

# STATES OF JERSEY

## OFFICIAL REPORT

WEDNESDAY, 5th DECEMBER 2007

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

**PUBLIC BUSINESS - resumption**

**1. Draft Finance (Jersey) Law 200- (P.165/2007)**

**The Bailiff:**

Well, we continue now to give effect to the Budget which the Assembly has approved, the Budget proposition has been approved, and we come to the Draft Finance (Jersey) Law 200- and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Draft Finance (Jersey) Law 200-. A Law to set the standard rate of income tax for 2008, to amend further the Stamp Duties and Fees (Jersey) Law 1998 and to amend further the Customs and Excise (Jersey) Law 1999. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

I was planning to catch your eye earlier just to ask the House's indulgence, if I could, to take P.176/2007, the pandemic flu funding debate, at the end of the other finance matters here so that we do all the budget and funding issues at the same time. Can I interrupt, before I start the Finance Law, to ask Members if they are prepared to do that? Projet 176 was lower down the Order Paper.

**The Bailiff:**

Did you want to deal with that straight away?

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

No, after P.167.

**The Bailiff:**

After P.167. Yes. Are Members prepared to deal with pandemic flu immediately after Projet 167? Very well, we will put it there.

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

The draft Finance (Jersey) Law 200- brings into effect the proposals that we agreed in the budget yesterday. There are 4 Articles. The first one sets the standard rate of income tax for next year at the same rate of 20 per cent. The second one amends the Stamp Duties Law to allow for first-time buyers to have an additional discount, which will rise from £250,000 to £300,000. The third paragraph deals with the duty increases on alcohol, tobacco and petrol fuels, and the fourth paragraph deals with the citation of commencement. I propose the principles of the law as a whole.

**The Bailiff:**

The principles are proposed and seconded? **[Seconded]** Does any Member wish to speak on the principles of the draft? Well, I put the principles. Those Members in favour of adopting them, kindly show? Those against? The principles are adopted. I invite the Minister to propose the Articles of the law.

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

Yes, I have explained the nature of the 4 Articles and I propose the 4 Articles.

**The Bailiff:**

Very well. You are proposing all the Articles together? They are proposed and seconded? **[Seconded]** Does any Member wish to speak on any of the Articles of the Bill? I put the Articles. Those Members in favour of adopting them, kindly show? Those against? The Bill is adopted in the Second Reading. You move the Bill in Third Reading? Seconded? **[Seconded]** Does any

Member wish to speak on the Bill in Third Reading? I put the Bill. Those Members in favour of adopting it, kindly show? Those against? The Bill is adopted in Third Reading. We come next to the Acte Operatoire to give effect immediately to the Finance Law which the Assembly has just passed and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Act declaring that the Finance (Jersey) Law 200- shall have immediate effect. The States, in pursuance of Article 19 in the Public Finances (Jersey) Law 2005, have made the following Act.

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

This is a convention allowed for in the Public Finances Law which will mean that the Finance Law can come into immediate effect, notwithstanding it has not yet received Royal Assent or been registered. Although the law has immediate effect, Article 4 of the law gives a commencement date as 1st January 2008. I propose the Act.

**The Bailiff:**

The Act is proposed. Is it seconded? **[Seconded]** Does any Member wish to speak on the Acte Operatoire? I put the Act. Those Members in favour of adopting it, kindly show? Those against? The Acte Operatoire is adopted.

**2. Draft Income Tax (Amendment No. 3) (Jersey) Law (P.166/2007)**

**The Bailiff:**

We come next to the Draft Income Tax (Amendment No. 3) (Jersey) Law and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Draft Income Tax (Amendment No. 3) (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.

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

This is a slightly more varied law and within the context of this law it provides for additional pension arrangements through retirement annuity plus schemes. It amends the income tax exemption thresholds. It increases the child allowances and it then deals with the citation clause. When we come to the individual Articles, Sir, I will be proposing the amended Articles to reflect the increase in tax thresholds which we agreed yesterday. Meanwhile, I propose the principles of the law.

**The Bailiff:**

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

**2.1.1 Deputy R.G. Le Hérissier of St. Saviour:**

Like a lot of Members, I suppose, I would declare an interest. Would the Minister, Sir, like to comment whether this would in any way be a substitute for the hopefully temporary withdrawal from business of large insurance companies from the Island and is it phrased or formulated in such a way - I found it very difficult to sort of work through it - that people will be able essentially to transfer savings into annuities without necessarily having embarked on a very long lifetime laborious process of putting away - as they did with the man from the Pru (Prudential) - a few pence every week? Is there some mechanism whereby people can move money into, I suppose, what are essentially retirement plan tax shelters? Is this what this is trying to achieve or has it got a much narrower intention?

**The Bailiff:**

I call upon the Minister to reply.

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

I do not think this was intended as a substitute for those national pension schemes. This was included as additional. I hope that some pension providers will still provide their own annuity services and so on to individuals to give us greater freedom of choice, but recognising that there was at the time limited choice, we felt it was only appropriate to give a different opportunity and hence this scheme was provided. The essence of this scheme, just like any other pension scheme, is to allow for regular annual contributions which can be tax deductible as a pension payment in order to provide a pot of money which, at the end of the year, can then be invested in a retirement annuity trust rather than simply have to be invested as a lump sum. It is not intended as a one-off vehicle but rather as an ongoing year by year contribution arrangement. These schemes are principally concerned with what one does at the end of that period in terms of using up that pot of money in a more effective and simpler way. The details, I think, are probably better provided by the insurance providers who will have individual schemes tailored to their own individual circumstances and to the circumstances of the contributor.

