting this legislation simply does not bear thinking about. I would urge Members not in any way to be swayed by totally ill-informed comments lacking in any real knowledge of the subject at all, comments which have failed totally to face up to what the dire alternatives are. They would lead this House and this Island into a grievous state if the House stopped to listen to those sort of comments, and I urge the House to listen to the informed research background put forward by the Treasury and Resources Minister and endorsed by the Scrutiny Panel. I would strongly urge any Member who has the future interests of Jersey at heart to fully support this proposition.

Deputy G.P. Southern:

On a point of information, Sir, the 3 points I pointed to are clearly illustrated in the report and do not constitute a difference of opinion at all.

16.1.7 Deputy J.A.N. Le Fondre of St. Lawrence:

Members will probably be delighted that I am not going to speak for very long on this at all. I think the Minister, Senator Perchard and Senator Walker have spoken well enough on this subject for Members to understand the issues. I did have some scribbles down in response to some of the earlier speakers and I will just reiterate the point to clarify that on the handout sent around by Treasury it is obviously the bottom line of figures that is the crucial figure, i.e. the bit that says 79 to 94 rather than the subtotal that is immediately above it. My understanding has always been it always has been £80 million to £100 million, certainly as long as I have been in the States, which is not obviously as long as others. It certainly has not gone upwards; if anything it has gone fractionally downwards. As has previously been mentioned, broadly speaking it is static. We tend to use about £90 million in any forecasts that we are trying to bring in terms of budgets, *et cetera*, looking ahead. The fiscal strategy has been debated and approved by this House on a number of occasions and this legislation obviously represents phase one of the implementation of Zero/10. It is designed to start giving industry the clear sign that this is our intention and to demonstrate our commitment to the finance industry. It is an extremely important milestone in the reform of the Jersey tax structure. This is not necessarily something we would choose to do, but it is something we need to do. From the finance industry perspective, it will also address the present and growing level of competition we face internationally. We continue to consult with representatives of the finance industry and, broadly speaking, they are happy with the proposals being brought forward today. There are still outstanding issues; we are all aware of it. The whole area of the proposed shareholder taxation and anti-avoidance measures is complex and for this reason the legislation has been split. These proposals in front of us now are relatively straightforward and allow us to give a degree of certainty to the future. Companies will generally be taxed at zero per cent with the exception of the finance industry, which as we have heard will be taxed at 10 per cent and utility companies will continue to be taxed at 20 per cent. I suppose in relation to Deputy Le Hérisssier's query, I am sure the Minister will be addressing that in his summing-up. My understanding is that the Code of Conduct allows a special rate for specialised sectors of the economy, or rather one specialised sector of the economy has always been my understanding. As I say, I am sure the Minister will elaborate on that one further. I would like to commend Scrutiny for their sensible and intelligent work thus far and for their constructive approach to the proposals in general terms, obviously. There are bound to be tweaks as we go along and there are bound to be tweaks that will need to be made to this legislation because this is probably the most fundamental change to Jersey tax legislation possibly ever, except with the minor exception of when tax was ever first introduced. I would be amazed if we got it 110 per cent right for the first time, purely because I am a naturally cautious person. The tax professionals I have spoken with are broadly supportive of the proposals.

A lot of work has been done so far and we know we do have more to do in the next few months. This is phase one of the proposals. I do hope Members will show their support. Thank you, Sir.

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

I would like to just concentrate on 2 very general points to do with this whole issue. Obviously as the Chairman of the main Corporate Affairs Scrutiny Panel, I think it is probably appropriate that I try to leave the detail to Senator Perchard as the Chairman of the Sub-Panel looking specifically at Zero/10. Therefore, that is why I will just try and just look at 2 wide-ranging general points of perspective for the future of the whole of Jersey's fiscal landscape, really. I think it was Senator Le Sueur in his opening address who said that Zero/10 is "an important part of the fiscal strategy." I think that is probably understating it, really, because the Zero/10 or the need for Zero/10 is probably the single main driver of a change to our fiscal strategy in the first place. So it is not an important part; it is probably the starting point of the whole of the changes to our fiscal strategy - although admittedly there are others - which is to do with the question of whether our finance industry is competitive in world terms at 20 per cent. Therefore, there is another driver which was that we needed to probably reduce taxation for the finance sector to be competitive. It may have been him or it may have been Senator Perchard who mentioned that there was a plea to keep the Law simple in the future if we were going to do it. The first part of the changes which we are seeing today are, in fact, the simple part. Can, though, it be separated from the second tranche of legislation to come? I am not sure whether it can or whether it cannot, but certainly the second part is going to be much more complex. As we stand after this debate, and assuming that it is passed by the States, the black hole will stand. At that point the black hole will stand at 100 to 112; that is the range of million pounds. It will stand at £100 million to £112 million. The second tranche hopefully will reduce that to £79 million to £94 million as annexed to the Treasury Minister's report that we have in front of us here. I would like to, though, just point out some choice of words, both from Senator Walker just before when he talked about Russian roulette, and I would like to point out Senator Perchard's words, which may be also similarly a little bit over the top when he used the words "draconian anti-avoidance." Those are 2 quite strong phrases and I would like to try and bring a little bit of moderation, if we can, back into the debate. There will certainly need to be increases and the robustness of the anti-avoidance laws to come will certainly need to be there, but it could well be said that, in fact, the anti-avoidance provisions in the Law needed a little bit of beefing-up anyway. There are good reasons to believe that regardless of Zero/10 some of the anti-avoidance provisions needed some little bit of attention in any case. I would like to really move to my general point, and it is one I think that Deputy Duhamel took some time to talk about. It is the question of this level playing field. The fact is that the European Code of Conduct on harmful business taxation is just that; it is a Code of Conduct. As such, it is soft law. It is not hard law. It is not legislation. It is soft law. Unfortunately, the problem with soft law is that often it is not as strong, there is much more of a political process, there is much more of a political will to comply or needs to be a political will to comply rather than a legislative situation which enforces compliance. In that respect, frankly, he is right when he says that there is not going to be a likely black and white level playing field that will be in place on this. It is true to say that some E.U. members continue to operate tax systems with elements that could be described loosely as being outside the principle of the Code if not exactly outside the exact wording of the Code. The U.K., for example - admittedly this is not a business tax but certainly in the area of personal taxation - the U.K. itself, with its U.K. residency and non-domicile regime for personal tax, is perhaps a large case in point. The U.K. could be described in this respect as being one of the world's largest offshore tax jurisdictions when it comes to personal tax. If you have ever wondered why there are lots of very wealthy people who live in the U.K., Russians and others, it is largely because of that personal tax regime. But - and a big but, this is a really big but - this whole situation is a political process and with politics comes reality. Reality must rule. Reality must dictate our decision and here I am in complete accord with Senator Walker, although I would perhaps not have used quite some of the language that he used when he was talking about reality. Some of the language he used is perhaps

not the best conducive to persuasion. Some of it was quite ... well, likely to put people's backs up. I would like to talk to Members that are not specialists in these areas and talk to them about reality and the reality of the situation: the reality with regard to our relationship with other countries, our E.U. neighbours; the reality principally with our special relationship with the United Kingdom. We cannot afford to ignore that. A position that proves embarrassing to the U.K.'s own position *vis-à-vis* its European partners is... well, I am using the word "unlikely". I would go further: it is absolutely certain to not prove beneficial in turn to our relationship with the United Kingdom. We must be realistic. We really must for the sake of everybody in the Island. We cannot afford to be other than realistic. I am sorry, but that is a fact of life. Just going back for a second to Senator Perchard's words about the draconian anti-avoidance that we are going to need in order to get back the £30-odd million... well, in the papers here it is £18 million to £21 million, the potential yield from the look-through provisions on Jersey-resident beneficial owners of non-finance companies. There is a risk - and it is a big risk - that we are heading towards a position whereby, in fact, income tax itself becomes increasingly unfair and untenable. I do not know how far into the future we are talking about here, but there is certainly a risk that as a means of applying progressive taxation we are undermining that. I think Deputy Southern referred to it as well. I think, though, that this risk is not a risk that the Treasury Minister is not fully aware of. He absolutely is, I am sure, and I know through conversations through Scrutiny Panel investigations with him he well understands this risk. I would turn to the front page of his written introduction here to Zero/10, in fact to the first paragraph where he says, second sentence: "The new system, part of an agreed package of reforms to Jersey's tax system to shift from direct to indirect taxation." That comes from Senator Le Sueur and I think he understands - and we all understand - the dynamics that are going on with our taxation system. We will, over a period of time, need to shift certainly some of our tax base to indirect taxes. There is no getting away from it. We need to understand this and we need to come to terms with it. Now, the implications as regards G.S.T. rates and everything else, we are not at the point where we can decide what those implications are in detail. But they are there and we need to bear it in mind. I think it would be wrong to be other than absolutely honest with the public. This is what is happening and we cannot avoid it. So, I will just go back finally before I cease to Senator Walker's speech when he talked about Russian roulette. I would just like to emphasise to those Members that are thinking that maybe they should not vote for this: absolutely we have no choice. We absolutely have to go for Zero/10. That is my analysis. I have looked at everything. I have tried to be as open-minded and listen to as many of those people who say we really do not need to do it, we should not have to do it and why do we feel intimidated in having to do it. The reality of the matter is that we have to go with, we have to become part of the modern world and that means that harmful tax practices, business taxes, we need to address them. We need to keep our credibility with the rest of the world and particularly the United Kingdom and, ladies and gentlemen - Members - there is no choice and I will be supporting this. Thank you.

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

It is a pleasure to follow that measured speech and I am slightly nervous that what I am going to say will cause a member of the Council of Ministers to spring to his or her feet and give my mouth a washing out the way the Chief Minister did with several people who spoke earlier. The Chief Minister did say that none of the previous speakers who question the implementation of Zero/10 have produced a single alternative measure. I am not going to suggest an alternative measure. I am going to suggest an additional one, which appears to have been left out by the Treasury and Resources Minister. It certainly does not appear anywhere on the fiscal strategy timeline that has been circulated, which is surprising because under the year 2005 we are reminded about the G.S.T. proposals, the income support, the environmental taxes, I.T.I.S. and so on, but not a single reference to the measure which led me to support the fiscal strategy. That is why I rise to speak and that is why what I want to add to the debate is, I hope, not irrelevant. I had hoped to follow the Assistant Minister of Treasury and Resources because it is him, I believe, who has been tasked with co-ordinating an investigation that has been running for some time now in conjunction with the

Jersey Evening Post called the Public Purse Campaign. It was the urgent need expressed by many members of the public - and certainly one which I shared - to address the issue of States' expenditure that led me to be extremely reluctant to support the fiscal strategy particularly insofar as it proposed the introduction of a Goods and Services Tax. Indeed, Zero/10 perhaps even more so has raised many concerns with people who regard it as unfair for many businesses. It was in response to the specific assurances from the Council of Ministers that they were tackling the issue of States' expenditure, they were going to save £20 million per annum, that I supported the fiscal strategy. I have already mentioned in the House once before when we were debating G.S.T. how disappointed - that is not a strong enough word - astonished I was when after the Council of Ministers was formed the first thing to go, the first thing to come off the radar it seemed to me, was the savings and we were told those were going to be, in a wonderfully Orwellian phrase, reinvested in public services. There is no reference in this timeline to public sector savings. I am sure I will be assured shortly that they are ongoing and that they are significant, but I was concerned at a recent presentation by the Council of Ministers at the start of the year when the Assistant Minister responsible, as I said, for this campaign seemed to indicate to States' Members present that no significant new savings had been identified in public sector expenditure. This, it seems to me, is extremely disappointing. I want to urge the Treasury and Resources Minister, assuming that we move forward to Zero/10, to get the message across not only locally but also abroad as to why we are doing it and as to what changes should come about. I say this for 2 reasons. At a recent presentation by Jersey Finance I was sitting next to a senior member of a financial services institution and I said, possibly a bit smugly: "I suppose everyone is really pleased now we have sorted out a fiscal strategy and we are moving to Zero/10?" and he said: "Well, if I am honest, it is not much to do with that, it is because the financial markets at the moment are so positive and we are all feeling very buoyant." Well, I was a bit disappointed in that and I have been assured by other people that the financial services industry in general... and we must respect the Treasury Minister for the comprehensive consultation exercise that he carried out with local institutions. We must assume that they are happy with what we are doing otherwise I am sure we would have been told otherwise. But it does seem to me that we really have to get this message across not perhaps so much locally but globally because I am sure every Member finds it annoying when they are asked where they come from and they say they come from Jersey. That message simply has not got out there. We are still regarded as pursuing all kinds of harmful tax practices and so on. I remember thinking this after the *Edwards Report*, that we subjected ourselves to the scrutiny of the *Edwards Report* but how much capital did we make out of that? Do people out there know how far our financial services practices were adjusted in the wake of the *Edwards Report*? I do not believe they do. I think that we really need to get the message across that whether or not there is a level playing field afterwards Jersey wants to be out there at the forefront of well-regulated and fair tax centres. Just in closing, I would like to observe that again at the recent Jersey Finance reception that I attended, we were shown a book that was described as a coffee table book on the finance industry and the first of its kind. Very useful it is, too, to market Jersey as a place to do business, but it did occur to me that there has been, as far as I am aware, no serious academic study of Jersey's finance industry and the development of it and our efforts to move it and develop it and make it better regulated. I may be wrong, but I am aware that there are academic studies being written against the Jersey financial industry by quite distinguished academics and I think it is high time that the Treasury and Resources Minister addressed the fact that there is not a study of what Jersey has been doing since the war to develop this important part of our economy.

16.1.10 Senator P.F.C. Ozouf:

The Constable would expect me to rise after his remarks, I think, to address 2 issues, and no doubt the Treasury Minister will wade-in afterwards in his concluding remarks. I will not propose to deal with the merits or otherwise of the direct issue of Zero/10 because that seems to me to have been comprehensively dealt with by other speakers. When people like Deputy Ryan stand up in this Assembly and they say they have researched it and they are convinced, then I hope that other

Members will be convinced, too. The Constable of St. Helier has used this opportunity of going back and reminding the Assembly that the original fiscal strategy that was put forward by the then Finance and Economics Committee and the component part of Zero/10 had other aspects to it. He raises the issue of spending. He reminds this Assembly of one aspect of the package, and that was the commitment to cut public expenditure by the tune of £20 million. It is fair to say it is probably an open secret - it is a good open secret - that the Council of Ministers consists of people who favour public expenditure increases and those that are slightly more hawkish. That is a healthy debate and it is a healthy situation to have on the Council of Ministers. I would describe myself as a hawk in relation to spending. But what I can say is that I was absolutely persuaded - and this Assembly was persuaded - by the proposal of the Council of Ministers and the Treasury Minister to effectively invest some of the savings and we do not want to be under any illusion here. There are 2 aspects to the savings debate which the Constable is saying. The Constable seems to suggest, and seems to want to represent, that savings have not been made. The savings are being made and they will be made to the extent of the £20 million. That is a fact but this Assembly has decided that it is going to spend some of it. It is going to spend some of it, investing in public service, and it is a healthy situation to have on the Council of Ministers.

Senator B.E. Shenton:

Are we discussing the draft Law or are we discussing...

The Deputy Bailiff:

I think we are all beginning to wonder.

Senator P.F.C. Ozouf:

We are not discussing the draft Law, but the Constable raises the important issue and gives justification about why he may not be wanting to support the principles of the Law by saying effectively that the proposals for Zero/10 have been not followed through. I just think that that issue needed to be corrected and I have done so in respect of Senator Shenton, looking quite smug as he normally does, [**Members: Oh!**] but effectively, it cannot be the case when we are discussing important issues of fiscal strategy that one Member can get away with suggesting that effectively savings have not been made. That is because they have been made, and let the Constable's remarks also not let him get run away with himself in relation to the issue that savings can continue to be found. If he has got savings in departments, then let him tell us where they are because it is always difficult when people have to come up with detail. I am a hawk and I do not believe that there is great scope to effectively set aside important issues such as Zero/10. I will just deal with, very quickly, 2 other issues which he raised. I was surprised to hear him say of the apparent lack of awareness of the issue concerning Zero/10 and its consequences and its important positive consequences on the future economy. It is quite right to say that the global economy is growing, but you also have to be aware that you also have to put yourself in the right position to take advantages of growth in the global economy and, effectively, if we would not have put in place the clear indication that we were going to put in Zero/10, we would not be seeing the quite expedient growth that we are doing in financial services at the moment. You have to put yourself in the right position. You have to set out your stall and say not only that you are going to put in place measures of Zero/10, *et cetera*, but you are going to have to put in place fiscal policies to pay for them. Yes, the finance industry is growing, but it is growing because people have had confidence and certainty in relation to the different measures for financial services, and he says interestingly that we should carry out more research; that we should go and get academics to come and investigate and do comparative benchmarking of fiscal policy. Well, I would say to him that that costs money and with one side, he is saying that we have to save money and on the other hand, he is saying that we have to spend it. The only thing I will say, in conclusion, is the good news is, is that Jersey Finance is getting £1 million of taxpayers' money in relation to doing a marketing job. I am very assured by the new Chief Executive and the remarks that he has made and the way

in which he is going to develop Jersey Finance into being very focused on research and development. We have moved on in relation to just simply flag waving, and there is a huge opportunity out there, as he rightly says, to go and raise the flag about what Jersey is doing in a much more focused, informed research-focused way, and I am certainly looking forward to developing a very good relationship with Jersey Finance to seize the opportunity which will exist for Jersey, in the next few years, once we have put in place measures such as Zero/10. But let nobody be under any illusion, there is no ducking from the issue. We need to deliver the principles which is what this principal debate is all about.

The Deputy Bailiff:

Does any other Member wish to speak on the principles of this legislation? Very well. I call upon the Treasury Minister to reply.

16.1.11 Senator T.A. Le Sueur:

Thank you, Sir. Yes, I said in my opening remarks that I was not going to speak at length about the fiscal strategy or the need to move to Zero/10 on the assumption that we had gone over all that ground before. It was old news. Sadly, one or 2 Members who were opposed to the principle then, have taken today as an opportunity to restate their opposition and I suppose the one thing I can say is at least they are consistent in their approach. I think it is a very narrow approach now that we have agreed a course of action. If I take now comments from some of those who have spoken and firstly, I would like to thank the Chairman of the Sub-Panel of the Corporate Affairs Scrutiny Panel for his comments which, although supportive, did indeed raise some questions which need to be answered and I am pleased to say that I am happy to work with that Sub-Panel in order that we do achieve those answers and achieve the right answers. One of his early comments was that he was disappointed that I had withdrawn Article 115(a): consideration about superannuation funds. It has not been withdrawn but, as I said to the Scrutiny Panel, that needs to be looked at in conjunction with proposals for Schedule A on rents and we shall look at those both together. I can assure the Chairman that having spoken today to Jurat Blampied about the proposals he and I will be quite happy to work with Senator Perchard in order to achieve a result with the proposals which will be, hopefully, a solution. I accept Deputy Southern's question that it might not be a solution. Nothing in this life is certain, except taxes. **[Laughter]** But what I will commit to is to working with the Scrutiny Sub-Panel to ensure that no stone is left unturned in order to explore that possibility and I am pleased again to reiterate and to thank the Panel for their help so far. Senator Perchard is quite right, and I think other Members have mentioned this, that the legislation dealing with shareholders will be more complex; it will raise anti-avoidance issues, which may be more complex but that is not what is before us today. That is a matter for another day. Another day, which I confer with Deputy Ryan, should not be too far away in order that we have even greater certainty for the future. To the comments of Deputy Duhamel and Deputy Power, I am not going to respond in detail. I think Senator Walker has done some of that, but just to reiterate that the attempts which I made to give Members more information, perhaps as often happens, seems to have backfired slightly in that Members managed to interpret it in the wrong way. But what this paper was showing was a calculation on a like-for-like basis with the original figure of a net loss of £80 million to £100 million and the current figure of a net loss estimated, and I stress estimated at £79 million to £94 million. So, as my Assistant Minister has said, we are still very much in the same ballpark. Deputy Power also suggested the Institute of Directors find Zero/10 too complicated. I am not sure where he gets that information from because I thought the submissions from the I.O.D. (Institute of Directors) were generally quite supportive. I think he also questions why we need the move to Zero/10 because the finance industry is already thriving, and I think the finance industry is already thriving precisely because they have the confidence that we know where we are going. Deputy Le Hérissier asks about whether the E.U. can really accept a situation where a significant by value section of that economy can be treated as the exception to the rule. All I can say to him is that the policy that that Code Group adopts - and I said it is a policy, it is not legislation - but the policy

they adopt is that they look at numbers of companies rather than values of tax. In terms of numbers of companies, the number of companies involved in the financial services industry is a relatively small proportion of the number of companies as a whole. Yes, we could possibly extend the exception to another sector or 2, so as long as it was still that way, but that is, in my view, simply opening up greater grounds for questions when I see no reason for doing that when the revenue effect for us would be relatively small. I believe that what we are doing, we are going about it the right way. Deputy Southern makes the point, quite correctly, that the effect of these moves to Zero/10 is a transfer of the burden from the corporate level to the shareholder and eventually the individual taxpayer level in Jersey. That effect, I think, was noted quite clearly in 2004 when we discussed the original proposals and that is, if you like, one of the down sides or up sides, depending on your view of fiscal strategy, but it is a consequence which was known then and is known now. Deputy Southern also questions whether the proposal of the company acting as an agent *in extremis* would be acceptable. Certainly the most categorical advice I can give to the Deputy, and to the Members of the House as a whole, is that this draft law has been forwarded to the U.K. Treasury and the U.K. Treasury responded yesterday to say that the U.K. Government welcomes and supports the efforts made by Jersey to develop a taxation strategy aimed at meeting Jersey's commitments under the E.U. Code of Conduct. Now, they have not said categorically, yes. What they have done is said that, in general terms, they welcome and support the thrust of what we are doing and that I think is as far, or even further, that one can reasonably expect the U.K. Government to go and I am very grateful for their comments and support that that indicates. I thank Senator Walker for dealing with some of my problems instead of having to go over them again. Deputy Southern makes one other comment about the anti-avoidance provisions and the suggestion that they might need to be at a draconian level. I do not believe that that is the case. I believe that in fact, I think, it was Deputy Ryan who suggested that anti-avoidance provisions need to be robust rather than draconian and there is a difference. I think the Law needs to give the Comptroller sufficient powers to deal with anti-avoidance. He needs to apply them in a way which is not too heavy-handed or draconian. I really suspect that most of the issues dealing with the principles of this Law have now been covered. Deputy Le Fondre reminds us that the tax professionals that he says he has spoken to and I have spoken to are almost universally in support of this move to Zero/10 and that, as Deputy Ryan says, our decision has ultimately to be worked on the basis of reality and it is reality that we are facing. The Constable of St. Helier queries why in my fiscal strategy timeline I did not refer to other aspects of fiscal strategy. I suppose it is on the same principle of trying to keep it simple. Today is a debate about the Zero/10 and this fiscal strategy timeline refers to those items relating to Zero/10. I could have given Members, and I have it in my pack somewhere, a 2-page A3 spreadsheet of all the different aspects of different tax law and I think the effect of that would have been to thoroughly confuse three-quarters of the membership of the States and I did not want to do that. I wanted to keep it simple. I hope that that timeline, which we need to adhere to, is simple but, above all, is clear to Members. I thank Senator Ozouf for putting the matter straight as far as spending is concerned and reminding the House that it is this House that ultimately agrees to spending. I think, Sir, that is probably all I need to say in respect of the principles of this Law, which I maintain and I ask for the Appel on the principles.