**Deputy R.G. Le Hérisier:**

I wonder if I can ask for clarification. If somebody comes along with a scheme which, prior to this law, they have been contributing to and they wish to transfer it into an annuity, who will make the decision as to whether that scheme is acceptable for transfer?

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

Yes, one can transfer into the scheme from an existing pension fund or pension contributions so long as the scheme is approved by the Comptroller of Income Tax and the relevant scheme's administrators just to notify the Comptroller of any additional person in that scheme. The administration will be done largely by the approved pension providers themselves, who will have a blanket arrangement which has been cleared with the Jersey Financial Services Commission as being acceptable under the insurance rules under that law. So I think that should clear up that point as well.

**The Bailiff:**

Well, I put the principles of the Bill. Those Members in favour of adopting them, kindly show? Those against? The principles are adopted. Do you propose Article 1 to 7, perhaps, Minister?

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

I propose Articles 1 to 7, Parts 1 and 2. Part 1 is a straightforward interpretation. Part 2 deals with those retirement annuity trust schemes that we were discussing a moment ago in rather more detail and I am happy to propose Articles 1 to 7 and try to answer any questions.

**The Bailiff:**

Articles 1 to 7 are proposed and seconded? **[Seconded]**

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

I wonder if the Minister would confirm, for the avoidance of doubt, that if a person becomes a pensioner and receives an annuity equivalent, unlike the existing annuity schemes, under this scheme, when the pensioner dies, then the pot of money out of which the annuity is being paid will not vanish into the moor of the insurance company but will be part of their estate and be payable to the beneficiaries of that estate.

**The Bailiff:**

I call upon the Minister to reply.

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

I am pleased to confirm that, subject to the terms of the particular retirement annuity trust scheme, there is a facility, should the person so require, for the balance to be paid to the estate on the death of the principal beneficiary but it will depend on the wording of each scheme. Clients may prefer to have the scheme tailored to their own needs excluding that other subsequent benefit from the estate. There is that flexibility within the law. I maintain Articles 1 to 7.

#### **The Bailiff:**

I put Articles 1 to 7. Those Members in favour in adopting them, kindly show? Those against? Those Articles are adopted and I do not know, Minister, whether you wish to have all the amendments read out or I think Members have them on their desks, I hope, the amendments to reflect the decisions made yesterday.

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

I am content that they are taken as read, Sir. They are just mathematical extensions of what was there before.

#### **The Bailiff:**

Well, may I ask you to propose Articles 8 to 9 as amended.

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

Articles 8 and 9 translate to 6½ per cent increase in tax thresholds into individual figures depending on the particular circumstances in question. Hence, we have a whole range of figures, all of which hopefully are calculated as 6 percentage increase rounded up to the nearest £10. I propose Articles 8 and 9.

#### **The Bailiff:**

Very well, Article 8 is proposed and seconded? **[Seconded]** Does any Member wish to speak on Article 8? I put Article 8. Those Members in favour of adopting it, kindly show? Those against? Article 8 is adopted.

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

Part 4 deals with child allowance increases and is, I think, very straightforward. For a child in normal education, it goes up from £2,500 to £3,000. For a child in higher education, it goes up from £5,000 to £6,000 per child for 2008 and subsequent years. I propose Articles 9 and 10 Part 4.

#### **The Bailiff:**

Articles 9 and 10 are proposed and seconded? **[Seconded]** Does any Member wish to speak on either of those Articles? **[Aside]**

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

To Article 9 which has not been read out either.

#### **The Bailiff:**

Well, this is again a numerical calculation increasing £2,500 to £3,000. So you propose Article 9 as amended? Articles 9 and 10 are proposed and seconded? **[Seconded]** Does any Member wish to speak on either of those Articles? Well, I put the Articles. Those Members in favour of adopting them, kindly show? Those against? They are adopted.

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

Part 5. In Article 11, the amendment to Article 10 deals with the Commissioners of Appeal and as indicated in the budget speech, I am proposing that the number of Commissioners of Appeal be raised from 8 to 12 on the basis that their scope of work has now broadened and although I am not

necessarily expecting more appeals, we need to be prepared for that just in case that should arise. So this will give an increase in the number of Commissioners of Appeal from 8 to 12 and Article 12 is just a citation clause. I propose Part 5.

**The Bailiff:**

Part 5 is proposed and seconded? **[Seconded]** Does any Member wish to speak on either of those Articles? Well, I put Articles 11 and 12. Those Members in favour of adopting them, kindly show? Those against? They are adopted, and you move the Bill in Third Reading, Minister? Proposed and seconded? **[Seconded]** Does any Member wish to speak? I put the Bill in Third Reading. Those Members in favour of adopting it, kindly show? Those against? The Bill is adopted in Third Reading. We come next to the Acte Operatoire authorising immediate effect to be given to the Bill which the Assembly has just passed, and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Act declaring that the Income Tax (Amendment No. 30) (Jersey) Law 2005 shall have immediate effect. The States, in pursuance of Article 19 of the Public Finances (Jersey) Law 2005, have made the following Act.

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

Yes, Sir, the same argument applies to this Act as the previous one we just agreed and, again, this law comes into effect for the years assessment 2008 and subsequently it provides for the law to come into immediate effect, so I propose the Act.

**The Bailiff:**

The Act is proposed and seconded? **[Seconded]** Does any Member wish to speak on the draft Act? I put the Act. Those Members in favour of adopting it, kindly show? Those against? The Act is adopted. Article 18 of the Public Finances Law requires that the Assembly be provided with a summary of all the authorised movements in the consolidated fund and I understand from the Greffier that this is already on Members' desks. Minister, do you wish to speak to that?