The Deputy Bailiff:

Very well. The Appel is called for on the principles of the draft Income Tax (Amendment No. 28) (Jersey) Law. I invite Members to return to their seats and the Greffier will open the voting.

POUR: 44		CONTRE: 7		ABSTAIN: 0
Senator S. Syvret		Deputy R.C. Duhamel (S)		
Senator L. Norman		Deputy G.C.L. Baudains		

		(C)		
Senator F.H. Walker		Deputy J.A. Martin (H)		
Senator T.A. Le Sueur		Deputy G.P. Southern (H)		
Senator P.F. Routier		Deputy P.V.F. Le Claire (H)		
Senator M.E. Vibert		Deputy S.S.P.A. Power (B)		
Senator P.F.C. Ozouf		Deputy S. Pitman (H)		
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Senator J.L. Perchard				
Connétable of St. Ouen				
Connétable of St. Saviour				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren				

(S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				

The Deputy Bailiff:

Very well. Now, Deputy Ryan, do you wish to have this legislation referred to a Scrutiny Panel?
[Laughter]

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

The short answer is no. The slightly not so short answer is that we have already, as part of our Scrutiny process, looked at the Law very carefully already and we believe that it is generally fit for purpose although there are one or 2 points that we have pointed out to the Treasury Minister that we would ask him to look at a little bit further but generally the answer is no, Sir. Thank you. We have already done it, thank you.

The Deputy Bailiff:

Thank you very much. Now, Minister, how would you wish to...

16.2 Senator T.A. Le Sueur:

I think broadly, Sir, the Law is divided into 9 parts and if I take them part by part. The first part deals with the preliminary and transitional provisions and the interpretation and really the substance of Part one is to allow the transitional provisions on the basis that we are changing the basis of the year's assessment to a current year basis. So, Part 1 is really an interpretation. I propose Part 1.

The Deputy Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on Part 1 which comprises Articles 1 and 2? Very well. All those in favour of adopting 1 and 2 kindly show. Those against? Those Articles are adopted. Will you take Part 2 next then?

16.3 Senator T.A. Le Sueur:

Part 2 deals with the basis of the year's assessment for income tax. This is the tax professionals fund and it deals with the provisions that one has to make in relation to assessing the profits of a company in the first few years of its business life and the last years of its business life. The original proposals, as I said, were quite complex and giving tax opportunities, those provisions will effectively be phased-out and replaced by the current year basis for taxation in the future. That is Part 2, Sir, and I propose Articles 3 to 10.

The Deputy Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on any of Articles 3 to 10? Very well. All those in favour of adopting Articles 3 to 10 kindly show. Those against? They are adopted.

16.4 Senator T.A. Le Sueur:

Part 3 is really one of the important parts of the law. This reintroduces the new tax rates of zero and 10 and brings the provisions into effect for new companies from 3rd June 2008 but for all existing companies from 1st January 2009. The Articles also go on to define what is a financial services company and how that definition may be changed in the future. It defines utility companies and it allows for group relief in respect of groups of companies within a financial services organisation. That is Articles 11 through 18, Sir, which I propose.

The Deputy Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on any of Articles 11 to 18? Very well. All those in favour of adopting Articles 11 to 18 kindly show. Those against? Those Articles are adopted.

16.5 Senator T.A. Le Sueur:

Part 4 is a straightforward situation of what happens post-2009. It gives the rules for the future and at the same time repeals the legislation in respect of exempt companies which will no longer be permitted after 2009. I propose Part 4, Articles 19 to 24.

The Deputy Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on any of Articles 19 to 24? Very well. All those in favour of adopting Articles 19 to 24 kindly show. Those against? Those Articles are adopted.

16.6 Senator T.A. Le Sueur:

Part 5 deals with property development matters. It brings a wider scope to Schedule A which is the basis on which rents of a company is assessed but it broadens Schedule A now to include, or to include in the future, tax on property development as Schedule A rather than Schedule D. That is the detail which is contained in Articles 25 to 42. I propose those Articles.

The Deputy Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on any of Articles 25 to 42? Very well. All those in favour of adopting Articles 25 to 42 kindly show. Those against? Those Articles are adopted.

Senator T.A. Le Sueur:

Part 6 deals with the collection of tax in respect of Schedule A particularly in respect of non-residents of Jersey, how that might be done either on the property or through agents collecting the rental on behalf of non-resident landlords. So this really deals with the collection of tax on that particular source of income. That is Articles 43 to 48, which I now propose.

The Deputy Bailiff:

Is the Act seconded? **[Seconded]** Does any Member wish to speak on any of Articles 43 to 48? Very well. All those in favour of adopting Articles 43 to 48 kindly show. Those against? Those Articles are adopted.

16.7 Senator T.A. Le Sueur:

I shall push my luck now, Sir, and try Parts 7, 8 and 9 in one go on the basis that there is not much in them. They are just miscellaneous and closing provisions but they do include in Part 8, a strengthening of the anti-avoidance provisions to deal with groups of transactions or a series of transactions rather than looking at any one transaction in isolation. So, I propose Parts 7 to 9 which is Articles 49 to 54.

The Deputy Bailiff:

[Seconded] Does any Member wish to speak on any of Articles 49 to 54? Very well. All those in favour of adopting Articles 49 to 54 kindly show. Those against? Those Articles are adopted. Do you propose the Bill in Third Reading, Minister?

Senator T.A. Le Sueur:

I do, Sir.

The Deputy Bailiff:

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

17. Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200-(P.170/06)

The Deputy Bailiff:

We come next to the Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law 200-, Projet 170, in the name of the Minister for Treasury and Resources and I will ask the Greffier to read the citation.

The Greffier of the States:

Draft Howard Davis Farm (Partial Abrogation of Covenant) (Jersey) Law. A Law to abrogate in relation to part of the property known as Howard Davis Farm a condition subject to which the property was gifted to the States so that the part of the property may be leased to a person for use as a commercial dairy and milk processing facility, and for ancillary purposes and for other purposes authorised by the States and the proceeds of the lease used so as to enable the purposes of that gift to continue to be fulfilled and for connected purposes.

Senator J.L. Perchard:

Before we start this debate I feel I am bound to declare an interest as a joint owner of a dairy herd and ask permission to leave the Chamber.

The Deputy Bailiff:

Very well.

Connétable P.F. Ozouf of St. Saviour:

I am involved in dairying so I wish to withdraw.

The Deputy Bailiff:

Very well, Connétable.

Connétable J.L. Gallichan of Trinity:

Unfortunately I am as well but as Connétable of the Parish it is a bit of a... I would have liked to have made a few comments, Sir, but could I just say, as I will withdraw, that the Parish would welcome a dairy in the Parish of Trinity, Sir. **[Laughter]**

Senator P.F.C. Ozouf

While I do not have any direct financial interest in the dairy farm, such is the close relationship I have with my father that I do not believe... I never take any part in any matters to do with dairy. In fact, that is the reason why the Chief Minister acts for Economic Development in this area and I wish to withdraw.

The Deputy Bailiff:

Very well. Is anyone left?

The Connétable of St. Ouen:

One more, Sir. I had sought advice from the Bailiff on this matter, Sir, and although I still am the owner of a number of animals I get no financial benefit from them. **[Laughter]** Therefore the advice I have been given is that I can stay in the House, Sir.

The Deputy Bailiff:

Very well. Thank you. Minister?

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

Since everyone is making excuses and leaving I shall make an excuse but not leave. I will ask my Assistant Minister to propose this proposition on the basis he has been more involved in the dairy matters than I have. **[Laughter]**

17.2 Deputy J.A.N. Le Fondré (Assistant Minister for Treasury and Resources):

Well, we go from shrimps to cows now, Sir. Sir, I think by now that Members are broadly aware of the reasons behind bringing this legislation to the House. This is about the Jersey Milk Marketing Board, the Jersey Dairy, the Jersey dairy industry, and to an extent, the fate of the Jersey cow in Jersey. In summary, by facilitating use of a part of Howard Davis Farm to enable the J.M.M.B. (Jersey Milk Marketing Board) to construct a new, more efficient dairy, it is intended that it will grant the dairy a new lease of life with one of the ultimate aims being a significant reduction in the price of milk to the consumer. We have a dairy that is presently in a dire state and needs some support. Not financial support, not a subsidy, but some encouragement. If this plan works, we can have a modern, efficient dairy, we will hopefully see the price of milk to the consumer significantly reduced to a retail price of around 70 pence to 72 pence per litre and we will be sending a very clear message of support and encouragement to the dairy industry. As Members will be aware, Howard Davis Farm was gifted to the public of this Island by Thomas Benjamin Frederick Davis and I will shortly comment a little about the man himself. The farm was gifted on certain conditions, which

are before Members in the report today, and it is the case - even without the matter of the Jersey Dairy, - that the original conditions of the gift are not being strictly observed at present. These will have to be addressed as a separate matter in due course by this House. Sir, one of the focuses behind the terms of the covenant was supporting agriculture and, as we all know, agriculture has been struggling in recent years. Indeed, Sir, it is really over the past 5 to 10 years that the uses of Howard Davis Farm have begun to stray outside of the strict legal terms of the covenant. I have been advised that even Acorn Industries - which I trust most Members would support - does not strictly fall within the terms of the covenant and, if I recall correctly, one of those reasons was the difference between horticulture and agriculture in legal terms. This is why, as a general principle, I am comfortable with what we are proposing under P.170. To me, the dairy is a direct function of agriculture. It is a fundamental - indeed an inseparable - part of the process of dairy farming. Now, if we were trying to permit the construction of a motor mall on the site, I too would probably be getting decidedly worked up about the whole prospect. But it is not. In addition, we are now proposing a 99-year lease rather than the sale of the freehold which, to me, does keep the whole thing still under the ultimate control of the States. Finally, Sir, and possibly most importantly, the direct descendants of T.B. Davis are supportive of the proposition to vary the covenant to allow a new dairy to be built on the site. Where Deputy Fox and I would have been in complete agreement, were we having that debate, is in stating that the variation of a covenant should not be taken lightly and I do think we should always look at the circumstances of such a variation. Is it completely at odds with the terms of covenant which would not be acceptable, or is it broadly within the spirit of those terms but just not encapsulated within them? He and I are absolutely in agreement on one principle; one must not just ride roughshod over a covenant just because it is not convenient to government at the time. That is not what government should be about, in my view. Sir, in respect of the Davis family, I would, on behalf of Treasury and Resources and Property Holdings, like to repeat an apology I have already made to members of the family in person. The process by which we arrived at this point has not exactly covered us in glory. Requests were made. Efforts were made quite some time ago to identify and contact family members to discuss this variation of the covenant with them. For whatever reason, those efforts were flawed. To be fair, I would add, that one member of the family identified was written to on 2 occasions and did not reply. It was only approximately 6 months ago through the efforts of the *Jersey Evening Post* and Senator Le Main that members of the family were identified, some of whom are in the Island and one of whom works for the States of Jersey. Through them, we tracked down members of the family in South Africa. Towards the end of last year, I met with the Jersey members of the family who are cousins of T.B. Davis and discussed matters at quite some length. They are broadly supportive of what is presently proposed. In addition, Sir, I have recently met, with one of my officers, the eldest granddaughter of T.B. Davis; her daughter, i.e. the great granddaughter of T.B. Davis; and other members of the wider family. This was in Cape Town some 3 weeks ago and Members have been presented with the statement that arose out of that meeting which I committed to bring to this Assembly. As laid out in the statement, they are very supportive of the proposals in respect of the Jersey Milk Marketing Board, the dairy and a 99-year lease. I would like to quote from one of the last paragraphs of the statement whereby the family welcome the proposals to bring the covenant up-to-date and to rejuvenate the links of the family with Jersey. In addition, they recognise the urgency with which some matters need to be addressed and wish to see a strong dairy industry thriving in Jersey into the future, as I hope do many of us. I think this underlines the seriousness with which we have taken the matter of varying the covenant. Once again, such a variation is not something to be taken lightly and we must always look at the individual circumstances. In this instance, to me, the variation is within the spirit of the original gift; is supported by the family, which is important; and will be of significant benefit to Islanders and to the dairy industry. One thing, Sir, I would like to say before commending this legislation to the House is with regard to the man behind all of this, Thomas Benjamin Frederick Davis. I would like to take the opportunity to say a little bit more about T.B. Davis; about the proposals for the farm and the trust; and try to put a little context on the man and his life. I used to think I knew a reasonable amount about the heritage