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

Just to comment that this page will replace the previous back page of the budget book which should be in Members' hands although it is not in mine at the moment. The only change to the previous one is that in the second column, the 2008 forecast column, the penultimate figure we proposed to translate to the Stabilisation Fund has been changed from £25 million to £38 million and as reflected in the detailed movements table further up where the £25 million is again amended to £38 million. It only affects the 2008 forecast, Sir, but for the sake of completeness, that is Table D in the Members' Budget Statement should be replaced by this final version on their desks today and I present that consolidated fund statement for Members' information.

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

Could I ask the Minister, if we are moving a further £13 million into the Stabilisation Fund, would there not be an adjustment to the other income by way of the interest that will not be accumulating? In other words, somewhere between £500,000 and £650,000. Only a small point but I think, for the sake of completeness, I would ask the Minister that.

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

I think the Deputy has a technically correct point. At the moment, I do not have a calculation of amended interest. It will depend on when that money can be transferred into the Stabilisation Fund. It will not necessarily occur on 1st January so until that is known it would be an estimate anyway, but I take his point and it may well be that in future years we will try to get more accurate forecasts.

**The Bailiff:**

Well, now, that completes the debate upon the budget although there is a related matter to which the Assembly now turns, the Draft Public Finances (Amendment No. 2) (Jersey) Law, and I ask the Greffier to read the citation of the Draft.

**3. Draft Public Finances (Amendment No. 2) (Jersey) Law (P.167/2007)**

**The Greffier of the States:**

Draft Public Finances (Amendment No. 2) (Jersey) Law 200-, a law to amend further the Public Finances (Jersey) Law 2005. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

When I proposed a transfer to the Stabilisation Fund, I assumed it was a straightforward matter which was encompassed within the Public Finances (Jersey) Law 2005 that we passed in an amended form in 2005 and I was slightly taken aback to find that I did not have the power to transfer that £25 million or £38 million, whatever the figure was, into the Stabilisation Fund. There were powers within the law to transfer to a strategic reserve or to a named fund, but at the time there was no Stabilisation Fund named or established within the Public Finances Law. It is, therefore, necessary to amend the Public Finances Law in order to cater for a Stabilisation Fund so that this transfer can legitimately be made. While I am on my feet, Sir, and although it has nothing to do with the law itself, I would just like to point out that it was mentioned, I gather, on the media yesterday that the £38 million was being transferred to the strategic reserve and I would like to correct any erroneous suggestion that was the case. What I was proposing, what this House agreed, was to transfer the £38 million to the stabilisation fund, which is a different animal. Meanwhile, Sir, I propose the principles of this Law.

**The Bailiff:**

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

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

Just to say that I congratulate the Minister for making these amendments to the Public Finances Law. I too realise that we had not dealt with this subject when we established the new stabilisation fund and I am pleased to see that now everything is in order. Thank you.

**The Bailiff:**

I call upon the Minister to reply.

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

I thank the Deputy for his observance. Maybe if we had worked it out a couple of months ago, it would have been even better. **[Laughter]** Anyway, thank you for that and I maintain the principles.

**The Bailiff:**

Very well, I put the principles. Those Members in favour of the document, kindly show? Those against? The principles are adopted. Do you wish to take the Articles *en bloc*?

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

I think I will take the Articles *en bloc*, Sir, I am happy to propose them *en bloc* and answer any questions there may be.

**The Bailiff:**

Very well. Articles 1 to 8 of the Bill are proposed and seconded? **[Seconded]** Does any Member wish to speak on any of the Articles of the Bill? I put the Articles. Those Members in favour of adopting them, kindly show? Those against? The Bill is adopted in Second Reading. Move to the Bill in Third Reading. Seconded? **[Seconded]** Does any Member wish to speak? I put the Bill. Those Members in favour of adopting it, kindly show? Those against? The Bill is adopted in Third Reading.

#### **4. Flu Pandemic Funding (P.176/2007)**

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

We come next, as Members have just agreed, to take the Flu Pandemic Funding, Projet 176, and I ask the Greffier to read the proposition.

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

The States are asked to decide whether they are of opinion, in accordance with Article 11(8) of the Public Finances (Jersey) Law 2005, to amend the expenditure approval for 2007 approved by the States on 13th September 2006 in respect of the Health and Social Services Department head of expenditure, to permit the withdrawal of an additional £517,000 from the consolidated fund for its net revenue expenditure in order to fund expenditure already incurred on preparations for pandemic flu.

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

Members may recall that there was a similar proposition lodged earlier in this year to transfer an additional amount to the Health and Social Services Department in a higher sum by way of provision in case the money was required. That proposition was withdrawn but we now have a clearer indication of what money will be required for the year 2007 and it is a significantly lower sum. Although I was previously proposing a sum of up to £2.2 million, we have now identified that for 2007 what will be required will be £517,000. This money is needed in order to fund expenditure already incurred by the Health and Social Services Department in preparation for a potential outbreak of flu, but I will leave it to the Minister for Health and Social Services to elaborate on the need for this money. Meanwhile, Sir, I am happy to propose that we permit the withdrawal of an additional £517,000 from the consolidated fund for that specific purpose. I propose that amount.

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

The proposition is proposed and seconded? **[Seconded]** Does any Member wish to speak on the proposition?

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

Firstly, I would like to apologise to the States Assembly. I do not think it is right that the Department should come asking for money after the money has been spent. The original proposition was for £2.2 million additional funding. I have recently taken office as Minister for Health and Social Services and there were a number of issues regarding the pandemic flu policy that I was not completely happy with. I felt all along that the decision on the funding of pandemic flu should have been brought to the States Assembly in the very first place because it is not just funding for the initial drugs and other items that we need if a pandemic breaks out, but there are also ongoing expenses that will have to be met with regard to replacement drugs and replacement equipment. Furthermore, there is an element of liability with regard to the pandemic-specific vaccine. Normally with drugs, the drug companies take on the liability if there are side effects, but with a pandemic-specific vaccine, because it is developed in such a short space of time, the liability would, in effect, lie with the Health Department itself and, therefore, with the States of Jersey. I felt it only fair to Members to bring a comprehensive report and proposition to the States with regard to the whole pandemic flu policy. I think this is very much an insurance policy. It is very much if a pandemic should break out, not when a pandemic will break out, and I think we need to

get that across to the public. Also I think there is a lot of confusion regarding the pandemic flu issue. I think 95 per cent of the emails I received after the announcement was made that I was reviewing the matter related to normal winter flu jabs and nothing to do with pandemic at all. So certainly at Health, we need to get the message across to the public as to what a pandemic is and what action will be taken. I have been speaking to the Medical Officer of Health on this subject and we do plan to carry out a comprehensive campaign to make sure that people understand what a pandemic is and what they should do. I announced in my notes that early in the New Year we will be bringing a comprehensive report to the States to detail exactly what is happening. This funding of £500,000 relates to the purchase of Tamiflu. The Tamiflu was purchased after the initial Council of Ministers/Medical Officer's announcement that we would be putting a certain provision in place. When I put everything on hold, the money had already been spent on the Tamiflu so we already do have stocks of Tamiflu. This is just to cover what has already been spent. All I can really say is on behalf of the department, I do apologise for the fact that money was spent when it was not already there. We will be coming back with a very comprehensive pandemic plan. It will go to the States Assembly. It will be up to the States Assembly to approve it. It is not really satisfactory because not only is there the fact that this is not my proposition, which means I cannot speak again, but, as I say, I will make sure it does not happen again.

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

Perhaps the Minister could give way while he is still on his feet. I was expecting him maybe to talk a little bit about where his department was on budget spent to date. I do not know if he has got those figures with him.

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

With this funding in place, we will come out in line on budget. We were looking, at one point, at perhaps a small overspend and we have had to pull back in a couple of areas to make sure that we do come in in line. Obviously with the largest budget, £500,000 is a lot of money, but with regard to the total budget, it is less than half a percent of the actual budget. We cannot afford to take this within our own budget, certainly not at this late stage. The amount of cutback we would have to have on basic health care would affect the people of Jersey to try and sort of draw back £500,000 in 3 weeks. I think the other thing to bear in mind is this is very much an insurance policy; the pandemic is very much an insurance policy. If a pandemic event is not a rainy day event that falls within this sort of fund, then I am not quite sure what is. So I think that the funding for the pandemic should perhaps not come out of normal health budget going forward anyway simply because it is an insurance policy for the future.

#### **4.4 Deputy A.J.H. Maclean of St. Helier:**

While the Minister is on his feet, is it possible to ask him one more question, please? I would just be interested to know if the Minister could inform us of the expiry date on the Tamiflu order that has come in. What sort of life span has it got?

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

Tamiflu has a general life span of 5 years.

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

I wonder if the Minister for Treasury and Resources could tell us - it probably again is more a question that should be directed to the Minister for Health and Social Services - whether the Minister knows whether the Medical Officer of Health still has the access to the previously agreed supply for any event of a pandemic flu for a specific pandemic flu vaccine for all Islanders?

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

I just wanted to make clear because I was a bit concerned about the comments that the Health and Social Services Minister issued to this proposition that might have given the impression that the

Council of Ministers entered into this commitment in a cavalier fashion. In fact, of course, the Council of Ministers did not enter into this commitment. It was a previous Health and Social Services Minister that entered into this commitment. What the Minister did was come to the Council of Ministers to have his proposals endorsed and we were given a very, very comprehensive presentation by the Minister and the Medical Officer of Health and others and they were very seriously questioned about the need for this extra funding and why all that funding was needed in the pandemic flu. The urgency of making that decision straight away was stressed and, as Deputy Scott Warren just alluded to, it was stressed that it needed to be made straight away so that we would not lose our place in the queue for possible vaccines in the future and so on. Now, with the change of Health Minister, the new Health Minister came on and unilaterally, if I can put it like that, without coming back to the Council of Ministers, decided to put the proposal on hold, which was his right to do as the legal corporation sole as the Minister for Health. We ended up in a situation where the Council of Ministers were going to come forward for all the money because we believed it was very, very important on the presentation we heard that we should not take any chances at all with the health of people in the Island and pandemic flu and that we should take action as soon as possible on the best professional advice we were given at the time. I sincerely hope that the delay caused by this review does not in any way increase that risk by allowing us less access to the medication that was so strongly and urgently pressed upon the Council of Ministers to support this because of the urgency involved. I still have grave concerns that we have not gone ahead with the original plan because I questioned it very strongly but was convinced by the Medical Officer of Health and the then Minister and others that it was something we should do for the Island. We have not done it, we have done part of it, and I look forward to the Minister bringing back comprehensive plans because unless the advice has changed markedly, it is still something I would support and I would expect all States Members to support because there is no way we should take chances with the health of Islanders.

**Senator B.E. Shenton:**

Can I just point out that one of the reasons I did put it on hold was because we did not have guaranteed supplies.

**4.7 Deputy R.G. Le Hérissier:**

The Education Minister ironically has answered some of my concerns. There was alarm and despondency spread when the Health Minister stated that he had fundamental objections in, for example, why were people like Guernsey not doing it? Should we not look at that? I am sure in his report that that will be answered. I do know people were very concerned. Secondly, Sir, somewhat churlishly, I wonder if I could ask the Treasury Minister whether procedures have been tightened so that £500,000 cannot be arbitrarily spent unless a proper procedure, albeit an urgent procedure, is put in place to do so.