and history of Jersey but, as with many things, the more you learn, the more you realise you do not know. It is only in the last few months that I have come to realise a modicum of the debt that this Island owes to T.B. Davis. Yes, it is true we are all aware of Howard Davis Park and Howard Davis Farm. Some Members may also be aware of the Howard Davis Theatre at Victoria College and perhaps the Howard Davis Trust which was established with a gift of £50,000 - which was quite a significant sum in those days. Did Members know that T.B. Davis also gave Jersey its first motorised lifeboat? It is my understanding he gave Southampton University its Marine Engineering Department and it is certainly the case he established a college within the University of Natal, near Durban in South Africa, called the Howard College - which, interestingly enough, sits on, I think, George V Avenue - and there are various other institutions that have benefited from the generosity of this man and from his family, including Great Ormond Street. The point I would make, Sir, is that this was a Jerseyman and a self-made man. He gained his extra master's ticket at quite a young age and set out to make his fortune. He never forgot his roots but started out at the age of 15. At its height, he controlled a business that stretched perhaps a third of the length of Africa, and I particularly like the tale of him turning up at his own memorial service having been presumed lost at sea. I am told that the reason for Howard Davis Park was that T.B. Davis was severely punished on that property for scrumping apples when he was young. After his punishment, he turned to the owner and told him that one day he would buy the owner's house and demolish it. A few years later, he did precisely that. Personally, I can always recall the display in the museum of some of the equipment from the Westward yacht which, if anyone has seen the photographs, was quite an impressive sight when under sail. In the age of Empire, he raced with the King. That is quite a claim for the son of a fisherman. The reason that most, if not all, of the gifts are named after his son, Howard, is I was told, that Howard did not seek his father's permission before joining-up to serve in the First World War and his father was extremely angry at the actions of his son in doing this without his leave. I am not clear but it obviously appears, and we know, that Howard died during the Battle of the Somme before amends could be made. I am going to stop at that point with the potted history, but I felt it appropriate to try to demonstrate the type of person T.B. Davis was and the context of the era in which he lived. This Island owes a great debt of gratitude to T.B. Davis and I hope Members do feel we are not taking matters lightly in doing what we are trying to do. I would like to add, Sir, perhaps whether through your offices or through the Société or even the Jersey Heritage Trust, I think it would be very worthwhile for the granddaughters to be interviewed for their memories of T.B. Davis and of his life. I know that the officer who has been researching as much of the detail that we found so far has found it a fascinating story and, quite literally, one from another era. We are close to celebrating the 80th anniversary of his gift of Howard Davis Farm and I wonder if that might be a suitable time to mark the occasion and celebrate the life of T.B. Davis. I certainly did not know enough about this very important aspect of our heritage and, while people remain alive to tell his tale, it would seem appropriate to record it as accurately as possible before those particular pages do close. Sir, the issues before us today are quite clear. The J.M.M.B. needs to construct a new, more efficient dairy. As we have heard, this is supported by the industry, it is supported by Scrutiny and it is supported by the family. If successful, not only will we be sending a message of encouragement to the industry but it is planned that the consumer will also benefit to the tune of a 20 per cent to 25 per cent reduction in the price of milk. I believe that has been described as a win-win-win scenario. In order to do all of this, we need to vary part of the covenant over the area of land involved. Please note this does not apply to the rest of the land over which the original conditions laid down by T.B. Davis remain. It is purely in respect of the area which is mainly covered by greenhouses and poly tunnels where the dairy is hopefully to be constructed. We will address the rest of the site at a later date when the existing uses can be regularised in a proper manner. That will be a separate proposition and will be brought to the House in due course. In addition, as Members will have read in the proposed Law, it is the intention to establish a trust fund to receive the rentals from the dairy. Establishment of the trust fund will be carried out in conjunction with the family and it is our intention to finalise the exact details before the end of this year. At the end of the day, Sir, we, as

the States of Jersey, have a property that has been gifted to us under certain conditions. That property is in danger of becoming run-down and needs a new lease of life. I would like to mention a couple of other points about the reports from Promar and from Scrutiny and I am only going to quote from one part of the *Promar Report* which states: "The site is fit for purpose. It is available and our advice is to sort out the remaining legal issues once and for all, get on and build as soon as possible at the Howard Davis Farm site." Scrutiny are also supportive and their report states: "That it is difficult to ignore the benefits of using the Howard Davis Farm site for a new dairy." Its principal recommendation is that the Sub-Panel is fully supportive of the move to Howard Davis Farm on the understanding that the land can be secured by a long-term lease arrangement. It recommends that Government support the relocation by giving agreement, in principle, by approving P.170, i.e. this proposition. I would like to take the opportunity to thank Scrutiny for a very well produced report which I believe has generally been well received and, in particular, for having available for Members in time for today's debate. I am going to stop there, Sir. We have recently had 2 reports on this matter. They both support the move to Howard Davis Farm. The industry supports the move and I have, quite literally, travelled to the ends of the earth to discuss this with the family and they are supportive of the move. I am not too sure what else we can do. To continue to delay matters further would have severe repercussions in all sorts of areas. In the interests of the dairy, the dairy industry and the consumer, we do not have that sort of time. I am delighted to commend this legislation to the House and I hope Members will strongly show their support. I propose the principles of the legislation, Sir. Thank you.

The Deputy Bailiff:

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

17.3 Deputy P.V.F. Le Claire:

Very briefly, Sir, just to say that I support the move, as it has been stated, Scrutiny also supports it, but I would just like to say that I very much appreciated the speech of Deputy Le Fondre in relation to the history of Mr. Davis and his calls for perhaps a greater recognition in the future are fully supported by myself. I would just like to congratulate him on taking us back to that era for a second so that we could keep in mind what it is we are doing today.

17.4 Deputy G.C.L. Baudains:

I have just a couple of concerns. Firstly, as alluded to by the rapporteur, the way the Davis family appeared to have been ignored at the outset, and it is not the first time I am sad to say - it occurred over the relocation of civil servants to Howard Davis Farm and I think there are other instances perhaps. Possibly that was one of the inferences referred to by the rapporteur that he said would have to come back to this House in due course. My second concern, Sir, is regarding the possibility of removing the import ban on milk because, in my view, were that to happen I believe the dairy industry would disappear in short order and, in that case, in my view, the building of this dairy could be seen as a waste of time. I have to say that, on more than one occasion, I have grown to despair this Assembly's expression of support for the agricultural industry only to be followed by suggestions that the remedy is to diversify. Diversify into what? I wonder, Sir, sometimes, how much those people who do profess to support agriculture know about it. Apart from planting houses, Sir, there seems to be no known legal crop that can turn the industry around. And so it is with the dairy industry. Diversify into what? Suggestions of export have been made, and I recall what happened to those mini-pots. As with the growing side of the industry, Sir, we cannot compete in markets where our competitors are heavily subsidised by other governments. So it seems to me that certainty about the import ban on milk is possibly more important than certainty about the dairy. I look for some reassurance that we are not wasting our time building a dairy.

17.5 Deputy G.P. Southern:

The Assistant Minister gave the impression that in order to secure milk at a price of something like 74 pence or 75 pence a litre, it was absolutely essential to lift the covenants so that the dairy could be placed at Howard Davis Farm. My impression from early on in the investigation into the dairy was that Promar certainly were particularly sceptical of the obsession - I believe they call it - with the dairy of moving to Howard Davis Farm and wondered where the suggestion that Howard Davis Farm was the only site possible for a dairy had come from. I do not know if the chair of the Scrutiny Panel or the Assistant Minister himself can answer when and who decided that Howard Davis Farm was the place for the dairy to guarantee its future, and what investigation has been done of possible alternative sites. It seems to me that Howard Davis Farm has appeared out of the mists of time and become part of the folklore that that is the place for the dairy, so we do not have to look anywhere else. I question whether that, in fact, is the case.

The Deputy Bailiff:

Does any other Member wish to speak on the principle of the Law?

17.6 Senator F.H. Walker:

The dairy industry in Jersey is at a critical stage in its history, and what we are talking about here is the whole future of the Jersey cow in Jersey fields. We all know how important that is to the Island in many, many ways. The simple fact is that if there is to be a future for the Jersey dairy industry, a future for Jersey cows in Jersey fields, then the dairy must be rebuilt, and we must create an efficient, effective dairy which is the right size and right up to speed to provide the industry with what they want. They cannot continue to operate from the over-large, inefficient and hugely costly current site at Five Oaks. The threat of importation remains so long as they do because it is impossible to bring the price to the consumer down meaningfully, operating from such a costly and inefficient place. A new dairy, much more efficient, much less costly, then the price to the consumer can and will come down, and the threat of importation I cannot say is totally removed but is very significantly reduced. I hope Deputy Baudains will take that on board. There is unanimity on the need to move to the Howard Davis site and quickly. Promar are supportive of the move to the Howard Davis site. The Board themselves are saying it is essential. The Scrutiny Panel, under Deputy Breckon's leadership, have also come out in favour. Can I, at this point, pay tribute to Deputy Breckon and the Scrutiny Panel because I believe they have done a quite excellent job - exactly the sort of job that Scrutiny is set up to do - in investigating a major issue and coming up with a report which is very clearly evidence-based. It has been a pleasure, I have to say, to work with them in this way. I have said it before; I will say it again: I think it is a shining example of how Ministers and Scrutiny can work together for the common good. We have heard there are no problems now that the family are supportive of the move, so it is unanimous that this is necessary for the future of the industry, necessary if we want to bring the price to the consumer down. It is a critically important decision. The industry needs clarity, the industry needs leadership, and most of all the industry needs a decision today to approve this proposition. I would urge Members to unanimously adopt this proposition and send out a clear message to the producers, to the industry, that we, the States, believe they have a future: we, the States, are prepared to assist them in protecting and creating that future: we, the States, are fully supportive of the objectives they themselves have set. I repeat, Sir, this is a critically important decision for the future of the dairy industry in Jersey and the future of the Jersey cow in Jersey, and so I hope all Members will be able to support this very important proposition.