**4.8 Deputy S.C. Ferguson:**

I hope that when the Minister for Health and Social Services embarks on this information programme with the Medical Officer of Health, he will put the whole issue in a better context. It seems to me that the very fact of calling it a pandemic is extremely frightening to the general public. I would note, by the way, that in response to Deputy Scott Warren's comments, the World Health Organisation, which has a very good website talking about this, has been working for some time to ensure that adequate supplies of vaccine for H5N1 will be available. I am also glad to see that the number of cases forecast by Health and Social Services now correlates more closely with the World Health Organisation estimate. It has been mentioned that W.H.O. (World Health Organisation) has a yellow alert for H5N1 flu. W.H.O. has 2 classes of yellow alert and, in fact, it is a low yellow alert. There is more on the W.H.O. website on the Ebola Fever outbreak in Western Uganda, which might be of concern to the Overseas Aid President. I note that guidance has been taken from the 1918 report of the Spanish flu, that this caused 50 million deaths worldwide

compared to the 7.4 million which is forecast by the World Health Organisation for an H5N1 epidemic. I know I am not an expert but I am quoting what the experts say. I think it is important also to note that an investigation of the 50 million deaths in 1918 has concluded that many of those deaths were caused to those in the community with incipient or early stages of tuberculosis. Members will recall that T.B. (tuberculosis) was endemic in Jersey at that time. As a result, I am a little at a loss to understand the reliance on the 1918 report by the Medical Officer of Health and I would ask her perhaps to consider this factor. On the same source, the World Health Organisation makes comparisons with the 1968 pandemic. Now, I was interested to know that this was called a pandemic because they never called it that in 1968 when I had flu and this is what ... I feel that we have this ... and I am dying again **[Laughter]**. Something comes along, we give it a brand new name and it frightens everybody to death, so to speak **[Laughter]**. If you will excuse me, Sir. The record of these last 2 pandemics perhaps should also be consulted as well as one which occurred 100 years ago. Let us get this in context, 1918 was, well, 90 years ago. I understand the eagerness of the Health and Social Services Department to make provision for a particularly nasty version of the flu but we do need a proper risk assessment. I was very pleased to see that the newly anointed Minister withdrew the previous spending request, which did seem somewhat extreme. I do think we have got a problem in these days of instant communication with the pressure on the media - if our current well-loved media representatives in the gallery will forgive me - to provide good stories, good headlines, selling papers, and a good scare story will make excellent headlines and will run on and on. I hope that the Minister will take these into account. In my lifetime, we have had global cooling, nuclear winter, possibility of being struck by an asteroid, global warming which is now climate change, and a flu pandemic - yes, you can remember that, can you, Sir - not to mention rising sea levels. The evidence is such that the sea levels in the South Pacific, which were forecast to rise and drown the atolls, have fallen by about a foot. I really hope that the Minister on his publicity campaign will put this thing into context and stop absolutely paralysing the population with fright. Cautious, yes, but not frightened. The comments about making proper procedures to make sure this does not happen again by the Vice Chairman of the Public Accounts Committee, the Deputy of St. Ouen, I thoroughly support and agree with and hope we will see progress on that.

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

The Minister for Health and Social Services, in answer to a question from Deputy Maclean, told us that the expiry of these anti-viral drugs was around about 5 years. Would the Minister like to be a little bit more specific with his answer to the House and tell us the number of doses in each particular batch purchased and the lengths to expiry date of each particular batch?

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

I think the one point that I would like to make is regarding a point of principle and that is that the Public Finances Law is extremely clear how departments are expected to manage their monies and their funds allocated by this Assembly. It seems, certainly on the face of it, that the department has overspent on the monies allocated to it. It is also quite clear, the Public Finances Law, that there are absolute rules that should ensure that this is not the case and I would like a clear explanation from the Minister why this has happened and why we can be assured that this will not happen again because it is a serious principle that if the States, as a whole, as I say, allocate monies to departments, there is an expectation that those departments will stay within those funds. Furthermore, I would like to understand further. I appreciate the Minister is planning to use a particular Article to come to the States for this expenditure but I struggle to understand why there was a need to come to this Assembly after the money has been spent rather than prior to that money being spent. Also we heard recently that there are surplus funds in the Health Insurance Fund. I would like to understand and have it explained to me certainly why, when we have a community or an Island health issue, the Health Insurance Fund is not able to cover this particular cost.

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

I will not answer the detailed questions about the way in which we have arrived at the situation where money has been spent when it was not previously authorised or has not been agreed, though I am sure the Treasury Minister will answer that. What I will just say very briefly to the Assembly is that I am not alone in being quite uncomfortable with the situation; uncomfortable because I would prefer to vote on a proposition that dealt with the whole of the flu insurance policy. I have had and have been quite struck with some very strong representations I have received from some of our leading financial services industry players that are looking to Jersey and previously were sending messages to their head offices to the effect that Jersey was ahead of the game, was, in fact, prepared for dealing with all types of flu, pandemic or avian flu or any of the variants of it and it was a mark of strength for Jersey to have done that. I am sorry that we now appear to have sent out a mixed message that we still do not know what we are doing and we have not put the insurance in place. I think that is a matter of regret because certainly I would say again that I have been very struck by the support from the financial services industry about supporting the States putting in place measures to protect the Island community and to protect our vital economy. So I would have preferred to see this as £2.2 million, not £500,000.

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

I must agree with the Health Minister that this is an extraordinary matter, an extraordinary item, which is outside of his usual budget. Unless we were to permanently allocate an emergency health fighting fund within the health budget over and above its usual budget so that we would add perhaps £500,000 a year so that it could build up a reserve to fight such things as this, then I think we must treat it as a matter every time that the Minister can go to Treasury and ask for funds on an extraordinary item basis because we really have no provision otherwise. We have no such allocation within the health budget. It is purely given on the basis that the whole health service is managed as in every year previously and we do not have any health fighting fund as such. Unless Members were going to decide to create additional emergency funding for the Health Department, then I think this is the only way in which to deal with it. As other members have said, I think that the Treasury Minister and particularly the Health Minister, he has taken a strong decision in pulling back from a £2 million commitment so there has been a ... I am not going to say it is a saving but we have reduced possible expenditure through this action and I think that the Medical Officer of Health would possibly agree that if the flu pandemic were going to reach Jersey, it would probably come across the Continent first or across from the U.K. (United Kingdom) before it got to us and we would have some advance warning as to its progress towards us. Then I think that we could react and we could even negotiate with the U.K. on obtaining some of their vaccine because obviously they will have reserves as well. So I am sure that it could be dealt with in an effective manner but I will be supporting this today as I think it is an extraordinary item outside of the health budget.

#### **The Bailiff:**

I call upon the Minister to reply.

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

I do not claim to be an expert on health matters so I cannot comment on how many doses there were in each batch of flu produced for Deputy Duhamel or what each individual expiry date is. Whether this flu is going to be a certainty or a likelihood or a possibility, that is a matter which we will need to discuss and undertake in the future. I am here merely as Treasury Minister talking about a procedural matter under the Public Finances Law where additional monies are being sought in order to fund an unexpected item of expenditure. Now, the issue has been raised by Deputy Le Hérisier and by the Deputy of St. Ouen about the mechanisms of the Public Finances Law and the authority of departments to spend money in excess of their budget. The fact is that there is no authority for any department to spend in excess of its budget and that if this proposition is rejected, the Health Department will have to live within their existing budget and they will have to make

some uncomfortable cuts in the next 3 weeks in order to do so. However, when the proposition was lodged back in August this year, the previous Health Minister was also aware of that; indeed, as was the Minister for Social Security in respect of the supplemental vote. It was because at that time there were 4 or 5 months left in the year, departments could rearrange their affairs more easily at that time and, if needs be, had to make alternative arrangements because the Public Finances Law is quite clear: no department can exceed its budget. Where they do, there have to be adjustments elsewhere. Hence we have this ability for the Treasury Minister specifically to come to the States to ask for particular exceptions to this policy. Now, it is a question, perhaps, of whether this is an unexpected or unforeseen item. Deputy Troy seems to suggest that it is. I think it is a danger going down this path too far. Maybe the failure of the Energy from Waste plant at Bellozanne was an unexpected item and maybe the T.T.S. (Transport and Technical Services) Minister would like to come to the States for that. This is not the sort of thing which was expected. Departments are expected to run their operations and plan for normal routine unexpected items - that is a contradiction in terms - as a matter of course. So I think we are in a somewhat unfortunate position here in trying to deal with half the issue. Nonetheless, the choice confronting Members is very simple. Unless we approve this proposition, the health service in the next 3 weeks is going to have to make some unfortunate cuts. We have a policy in respect of the provision of Tamiflu which was agreed in principle by the then Health Minister, supported by the advice of the Medical Officer of Health, on the basis of which the Council of Ministers approved the lodging of a proposition earlier this year to spend up to £2.2 million. If that policy needs to be addressed by the States, then, yes, we ought to certainly do that. However, at this stage, we have a stark choice before us. The Deputy of St. Ouen also asked if the Health Insurance Fund could be used. My interpretation of the Health Insurance Fund is that it is very narrow in its scope and it is not there to fund the general expenditure of the Health and Social Services Department, so the short answer to that one is no. There is an expectation that departments will stay within budget and this is simply a plea from the Health Minister to say that, having agreed to a course of action in respect of pandemic flu, we have to follow it through. That sort of thing probably deals with most questions that I am able to deal with. As far as whether we have access to the specific pandemic flu vaccines that Deputy Scott Warren asks, my understanding is that we do not but that the market has now broadened and there is a possibility that what we were going to be almost held to ransom for 6 months ago may now be more freely available at a lower price, but I cannot guarantee that, Sir, and certainly if a pandemic did occur, that situation could change overnight. Going through the other comments, Sir, I do not think that there is much more that I can add at this stage other than to say that this is a very narrow proposition dealing with spending on a particular item. It does not address the wider issue of debating the policy of providing for pandemic flu. That will come back early next year, I gather. This is a narrow proposition for a much smaller amount of money and I think, Sir, I have probably dealt with all the matters that I can deal with and I maintain the proposition.

**The Deputy of St. Ouen:**

Please, Sir, as a point of clarification, is the Minister saying that the expenditure of £500,000 plus was agreed by the Minister for Health in August, knowing that it would take him over the allocated budget?

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

That it was understood by the previous Minister for Health and Social Services that should the States' approval not be forthcoming, the Health and Social Services Department would have to make alternative arrangements within their budget in order to fund whatever expenditure they chose to fund at that time but the choice was up to them.

**The Bailiff:**

I ask any Member in the precinct who wishes to vote to return to his or her seat and I ask the Greffier to open the voting which is for or against the proposition of the Treasury Minister. If all

Members who wish to vote have done so, I will ask the Greffier to close the voting and I can announce that the proposition has been carried, 43 votes were cast in favour, 3 votes against.