17.7 Deputy G.W.J. de Faye:

I am very grateful to the rapporteur for the references he made, in effect, to the historical elements that are the background to this proposition. Covenants, indeed, are a very serious matter. They are a variation, in effect, of what we might call someone's last Will and Testament. Indeed, it is a sad fact of modern times that the meaning of Will has almost begun to change. It is now widely regarded as a legal document that is relating, really, to the divvying-up of a deceased person's

proceeds. What, of course, "Will" refers to is what in fact was the will or the wish of the deceased person. It was very much the way that, certainly in the past, those, particularly those of wealth, were able to direct how their Will would pass down through subsequent generations. And covenants are very similar to this concept in the way they are laid down and operate. There is no question that when Members read what the covenant is, they are witnessing, decades later, the expressed will of T.B. Davis. That is how he wished his gift to be used, within the context of the covenant. It is quite right that Members take covenants very seriously indeed. It would be wrong for the States to treat covenants in anything remotely approaching a cavalier way because unquestionably it would discourage anyone who might wish to make similar types of bequest if they knew that covenants could be fiddled with. I know from the experience of my own family that there was considerable disappointment when La Rosière quarry, which was left to the enjoyment of the public by my maternal grandfather, ultimately had its covenant changed by the States for use as a desalination plant. Obviously that was a matter in the public interest and so determined by the States, but nevertheless it does not necessarily go down well with the family when original wills and intentions were expressed clearly in covenants. Therefore we must take this very seriously, and I am pleased to see that after an unfortunate and slow start to the consultation process, the remaining relatives, direct and indirect, of T.B. Davis have been properly consulted and their views sought to see that this covenant can be varied with their express agreement. I think that is an extremely important feature, and I am delighted that Deputy Le Fondre was able to go down to South Africa and secure the agreement that he has done. It was obviously a subject of considerable negotiation over a period of time, not just by Deputy Le Fondre, but I am also aware that members of the Jersey Milk Marketing Board were active in assuring that the matter was properly discussed with the relatives. The covenant clearly is the main issue of this proposition, and it seems that we are going to see a very positive outcome to all the discussions that have taken place, in that monies deriving from a lease of the dairy will be put into a trust that can be redirected in the way that the original covenant intended monies should be spent. It seems to me that is entirely appropriate. The secondary issue, of course, is the future of Jersey's dairy industry, and I am sure there can be no Member of this House who would not wish to see that continue and prosper. The ultimate price of a pint of milk, I think, is obviously a consumer issue, but I have always felt quite happy to know that even though I probably was paying over the odds for a pint of locally bought Jersey milk, compared to what I might be paying for a similar pint in the United Kingdom - or indeed a litre or half litre in France - I have always been secure in the knowledge that whatever I was paying, I was doing the equivalent of subsidising my local industry directly and personally, and also ensuring that that kept Jersey cows grazing in Jersey fields, which is what we all wish to see. There have been, already, some suggestions and queries as to why the dairy at Howard Davis Farm. I do not believe it is particularly pertinent to investigate whose idea it may or may not have been. It does seem to me, though, to have a certain holistic value. After all, immediately adjacent to this particular property is the relocated home of the R.J.A.&H.S. (Royal Jersey Agricultural and Horticultural Society). Formerly housed down at Springfield in rather small quarters in the corner of the football pitch, they now have the magnificent H.Q. up alongside the Howard Davis Farm, which is a great credit to the R.J.A.&H.S.. It is a place that is regularly used, not just by that particular society but by many people. It has been the site of everything from agricultural fairs to pop festivals, and it seems that the headquarters is, to a large extent, the headquarters of the Jersey cow. It seems entirely appropriate to have the dairy right alongside. Indeed, I read only today in the local newspaper that we are to entertain the World Jersey Cattle Bureau in Jersey at some time, and how appropriate would it have been, in fact, if they were to attend upon Howard Davis Farm with the new Glenham Davis dairy in full production alongside the headquarters of the Jersey cow. It seems to me that there are some clear advantages in the senses that I have described; and obviously from an operational point of view, why not put a dairy, which does carry out a level of deliveries Island-wide, pretty much smack in the middle of the Island. The location seems to me entirely appropriate and entirely sensible. I am delighted to see that we are now progressing steadily towards a resolution of this particular covenant problem and hopefully seeing a resolution to the problems of

the local dairy. Let us not forget that as things are continuing the dairy and local farmers are losing money by the day because of the failure to renew the dairy factory operations. They are 40 years old, out of date, and it is a long time past their sell-by date, effectively, as a factory production area. We cannot get on with this fast enough, and I urge Members, and I think there is probably little need to do so, to support this proposition.

17.8 The Deputy of Grouville:

As many of you will know, my family background is one of agriculture, but it might surprise some of you to know that the dairy farmers on my maternal side are not from Jersey but from Denmark. That line in the dairy industry goes back a very long way. My Danish side of farming forebears were instrumental and founder members in setting up a co-operative dairy in Denmark. My grandfather, Karl Jensen, was born at that dairy, which his father, Sören, managed. Many of you might think: "What on earth has this got to do with the debate before us today?" but it was Sören Jensen who came over to Jersey, with his young family, to work in the industry. With it, he brought his ideas and experience and he set up Jersey's first co-operative dairy in Don Street. It was he who secured the first deal of taking the first breed of Jersey cattle back to Denmark, which was at the end of the 19th Century, and I was happy to read in yesterday's *JEP* that our own supremo cattle judge, Derek Frigot, was reported as awarding a Jersey cow the top prize in an important international agricultural exhibition in Denmark, where more than 30 countries took part. Going back, my grandfather took over the Don Street dairy from his father in 1955. He was an engineer by trade, and it was he who designed, built and managed the dairy at Five Oaks. It was he who also successfully amalgamated all the dairies of the day into one unit. If anyone knows the Jersey farming industry and mentality, that was no mean feat. Being somewhat biased, he bought all the machinery from his native Denmark, and the Jersey industry had an operation and technology at the cutting edge of its time, when it was built in 1966. He then negotiated and secured the export of Jersey produce to companies like Lyons Maid. Our dairy produced good-quality milk, butter, cream, tinned cream, yoghurt and ice creams. I would now like to ask a question: What has happened since then? Has there been any forward planning, any advancement of technology, products and breed? Have there been any more export deals secured? This is where I have to give the Jersey Milk Marketing Board a proverbial good kicking - and I have my boots on today especially - because I would suggest nothing very much has happened in the last 40 years. In fact, I believe the industry has been utterly complacent and was able to be so with the ban on imported milk and a captive market. While dairy farmers work long hours and work very hard for their living, the business marketing, research and advancement of the industry has done very little to keep pace with changing times. I cannot deny that upon being asked to consider bailing them out of this crisis - a crisis that any industry would be in if they had stagnated for the past 4 enterprising decades - I was quite angry. Especially when it includes demolishing, selling-off and eventually trading in the Five Oaks dairy my grandfather built as a piece of real estate trade. I shall put sentiment to one side, as I am obliged to do, and make a difficult decision here. We have to consider what is at the heart of this debate, and that is if the industry does not do something to rectify the mess it is in, it will fold. The current members of the co-operative will sell the site at Five Oaks and share what is left in profit. What that means to the Island is that 3,500 cows spread across 33 herds will be lost, and the brown Jersey cow in green fields will be a distant memory. Wearing my culture hat, which I see as more than just music and the arts, I cannot allow that to happen. Even if we were left in a Perchard-corporate notion, Island stock will be reduced to 2,000 cows with one company controlling the lot, but they too will need a site to house a dairy. Another big problem I have with this - as did those that hosted the J.M.M.B. meetings - is that of the covenant. That was until I investigated how the site at Howard Davis Farm is currently being used. The Howard Davis Farm site is currently used for the storage of chemicals in a shed, a pet crematorium, a redundant packing shed, poly tunnels and glasshouses which were used for research, but since the States cut the £1 million budget in this area they too have become redundant. The land is a brown field mess with weeds growing all over it, and I cannot see how it currently

fulfils the covenant. This state of affairs, quite frankly, is a disgrace to the States of Jersey, and what is being proposed, I would suggest, can only be better. I am pleased the Assistant Minister has sought the views and concessions of the T.B. Davis family. I am also comforted by the fact that the dairy will pay a market rent to the newly formed Trust, and those Trust monies will be used, in essence, to support the original covenant ideas. I was told at the dairy meeting yesterday that these monies would be used for education, to give bursaries, do research and develop agriculture, conservation and fostering of knowledge in the environment. It is not that I do not trust my colleagues at Treasury, so please forgive me, but I, and I think members of the public, would be far more assured if Treasury could come back to the Assembly setting out the aims and objectives of the Trust, and also come back to the Assembly with the lease agreement indicating the market-value rent that the Jersey Dairy will be paying. I would like the Assistant Minister to confirm he is willing to do this in his summing-up. This new site is an opportunity for our dairy; one could say another opportunity, 40 years after the first. If the Assembly decides today that they want to show confidence in our dairy - and let us face it, if we do not, no one else is going to - then the dairy is going to have to work for it because it is no longer good enough to say if people want green fields and brown cows they must support us and at the same time pay over the odds for their pint of milk. It will be up to the dairy to support itself and bring some confidence back to us with efficiencies, new ideas and expanding into export markets. We want enthusiasm and quality, and that is what the Jersey breed deserves. Here is something else they can take from Denmark: quality, not quantity. If I can support this move, with the sentiment that I feel when the Five Oaks building will be left behind, then any Member can, and I would urge Members to support the proposition and in so doing support the dairy industry, our landscape and our culture. Thank you, Sir.

17.9 Deputy K.C. Lewis:

Having worked on the Dairy Review Scrutiny Panel for several months, it has given me a considerable insight into the dairy industry. The dairy, Sir, is at a crossroads, and I believe the construction of a new, efficient, modern dairy at Howard Davis Farm will revitalise the dairy industry and put it on course for the 21st Century. There will be an educational facility there, which I believe will be in keeping with the spirit of T.B. Davis's wishes. The dairy farmers cannot wait any longer, Sir. The dairy must relocate to Howard Davis Farm if it is to survive. Thank you.

17.10 The Deputy of Trinity:

We have heard from the Assistant Minister the history behind the Howard Davis Farm, which was known as Parkfields. By all standards, this was a most generous gift: one the Islanders and the agriculture industry have benefited from for many years. The total area given by Mr. Davis was approximately 40 vergées. As we have heard, it has been used as an experimental farm for projects ranging from potatoes, cauliflowers, daffodils, peppers and soft fruits. As you see, over the years, the farm has evolved and adapted to the needs of the agriculture industry. By approving this proposition today, it would be building on the legacy left and looking to the future of the agriculture industry, but more especially, the dairy industry in Jersey. I am very pleased to read in the second report that was presented to the States by the Minister of Treasury and Resources that after a visit to South Africa to meet the Davis Family by the Assistant Minister and the Assistant Director of Property Holdings a way forward was reached, and the family support the part lifting of the covenant to allow the dairy to move to Howard Davis Farm. This area is approximately 7 vergées. The family state they wish to see a strong dairy industry thriving in Jersey in the future, and we should indeed be grateful for this generous support, which is so important to our Island. This is the most interesting, important element; to see that the dairy industry thrives and has a future. By supporting the objective, brown cows in green fields, it must be extended by allowing the Island to be self-sufficient in producing milk and by achieving this in a modern, efficient, well-run dairy, which in turn will lower the price of milk to all consumers, which I hope is what we aim for. The dairy needs to move from its present site and needs to be at the Farm. If you had a chance to go up to the dairy over the last week, it does not need much imagination to realise that it is out-

of-date, too big and therefore not very efficient. The producers need a decision so that they know whether their future is secure and the investments that they aim to put into their farms will make them more efficient and also abide by the very new Regulations. At present, there are no dairy farmers under the age of 40. This is hardly surprising, as the future of the industry has been uncertain, and no clear message from the States has been given. This is our chance to support them. Send a clear message that we, the Government, support the industry in the home of the world-renowned Jersey cow. As part of the planning application process, an environmental impact assessment was commissioned, and there were 5 factors which supported the decision that the site in Trinity was the preferred one: its close proximity to the R.J.A.&H.S.; central location and easy access to many dairy farms; the site is a brown field site, rare in Trinity; the site is occupied by disused agricultural buildings; and it was surplus to requirements. The dairy also consulted fully with the Parish and the parishioners. An open day was held, and the Managing Director personally contacted all the residents who live in the area to explain the proposals, listened to them and took their issues on board. I am very pleased to say that the proposal was very well received and generally supported. It was felt that it was right that it should be next-door to the home of the R.J.A.H.S. All the parishioners were pleased that an education and visitors' centre were included in the plans. I urge Members to support this proposition, one which the T.B. Davis family support and also the Parish support. Let us show the dairy industry has a viable future by being modern and efficient for the future. Thank you, Sir.