<b>POUR: 43</b>		<b>CONTRE: 3</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Deputy J.J. Huet (H)		
Senator F.H. Walker		Deputy of St. Ouen		
Senator T.A. Le Sueur		Deputy S. Pitman (H)		
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. Mary				
Connétable of St. Peter				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy G.W.J. de Faye (H)				
Deputy P.V.F. Le Claire (H)				
Deputy D.W. Mezbourian (L)				
Deputy of Trinity				
Deputy S.S.P.A. Power (B)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

## **5. Draft Places of Refreshment (Jersey) Regulations (P.148/2007)**

### **The Bailiff:**

We come back to the Order Paper, Projet 148, the Draft Places of Refreshment (Jersey) Regulations and I ask the Greffier to read the citation of the draft.

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

Draft Places of Refreshment (Jersey) Regulations 200-, the States in pursuance of Article 13(12) of the Places of Refreshment (Jersey) Law 1967, have made the following Regulations.

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

Members will recall that a number of years ago, the permitted latest opening times for clubs was extended to 2.00 a.m. in the morning from 1.00 a.m. On the other hand, places of refreshment, any establishment or eatery that sells food but not alcohol, was not extended and remains, to this day, with a latest permitted closing time of 1.00 a.m. Various representations have been made over the years to extend the permitted opening hours of places of refreshment and nothing has been done. Earlier this year Senator Shenton wrote to me and asked that I research the issue again. In parallel to that, there has been some excellent work carried out by the Safer St. Helier Group, including the Connétable of St. Helier and Home Affairs. There has also been a suggestion from that group to allow the permitted opening times of places of refreshment to be later, but that is something that is regarded as being of assistance in clearing the streets and of assistance in people getting home, et cetera, after a night out. I have a letter from the Licensing Unit saying that, in the view of the Licensing Unit, allowing premises to open until 2.30 a.m. may assist with staggering the number of people wanting to leave town in the earlier hours of the morning. There are 2 ways in which places of refreshment and their permitted closing times are regulated. The first is a planning consent. There could be a condition on a planning permit for a certain place of refreshment to have a closing time which is earlier than that that is in the places of refreshment and nothing in these Regulations changes that. The main time for a place of refreshment latest closing hours is in the Places of Refreshment Law and I have to say to Members that it is a law that probably could do with, if I am honest, a complete rewrite. However, the Places of Refreshment Law, I am afraid, is not going to be one of those laws for which I am going to be able to secure a law-drafting slot. So, realistically, I have to work with the existing law and to find a way of achieving the objective and there have been a number of discussions with my department officials and the Connétables, particularly the Connétable of St. Helier because he is affected by this more than anybody, in order to achieve the objective of allowing premises to open, in certain circumstances, until 2.30 a.m. I will not go into great detail to Members of the difficulties that we have with the law, but one of the issues is that I cannot apply a blanket condition other than at the time of an application of 1st May and we do want to make this change as soon as possible. What I can do under the provisions of the law is to consult with a Connétable on an individual place of refreshment and if, after consultation, it is agreed that the particular establishment would have problems causing a nuisance in the immediate vicinity, then I can effectively put in place an earlier opening hour than 2.30 a.m. So, effectively, what we have done is I have agreed particularly with the Constable of St. Helier (and I have to say that Deputy Fox has also been extremely helpful in trying to find a solution here) that a place of refreshment that is in the vicinity of a club opening until 2.00 a.m. and also that has an immediate ability for patrons to get public transportation, in other words a taxi rank ... if it does not have that it was likely to cause a nuisance. So, in fact, what the proposition seeks to do is to extend the maximum latest permitted opening hours until 2.30 a.m. but then, on an individual basis, I will make a determination on individual places of refreshment based upon the issue, in consultation with the Constable, of whether or not it is a nuisance. The end result of this will be that those establishments which we seek to have a permitted opening hours of 2.30 a.m. we will be able to do so. I am grateful for the help of Deputy Fox and also the Connétables, but particularly the Constable of St. Helier, and Home Affairs in achieving this. So I hope I have explained something. This is relatively complex in straightforward ways and I move the preamble to the Regulations.

#### **The Bailiff:**

The principles to the draft are proposed and seconded? [**Seconded**] Does any member wish to speak on the principles?

#### **5.1.1 Deputy J.A. Hilton of St. Helier:**

The only comment I wanted to make really, particularly for the residents of St. Helier, is confirmation that premises will not have their opening hours extended without the express approval of the Constable by way of through a parish assembly.

#### **5.1.2 Connétable P.F.M. Hanning of St. Saviour:**

It was just to ask the Minister if he will have the powers to revoke these changes of times for individuals should they be found to be abusing the extension that they are allowed.

#### **5.1.3 Deputy F.J. Hill, B.E.M., of St. Martin:**

I welcome this piece of legislation and I hope that the Minister will get support from the rest of the Members. It was in 1995 that I brought the piece of legislation initially to the States to extend the opening hours for nightclubs to 2.00 a.m. and we would like to have brought forward the opportunity of allowing the opening hours for a place of refreshments to go to a later hour but there was strong opposition at the time from the former Connétable and some town Deputies. It was felt that it was probably better not going forward but it would, no doubt, come at a later date and, albeit 15 or 14 years later or 13 years later, it is coming to fruition. I think it is good and it should be there. I might have gone a bit more ambitious. I did tell the Minister that I thought possibly, in view of the new Licensing Law being drafted, it may be an opportunity to have allowed the parishes themselves to decide what time they would see fit. If they thought fit to leave it until 3.00 a.m. then so be it. But I think the important thing is that the safeguards are there. It is there for the Connétales, in liaison with the Minister, to decide what time is the best time to close. Also I think it is very important because one of the recommendations that came from the licensing review which was carried out was that opening hours should depend on the location of the premises. That is very important. I think it is wrong to have blanket opening hours because there are certain locations where I think it is much more convenient for a place to close earlier because of residential areas. But I think this is a piece of, I would say, forward-thinking legislation and I hope Members will give it support.