17.11 Deputy P.N. Troy:

Seven years ago, when I entered the States, I served on the Agriculture and Fisheries Committee. The dairy had problems then. The industry had problems then, and dairy farmers were struggling to survive, and nothing has changed. This is a very important moment that we have reached. Dairy farmers will benefit from a much-needed improvement in trading conditions because of the cost-savings that will be achieved for the industry as a result of this reorganisation. This reorganisation is of vital importance to the industry, and we must support it today. Particularly, I hope Members will demonstrate their appreciation of the Davis Family's consent to the variation of the covenant, for it is only with the family's support that this initiative can proceed.

17.12 Deputy A. Breckon:

I would like to begin with some information because during this review, the Panel gathered about 3 bundles of background information, and one of those says that there are 3,215 cows in Jersey now. Probably not many people know that. That does not include the Constable of St. Ouen, I do not think. We did go into some considerable detail, and it is making sense of that, and I would like to thank the members of the Panel: the Deputy of Trinity, Deputy Anne Pryke; Deputy Sarah Ferguson; Deputy Roy Le Hérisier; and Deputy Kevin Lewis for the significant effort they made. At the time, Sir, just to reflect, I was in Belfast at the British-Irish Inter-Parliamentary Body, and I got a message to say the Treasury Minister had withdrawn the 2 propositions on Howard Davis Farm. I had taken a considerable bundle with me to study, and it was one of those messages that, when you get it, you are looking around to see if it is a wind-up and somebody is winding you up. So I thought: "No, he cannot have done because everything has been set in place to meet deadlines, and we were working towards that." It turned out, of course, to be true, and this is the second attempt at that. We have had some tremendous support, Sir, from the Scrutiny Office in particular. I would like to mention Nathan Fox because we had to work over the Christmas period to meet this, and it was going the extra mile. We did that. I would like to mention Deputy Kevin Lewis because, Promar, the consultants, did about 10 presentations. Now, I am not sure if it is from his present background, Sir, and what he does, but Deputy Lewis was able to attend them all. He said: "Well, I have seen Bond 2,000 times, so Promar 10 times was bearable." There were variations, but he was able to tell us, Sir, if there were any changes that they had done when it was presented to different people. He did sit through them all, so I would thank him for that. The other members contributed in different ways, and we had some interesting debates behind closed doors, where we

were nearly there and then we were not because something had changed, or something had come to light or there was a bit more emphasis. I have said, Sir, it is a tough business for the people who are in it, and this is what the outcome is about really. It is about giving some signals to them, and I hope the Scrutiny Report informs Members for this debate because that is what the process was about, and that is what we were trying to achieve. The Chief Minister did mention the fact that we had worked together on this on things like Terms of Reference, and it perhaps is the first time where this has been done and there has been an outcome. What is probably fair to say, Sir, as well, is nobody came to this with any baggage or preconceived ideas. We were looking for outcomes rather than our own agendas. Perhaps that has contributed to the outcome. In general terms, the process worked with the Chief Minister, the agricultural bit of Economic Development - whatever that is correctly known as - and also the people who contributed from the industry: the Chairman and members of the Marketing Board, the Chief Executive of the dairy and the workforce. We did get caught in a caption competition with helmets and rubber boots and whatever else, but such is life. Also the producers and the visits they arranged; this brings it to reality. Also the submissions they made. The Royal Jersey Agricultural and Horticultural Society, again, welcomed us and gave us a great deal of detail. There were reports going back many, many years which were new to me but were interesting and did inform our eventual outcomes. Apologies if I have missed anybody who I have not named but, again, whether written or in person, everything was accepted, digested, and we have tried to make sense out of it as people who did not necessarily have first-hand knowledge of the industry. I think Members should sometimes make up their own mind about that, whether you come to an issue fresh or you have a great deal of knowledge. There is some debate about whether people are conflicted, but I think in this instance, and I hope Members will agree, that it has worked. The other thing we did do, Sir, is we had 3 days of hearings in this Chamber. That was another thing where members of the public were able to come inside here and share that with us. Again, that worked for hearings, for recordings and whatever else. Again, thanks for the backup of the Scrutiny Office. As well as the Howard Davis Farm, there are other recommendations in there, and I would not like to think they got sidelined because they are important, and other Members have touched on that. I would just like to mention that in a moment or 2. However, re-siting the dairy is the main signal. Somebody asked - I think it might have been Deputy Southern - where it came from. Unfortunately, even with investigation, we were not able to pin that down. One of the witnesses who came to see us was the former President of the Economic Development Committee, former Deputy Gerald Voisin, and there were minutes and things that went through over the years. It is one of those decisions where it was somebody's idea, somebody followed it up, but nobody has either taken the credit or the blame, depending on which way you want to look at it. One suggestion was it was even a retired dairy farmer who suggested it. He probably mentioned it in the Trinity Arms, or something like that, and it came from there. Anyway, it became the focus of the thing that Howard Davis Farm should be the place. The other thing we did not find was significant evidence of other schemes being worked-up because that seemed to be the jewel in the crown. That is really why, as I say, we are where we are. Also, Sir, there was some tension, we found, with the scheme that is over 50 years old - the Milk Marketing Scheme - and the Competition Law. Rather than, with respect, bringing in the lawyers, the idea was that people would try and regulate their own affairs and move on. Somebody else has mentioned exports and the benefit that could have to Howard Davis Farm. They probably do not have chicken and eggs in dairy, but at the same time there is a dilemma at the existing processing facility at Five Oaks. If a U.K. operator was to look at that and we would say: "Would you take produce from here?" they would say: "No." So the new dairy could in fact stimulate the export market, but until it is there or until the principle is there, it is not happening. Again, there was evidence that the export, and even the local marketing, needs to be brushed up a bit. Having said that, Sir, another piece of useless information, the dairy market in the U.K. is worth £3 billion, and Jersey Dairy would need just a niche in that to become effective and have an export market. It could be something like "Jersey from Jersey." So they are working on that, and hopefully we will give them some confidence to do that. I would just like to explain that, because we did have lots of facts and

figures. The reason why that is required is we like skimmed milk, so something comes off which needs to be made into a premium product. The liquid milk market is about 9 million litres a year, just under that. The annual production is about 14.2, with seasonal variations. There needs to be an effective conversion of that into a premium product, and the dairy are capable of doing that. However, they need the processing plant, the factory, the dairy to do that. Deputy de Faye mentioned he is sacrificing in paying the price of a pint of milk. I must confess, Sir, I have never seen him with one in his hand. **[Laughter]** I have seen him elsewhere, but not with a pint of milk in his hand. I suppose it would be a first. In conclusion, I would just like to say that the Sub-Panel helped with the recommendations that they have made. A part from this will be, not just noted, but acted upon because what it does is it gives a signal, and it indicates a degree of confidence to people. I understand what the Deputy of Grouville said. We can all give each other a good kicking now and again, but then we have to get up and get on with it. Sometimes people in the dairy industry have felt unloved. They have not always been working together, but we can get this together now. It is an industry that works 24/7, and the support for Howard Davis Farm, I believe, is the first move. Other recommendations, including some from Promar, need to be actively pursued and looked at. They should not be ignored, and this is the outline for the future. It is not all of the future, and others need to move it on, but what we need to do, Sir, is to give that opportunity to modernise, to be proactive in doing that, but we also need to monitor it. We cannot walk away and let them do it on their own. We need to be looking over somebody's shoulder. I do not think we can stand back, and that is, in effect, what some of the recommendations say. I hope that Members will support it and with that support the industry will move on and face the challenges that are going to come. The consultants describe it as a wave building-up and rolling-in. If you ignore it, then when it hits you it will be more of a shock. So what you have to do is you have to be prepared and take action for that. I think the industry can do that, but they need this as a first signal. I hope Members will support this. Thank you, Sir.

The Deputy Bailiff:

I still have a note of 4 Members who have indicated they wish to speak and no doubt have considered that they have something new to add to this debate, but it is right I should invite Members to consider whether they wish to continue or adjourn.

Senator S. Syvret:

Having discussed it with a few Members, I think there was a view that we ought to try and wrap this up this evening. The suggestion has been made that given that there is hardly any Public Business down for the next sitting of the Assembly that we might defer the In-Committee debate until that day. It would make a far better and more efficient and productive use of our time. I, for one, have got many useful things I could be doing tomorrow and certainly, Sir, I think we could wrap the final item of business that we are debating at the moment up this evening. I think that would be best all round.

The Deputy Bailiff:

Does the Assembly agree with that? **[Members: Yes]** Very well, we will continue on this debate and then we will decide at the end whether to come back tomorrow or not. Now, does any other Member wish to speak on this particular debate? Can I remind Members that a Member must not unduly repeat the arguments of others. It is quite hard to think of anything new to be said on this matter. Deputy Ferguson.

17.13 Deputy S.C. Ferguson:

The Public Accounts Committee has been pleased to see that most of their recommendations of their report of P.68 last summer have been taken into account. Now the Deputy of Grouville was somewhat dismissive of the pet incinerator. I would point out I am perhaps conflicted on this because I am on the Animals Shelter Committee, but I do understand that there are no E.U. or

health regulations requiring movement of the incinerator; a new access path, perhaps. Apart from that, I support the Scrutiny Report and recommend this proposition to Members.

17.14 Deputy J.B. Fox:

It is ironic that if you are a Deputy and you live in St. Helier the only cows you are going to see are at West Centre and they are in bronze. If I go to Queen's Valley where I take my country exercise, I either see 100 or so cows all at once or I do not see any at all. But I am pleased that they are brown cows and I am pleased there are green fields. What I am not pleased about is that this has been going on for 2 years and then all of a sudden it is in a panic, everybody is going to go bankrupt if we do not give permission instantly for a new dairy to be built at Howard Davis Farm. Well, I am sorry but I have other things that I think are equally as important, if not more important, and that is covenants. It is only this January that we have taken the trouble to go and talk to the heirs of T.B. Davis and ask them their thoughts and their permissions and whatnot. This has been going on for 2 years and I think it is important that we recognise - and government has a responsibility to recognise - that if an individual or others makes a gift to this Island and it has a covenant on it, we must respect it. Yes, there are occasions when there is a need to change the covenant for some reason and the States have done it in the past, but I think it is very important that States' Members have all the facts when they are asked to make these changes. That is why I put in my proposition, and clearly it could have been all sorted out long before it ever got to a stage of putting a proposition. Unfortunately, the Ministry concerned did not take that up. What I want to know is why this site? It has got a covenant on it. What action had been taken to look at other sites? We know the fundamental financial arguments about the site that they are on now. We know the desperate need for sorting this out once and for all. I am not sure whether it will achieve it, but we all hope it will. But I wanted to know what the other sites are. The comments that finally came through were it is not considered appropriate for any States' department to undertake a full investigation of alternative sites on behalf of the Jersey Milk Marketing Board. Well, I think that is arrogant because this is a gifted site to the States. It is a States' site that we are being asked to change the covenant on and that is the type of comment that we get back from it. The answer could have quite easily been: "I can find that information out." We did eventually find it out; it came in the comments both from the Ministry and also from the Scrutiny Panel and it also came via the Jersey Milk Marketing Board to all the States' Members with correspondence to me. All I wanted was the information to be given to the Minister so that he could bring it forward - in this case via his Assistant Minister - at this meeting. Now I accept that the alternatives were looked into. I do not think the alternatives were necessarily looked into as in depth as they could be because there was a desire and reasons given for the desirability of Howard Davis Farm. They call it a brown field site. When I was on planning, anything that had disused glasshouses, *et cetera*, the farmers were in no uncertain terms under the planning rules that if they were disused that they would have to be dismantled and returned back to a green field. Well, clearly in this case that is no longer applicable and the realism is it probably is not going to happen anyway. I am very disappointed that as there was this urgent need, *et cetera*, and what the Chief Minister describes as a shining example for a solution, *et cetera*, that we could not have done the same for the people that donate covenants to us. I am particularly concerned that we must send out a message from this House that we do appreciate when somebody does give us either a plot of land, a headland, a building, *et cetera*, that we do respect their wishes. In this case we have failed to do so. That was the reason why I was particularly concerned this goes forward. I do not think it is right necessarily about the moving from the current site at Five Oaks and the way it has been done, but clearly when you have a Council of Ministers support it and you have Scrutiny Panels that support it, I do not think that I would even find a seconder to my proposition. What I hope is that at the end of this debate that in future Ministers and others that are responsible for bringing propositions will listen to their Back-Benchers, who might have something valuable to contribute, and find out the answer and not give it in a written thing to say: "It is nothing to do with us." Well, it is something to do with us and I think it is important that we recognise that and say "thank you" to the family and those people that

made the efforts to find it. We are going to end up with a new dairy, I have no doubt about that, but let us make sure that we get it right this time. Forty years of mismanagement by the sounds of it and huge amounts of public money that has gone into it; let us keep that into the past and let us work to a positive future. Thank you, Sir.

17.15 Deputy R.G. Le Hérisier:

I thank the Deputy for his impassioned speech, but I do not think Deputy Labey of Grouville said 40 years of mismanagement. It was 40 years since her grandfather had set up the dairy, set it up in a good way, and for various reasons stagnation had set in. I also do not think the Deputy intended to imply that the current board, who are led with unbelievable energy, energy that almost makes us tired when we study it, by Mr. Le Gallais and Mr. Keen - keen by name and keen by motivation - were part of that history. Not at all did she mean to say that and, in fact, as I said, their dynamism has left most of us quite breathless. It is because of their commitment that I think a lot of us also, quite frankly, became committed. Very briefly, Sir, the reasons why we did look into this... and it was stated at the meetings that were held on Friday and Monday, and the reason for Five Oaks, which I had looked into because I know there was unhappiness in the Parish. It was an industrial site. There was no intention of keeping it an industrial site. There was no possibility of keeping it under planning rules as a mixed use site; that simply was not possible. There were the traffic issues and that would have certainly made a supermarket there also a very difficult thing. It was, generally speaking, seen as a bad neighbour. So there were many reasons to move it out of Five Oaks, and why it ended up at Trinity, Sir, was because as the Vodka Farm people, for example, found very, very difficult, where were there sites that were not in the green zone? In fact, Deputy Fox mentioned the demolition of glasshouses. It was already, as I understand, rezoned as a brown field site and some of that site is not glasshouses, it is packing sheds and so forth; in other words already industrial use. So that is why. Also, there was minimal damage to neighbours there even though, as the Assistant Minister for Planning has said, the neighbours in fact have proved very amenable to it given the positive approach shown by the dairy. So there were all sorts of reasons for it to leave Five Oaks and there were all sorts of reasons which along the way eliminated other sites and led it to Howard Davis; all sorts of reasons. The last thing, Sir, I would say is this is probably the last chance saloon for the dairy industry. It has struggled mightily. It has struggled against all sorts of odds and it is looking for a very firm view from government. It is carrying a mighty debt at the moment and the only way it is going to deal with that debt is unfortunately this kind of situation, which is on the level because I know Senator Le Main was very keen to investigate it. We looked at it in enormous depth, this situation, to see if there was any sort of strange motive at work or any strange shenanigans and we never came across that. Because mark my words, Sir, as we have seen with competition, we have inherited a competition model that a lot of us are quite surprised at, quite frankly, as we now see it unfolding itself through telephone competition, through dairy competition. Mark my words, Sir, if this option does not work with a strong dairy and a strong credible export strategy, then the industry will truly be in trouble. We had a presentation from the corporate farm people and it was a very impressive presentation. Essentially, this industry would go along one of 2 paths; it would either go to a private monopoly or we would have to fight like crazy to retain the best of a public monopoly. Those were the 2 choices; otherwise it will be fragmentation and collapse. So, basically, there is no choice.

The Deputy of Grouville:

On a point of clarification just before the next speaker speaks, could I make clear that I said that in my opinion the industry had been complacent with a captive market. That is a far cry from mismanagement.

17.16 Deputy C.J. Scott Warren:

I will be extremely brief. I think virtually everything has been said about everything, including covenants. I was going to speak more but because Deputy Fox has said everything about covenants I think perhaps... because obviously, as Deputy Labey said, the record at Howard Davis Farm re. adhering to covenants is already bad. I wonder if there should be a scrutiny or a review of any other covenants that we are maybe not adhering to. I am also obviously very pleased that at last the family were consulted so thoroughly and that we are all able to sign up to this, not worrying that the family are not backing us. I am looking forward to the new ideas of a new location of dairy and obviously the new promised lower prices for the consumer. Thank you, Sir.

17.17 The Connétable of St. Ouen:

I can probably go, according to the rules of the chair, and speak differently to anyone else, Sir, because I am the only Member here who can say that they have been involved with the dairy industry and involved with Jersey cows for the last 50-odd years. I was fortunate enough to be elected on to the board of the Jersey Milk Marketing Board back in the late 1970s, the halcyon days when the input into the dairy was somewhere in the region of 18 million to 20 million litres per day, and the golden cow - if I can use the pun - of jiffy pots, when everything did seem to be going so well. Unfortunately, it is not, as Deputy Labey said, mismanagement. It is the fact that maybe we were complacent in those days, but also the fact that the world market has become extremely difficult. The problems which Jersey Milk face are, as Deputy Le Hérissier said, exacerbated by the large debt which they have to service. But they are the same problems as every other dairy industry in most parts of the world. Certainly in the U.K. the pressures on the dairy industry are enormous. So, yes, we can expect the new dairy to maybe make some inroad into export, but it will be a very difficult market to get into because it is already an extremely competitive market. I think we must - we absolutely must - support this proposition. We absolutely must show the few people who are left in the dairy industry that the States do care and that they want to preserve not only the industry but they want to preserve the cow. The cow is Jersey. Everywhere I have been across the world, when you mention that you come from the Island of Jersey: "Oh, the cow" because that is what they associate with the cow. But let us not be complacent. Allowing this proposition, supporting this proposition, allowing a new dairy to be built, allowing the board to work extremely hard to produce a cheaper milk for local consumption and attempting to get into a very competitive export market is not going to be easy. The one thing that this will do, it will give them a factory, if you wish, which can be much more effectively run, which can produce great efficiencies. But let us not be fooled. This will not make the dairy industry competitive for the next 40 years. There are great challenges facing the dairy industry. I think that the one problem which the States has not faced and which we will have to face is the fact that the youngest member of the dairy industry at the moment is probably in their late 40s. The climate of the dairy industry is not encouraging young people in, and I think that unless we as a States pass this proposition and show real leadership, real support for the dairy industry, it will die on its feet because of the fact that there are no new entrants. The States must show leadership and show support to the dairy industry.

17.18 The Connétable of St. Lawrence:

I would like to echo what the Connétable of St. Ouen has just said but I will not echo it because I will be wasting time in the sense that I do not want to keep you here too long. I have already cut my speech down significantly so I will be repeating one or 2 things but I think the whole thing has to be said to get the message across if it needs to be got across further than it has been already. First of all, talking about covenants, the removal and partial abrogation of a covenant, as has been said in the debate already, should not be taken lightly. However, there comes a time when some covenants are overtaken by a change in circumstances. How long should one have a covenant in place untouched? Eight years, 80 years, 800 years? It cannot necessarily go on for ever. As society and circumstances keep changing there can be no hard and fast rule with regard to covenants remaining in place. Such is the case with the Howard Davis Farm and particularly with the area in question. It is no longer utilised or realistically usable in line with the covenant because

the world of agriculture in Jersey has changed out of all recognition compared to 1927, 80 years ago. Ask yourself the question: is it likely that our great benefactor, T.B. Davis, would make such a gift with exactly the same covenant today? I think the answer is no, it is not likely. This is in view of the very different circumstances prevailing in agriculture today. However, there is - and we have heard plenty about this - a desperate need for a site to support and significantly play a part in today's agriculture and particularly support the Jersey cow. A new site for a dairy is needed urgently. The site is readily accessible. It is currently unused and is adjacent to the R.J.A.&H.S., the headquarters of the World Jersey Cattle Bureau. The establishment of a dairy on the site is supported by - just to remind you - the descendants of T.B. Davis and the recent *Promar Report* on the dairy industry. In fact, it states in the report: "The Howard Davis Farm option is still by far the best and this needs to be implemented as soon as possible." It is also supported by the Economic Affairs Scrutiny Sub-Panel, among others, and I would like to congratulate the Sub-Panel on their work. This has been an excellent example, in my view, of Ministry working with Scrutiny. I would also like to congratulate the officers who have put in a tremendous amount of effort in both the Planning and Environment Department and in the Economic Development Department. It is vital that we send a clear signal of support to our beleaguered dairy farmers. I cannot stress that enough. It is vital that we send that message out to ensure the continued existence of the Jersey breed in its Island home, which I am convinced - and I hope you are as well - that T.B. Davis would have supported. I urge you to vote in favour of the draft Law.

The Deputy Bailiff:

I call upon the rapporteur to reply.

17.19 Deputy J.A.N. Le Fondre:

I will thank those Members who have been passing various notes which have been getting longer and longer urging me to keep it shorter and shorter, so I will be as brief as I can. I hope Members will just accept a general thanks to everyone who has spoken in support of the proposition. It has been a long debate. It has been generally fairly productive, I think. I will address 3 queries. I would refer Deputy Southern to various quotes from the *Promar Report*. One quote I will refer to is it says: "Other options are limited but the Howard Davis option is still by far the best bet and this needs to be implemented as soon as possible." In relation to investigation of other sites, I do refer to the comments in respect of the now withdrawn P.5 and obviously the emails that were sent to all Members relatively recently, which I am sure he has read. The Deputy of Grouville spoke at length and very passionately and I note a number of her comments and thank her for her general support on varying the covenant. I am sure the J.M.M.B. will have noted the comments as well. In relation to the rust, could I refer her to I think it is number 9 in the family statement, which is basically an undertaking that we would bring it back to the House for consideration. What I would add in relation to the lease, the substance of the report accompanying the proposition implies that it will be the Jersey Dairy or the J.M.M.B. that will be operating from the site. If the proposed lessee was to change from the J.M.M.B. or any successor to someone completely different, then we have already agreed within Treasury and Property Holdings that it would be appropriate to come back to the States for additional approval as it was felt it would be a significant alteration to the spirit of the proposition in front of us. In respect of terms of the lease which effectively we are saying would be drawn-up under the current proposition with the Milk Marketing Board, I hope the Deputy will appreciate I would prefer not to bring that back to the States because of the time factor. Anything to do with Property Holdings requires a 6-week lodging period. What I would undertake is that I would certainly discuss it with her and obviously we do have the 15-day rule for a ministerial decision on the matter. In relation to Deputy Fox, I do agree with him, as we have said, that we must ensure that covenants are treated seriously. In respect of the point he was not very happy with, I do think we were trying to say that we did not think it was down to us to look at every option, more so just to consider as a property holdings department whether the Howard Davis Farm site itself was appropriate, which I am confident it is more than appropriate to use. I am going to

stop there. I think we must refer back to the *Promar Report* again. The site is fit for purpose. It is available. Get on and build as soon as possible at the Howard Davis Farm site. By giving their support today, I hope Members will demonstrate their support to the industry and grant it the encouragement it seeks. There is a long journey ahead still. I am delighted to commend this legislation to the House. I hope Members will strongly show their support and I do ask for the Appel and maintain the principles. Thank you, Sir.

The Deputy Bailiff:

The Appel is asked for in relation to the principles of the draft Law. I ask Members to return to their seat. The Greffier will open the voting.

POUR: 45		CONTRE: 0		ABSTAIN: 1
Senator S. Syvret				Deputy J.B. Fox (H)
Senator L. Norman				
Senator F.H. Walker				
Senator T.A. Le Sueur				
Senator P.F. Routier				
Senator M.E. Vibert				
Senator T.J. Le Main				
Senator B.E. Shenton				
Senator F.E. Cohen				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of St. Lawrence				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Deputy R.C. Duhamel (S)				

Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy G.C.L. Baudains (C)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérissier (S)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy S. Pitman (H)				
Deputy A.J.H. Maclean (H)				
Deputy K.C. Lewis (S)				

Deputy I.J. Gorst (C)				
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The Deputy Bailiff:

Deputy Ryan, do you wish this matter to be referred to you in the Corporate Services Panel?

Deputy P.J.D. Ryan (Chairman of the Corporate Service Scrutiny Panel):

No, thank you, Sir.

The Deputy Bailiff:

Very well. Deputy Le Fondre, do you wish to propose the articles of the draft Law *en bloc* together with the schedules?

Deputy J.A.N. Le Fondre:

Yes, Sir.

The Deputy Bailiff:

Is that seconded? **[Seconded]** Does any Member wish to speak on any of the individual articles? All those in favour of adopting Articles 1 to 5 and the Schedule kindly show? Those against? They are adopted. Do you propose the Bill in Third Reading?

Deputy J.A.N. Le Fondre:

Yes, Sir.

The Deputy Bailiff:

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

18. Composition and Election of the States Assembly: options for change (R.97/2006)

The Deputy Bailiff:

Now then, that leaves us only with the in committee debate plus the consideration of business for future meetings.

Senator S. Syvret:

As I mentioned earlier, it has been suggested by some Members it would make better use of our time were we to defer the in committee debate on the structure of the States Assembly. We have very little substantial Public Business down for the next sitting so it would seem to make more effective use of our time were we to defer it until that occasion.

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

Well, I hope the House would agree to meet tomorrow to finish this in committee debate because I feel that it is an important part of the process we are going through. We are issuing to all households this week a pamphlet. We are holding 3 public meetings tonight, tomorrow night and the next night. Next week we are holding the M.O.R.I. (Market and Opinion Research International) poll. I think all this gets together to inform, to give a complete understanding to the public before they are asked the questions in the M.O.R.I poll. I know it is not the intention, but I suspect the public will think again that we are not prepared to speak about reform of ourselves. I think really we should get on with it, come back tomorrow and have the debate.

Deputy J.A.N. Le Fondre:

I was going to stand up and say I am also prepared to see it tomorrow as an individual Member. I think we allocate 3 days this week for States' business and if we can do it all tomorrow that would be great and it fits in with the timing that P.P.C. (Privileges and Procedures Committee) is following.

The Deputy Bailiff:

Well, that is obviously a matter for the Assembly.

Senator S. Syvret:

Can I make a formal proposition that we, in fact, defer this matter for a fortnight until the next scheduled sitting of the States? I think we should just simply vote on that subject. It seems to me that the nature of the process is such that whether we debate it tomorrow or in a fortnight's time is not going to make any practical difference to either timetable or possible reform. Indeed, the debate we have at the next scheduled sitting of the States may be better because it may be more properly informed of public opinion in the light of the 3 meetings that are to take place. So, Sir, I would formally propose that we defer this matter.

The Deputy Bailiff:

Very well. Is that seconded? **[Seconded]** Very well. Again...

Senator M.E. Vibert:

Sorry, Sir, I know it is getting on, but I think it is important to bear in mind what the President of P.P.C. said. I think what States' Members should bear in mind is that it is proposed to have the second M.O.R.I. poll before the States would debate this issue *in camera*. I think that it would be important that the public can listen and see reported States' Members' views on this issue, which may inform their own views, before the M.O.R.I. poll takes place. So though I would very much like not to come in tomorrow, I believe it is our duty to do so to continue with the debate as we have said we would do.

Deputy G.P. Southern:

Can I also reinforce that current practice is that Tuesday and, if necessary, Wednesday in this particular week are set aside for States' business so that - one of the reasons as far as I am concerned - Scrutiny can get on with its business in the other week. If you move this to Wednesday, that is my meeting gone. I do not claim priority, but it will be an inconvenience to me.

Deputy G.W.J. de Faye:

I would like to strongly support Senator Syvret's proposition. I think it would be very helpful for States' Members to have had the benefit of the public meetings that are taking place. I think it might be highly disruptive to those public meetings if the States were to debate in committee tomorrow because I certainly intend to raise a whole lot of missing options that the public are not being offered which I think is one of the primary failings of the Privileges and Procedures Committee. Indeed, I fully expect to hear from public meetings where the missing options are. So I really do think that we should take a bit more time over this.

The Deputy Bailiff:

Can I just be clear, too, Senator Syvret? I understood you to be suggesting that it should be put off for 2 weeks, until 13th February 2007, so that it would take place...

Senator S. Syvret:

Yes, Sir, at the next scheduled States sitting.

The Deputy Bailiff:

To the next scheduled meeting, which at the moment is **[Aside]** ... there was a suggestion I think it was Wednesday.

Senator P.F.C. Ozouf:

May I ask a point of clarification of the Chairman of P.P.C? Is it not possible to delay the M.O.R.I. poll? Because clearly it seems to me that if the M.O.R.I. poll is definitely going ahead without the States' debate, that is unwise; but if the States do decide to meet in 2 weeks' time, can he delay the M.O.R.I. poll?

The Connétable of St. Clement:

I am afraid it is not possible to do that, Sir.

The Deputy Bailiff:

Very well. I think it is a matter for Members to vote upon. The Appel is called for and the proposition of Senator Syvret is to delay the in committee debate until the sitting on 13th February 2007.

Senator S. Syvret:

Just to reply very briefly to the debate, I maintain the proposition. I think it would be more effective. I think it is more important that we wait until we have heard what the public have to say rather than imagining, as some Members seem to do, that listening to us rabbiting on repeatedly all day tomorrow is somehow going to have a great enlightening influence and effect upon the public. It clearly is not. I think we should listen to the public, Sir.

The Deputy Bailiff:

Very well. So the matter is for or against Senator Syvret's proposition and the Greffier will open the voting.

POUR: 27		CONTRE: 21		ABSTAIN: 0
Senator S. Syvret		Senator P.F. Routier		
Senator L. Norman		Senator M.E. Vibert		
Senator F.H. Walker		Connétable of St. Mary		
Senator T.A. Le Sueur		Connétable of St. Clement		
Senator P.F.C. Ozouf		Connétable of St. Helier		
Senator T.J. Le Main		Connétable of St. Brelade		
Senator B.E. Shenton		Connétable of St. Martin		
Senator F.E. Cohen		Deputy G.C.L. Baudains (C)		
Connétable of St. Ouen		Deputy P.N. Troy (B)		
Connétable of St. Saviour		Deputy C.J. Scott Warren (S)		
Connétable of St. Peter		Deputy R.G. Le Hérisier		

		(S)		
Connétable of St. Lawrence		Deputy J.B. Fox (H)		
Connétable of Grouville		Deputy G.P. Southern (H)		
Connétable of St. John		Deputy of St. Ouen		
Deputy R.C. Duhamel (S)		Deputy of St. Peter		
Deputy A. Breckon (S)		Deputy J.A. Hilton (H)		
Deputy J.J. Huet (H)		Deputy J.A.N. Le Fondré (L)		
Deputy of St. Martin		Deputy of Trinity		
Deputy J.A. Martin (H)		Deputy S.S.P.A. Power (B)		
Deputy S.C. Ferguson (B)		Deputy K.C. Lewis (S)		
Deputy P.J.D. Ryan (H)		Deputy I.J. Gorst (C)		
Deputy of Grouville				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy S. Pitman (H)				
Deputy A.J.H. Maclean (H)				

ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS

The Deputy Bailiff:

Now, finally, Mr. Chairman, do you wish formally to propose then the items of business under M?

19. The Connétable of St. Clement (Chairman of the Privileges and Procedures Committee):

I would like to do that with the addition of P.13, which is the “Deep groundwater: La Rocque and St. Catherine boreholes”, to be added to 27th February 2007. Of course, now added to 13th February 2007 is the “Composition and election of the States Assembly: options for change” (R.97/2006), the in committee debate, Sir.

The Deputy Bailiff:

Very well. Does the Assembly agree to that? Deputy Southern, do you wish to say anything on that?

Deputy G.P. Southern:

Yes. Reluctantly I have to ask once more that my amendment, P.128, be moved back from the meeting of 13th February 2007 because I have yet to consider the amendment brought by the Social Security Department, which I have only seen today. So, therefore, that cannot be lodged today and debated on 13th February 2007 and I do not want to pre-empt the no doubt wise move of the Minister to adopt most of what I am suggesting.

The Deputy Bailiff:

Very well, you are taking out P.128. Are there any other matters? Yes, Deputy Breckon.

Deputy A. Breckon:

On 13th March 2007 there is the Social Housing Property Plan, which is 6 weeks today. I did ask for it to be referred to Scrutiny, Sir, and it will not be possible in 6 weeks to produce our report. I should say there is over £200 million of public money involved and it would be totally irresponsible for anybody to insist that it is taken on 13th March 2007. I would ask that it is removed, Sir, and the date left open.

Senator T.J. Le Main:

The Member leading the Scrutiny Panel on this has assured me that he will be ready for that time. **[Interruption]** Well, I can only say to you that we had assurances it can be done very quickly.

Deputy S. Power:

I am the lead Member involved in this and I have done one brief summary, but the Panel has not met yet so it would be impossible to complete the Scrutiny review within the timescale.

The Deputy Bailiff:

It is not necessary to fix for all time the matters for that sitting, so can I suggest that the Minister and the Scrutiny Panel discuss and agree a suitable date and it can be brought back next time. In relation to 13th February 2007, then, it is as listed, less Project 128, but with the addition of the in committee debate on the constitution of the States. So, subject to that, does the Assembly agree to the proposal? There is one final matter I must notify Members of. The Minister for Social Security has lodged the Employment (Minimum Wage) (Amendment No. 2) (Jersey) Regulations today. Very well, does that conclude matters?

The Deputy of St. Martin:

This morning when you made your announcement that we are having the Royal Visit at May time, I thought you may have made some mention about some of us are 150 years old. It was 150 years ago yesterday, Sir, that the Deputy's role first came to the States. I thought that occasion may well have merited some mention in our States' sitting. I think I would like to compliment those wise men 150 years ago who thought the role of Deputy was very important and 14 Members took their seats. Could I say that when a decision was made to have Deputies, how quickly it followed through that we did have that role. Maybe that is a lesson today that we should be learning when we are looking at our reform. So, can I say, Sir, that those 29 of us should all pat ourselves on the back. I do not know whether indeed in 150 years' time you will still have Deputies, but the way we are going with reform it may well be we still will have them. Thank you, Sir.

The Connétable of St. Ouen:

May I possibly be allowed to remind the Deputy that he only has 350 years to go to catch us up? **[Laughter]**

ADJOURNMENT

The Deputy Bailiff:

On that note, I declare the meeting closed and we will meet again on 13th February 2007.