#### **5.1.4 Deputy J.B. Fox of St. Helier:**

I just wanted to clarify that my main concern is the fact that this law that is being proposed is not able to be amended without rewriting the whole law. Therefore, I am grateful that the Minister is taking these restrictions and safeguards into account. The main reason being that the poor suffering resident is having to endure enough at this time without having the safeguard that, if there are cases of abuse, there are procedures that can be brought into hand to provide, as I say, safeguards for the residents. Recognising also that there is an appeal process to the Royal Court but I would hope that the Deputies of the area, certainly when they get representations, will recognise that there could be a problem and that they could always consult with a Constable with a view to having a parish assembly to enable the residents to be able to come and express their opinions, which then can be passed on to the Royal Court as and when, if appropriate.

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

I welcome this proposition provided there is adequate public consultation via parish assemblies and also provided there is the power to revoke a later closing time of premises if problems arise.

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

I would echo that, Sir. Basically, as it says in the proposition here “to avoid unnecessary disturbance”. I am worried about not just St. Helier but all sorts of urban parishes, that people could be coming home at sort of 3.00 a.m. or 3.30 a.m., fish supper in hand, and causing disturbances. But as long as it is strictly controlled I will be in favour of it.

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

I, too, fully support this proposition. It is extremely desirable to try and encourage people to perhaps eat more rather than drink. The Minister and myself have been talking extensively recently

about the revision of the Licensing Law, which is another matter entirely, and also working on the Safer St. Helier Group to try and improve the lot of residents of St. Helier, and visitors alike of course. One of those aims, of course, is to try and reduce alcohol consumption and this is just one small component of trying to change the culture of drinking and socialising in St. Helier of an evening. I do hope that this will be the start of many other initiatives which we are working on at the moment which will improve both the lot of the residents and, indeed, tourists and visitors to our Island as well. So, I fully support the initiative.

**5.1.8 Deputy R.G. Le Hérissier:**

I have wrestled with this one because on libertarian grounds I suppose you could argue that people should be allowed to drink themselves silly as much as they want to, albeit as long as there are no external consequences. But we all know, Sir, that the problem, unfortunately, is much deeper than that and I do not think this addresses the issue, certainly of staggering perhaps but not of staggered closing times. I do not think it addresses that issue. It has not in England. We were all hopeful and I was, although I think it was always Utopian to feel that by varying closing hours, certainly on the British mainland, we were going to create a continental café culture. Quite clearly that has not emerged, except in a rather perverse way. I do not think that is going to occur. Of course, what it is not accompanied by - and I am sure the Minister for Transport would have wanted this - is a viable alternative public transport system and we still have this massive congregation at the Weighbridge which poses enormous policing problems. I am, Sir, very concerned that people like Deputy Lewis, although no doubt he has taken professional advice in this regard, presumably he is speaking with full police support that this is some kind of solution. I, quite frankly, do not see how it is. **[Interruption]** The Deputy of St. John; one of the Deputies of St. John of which there are many.

**The Deputy of St. John:**

Could I correct the Deputy there that this is in full consultation with the police? The police have been consulted and do approve of this proposal, Sir.

**5.1.9 Deputy D.W. Mezbourian of St. Lawrence:**

I wonder if the Minister will advise the House how this will impact upon those commercial premises that are deemed to be in an unsuitable location.

**5.1.10 Connétable M.K. Jackson of St. Brelade:**

The Minister alluded to the rather messy change of these Regulations and I would just ask him, if and when the time comes to completely rewrite these, that the presumption be put towards the 1.00 a.m. with an extension to 2.30 a.m. rather than the other way round, which is the proposal of this proposition. I feel that the inference is that it could be overridden and, certainly in the country parishes, there would be little support for premises opening to 2.30 a.m. The implications on the police and so on, the infrastructure of the parishes, would be completely unsatisfactory and I would just like in my own mind to be absolutely certain that consultation with the Connétables will take place and that the parishioners' views will be taken into account.

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

I think Deputy Le Hérissier was a little unfair on the Deputy of St. John in his remarks and, as the Deputy of St. John said, this particular change to the law is but a component attempting to tackle a much wider problem. It is not the whole solution and the whole solution, as the proposer said, is being tackled by a number of different agencies, including stakeholder groups, involving residents, licensees, transport operators and so on. It is but one piece in the jigsaw and what it will allow people to do is to get something to eat while they are waiting to get a taxi. At the moment we have the ridiculous situation where people can get something to drink but not something to eat. I have lost count of the number of times that particular traders in the area of particularly the Weighbridge who would like to provide food for those waiting for taxis have asked me why can we not change

the law to allow this to take place. There is, of course, an enormous problem at the Weighbridge and I think I have made no secret of the fact that I believe the new Liberation Station ought to be part of the solution and not be closing its doors at 6.00 p.m. but I know the Minister for Transport does not agree with me. Clearly, for me, a happy solution to the problem would be to have one such premises providing late food within doors so that those waiting for transport would not be disturbing the occupants of fairly expensive and very important hotels that are grouped round the Weighbridge. So I repeat, Sir, I believe this is an important small step towards providing a late night experience, a late night economy and, indeed, a late night quietness for residents of St. Helier. I think this will be a small step in getting us towards that stage, but it is only the beginning.

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

Briefly then, it does seem to me that I am agreeing with the Constable that this is part of a larger jigsaw, but it seems to me this is a bit piecemeal and that this element in the jigsaw is not the first bit to put in. It should be towards the end when more of the jigsaw is complete and we can see where it is going. It looks like a piece of blue sky to me and it could fit anywhere. What I am worried about is that what we do is cause greater disturbance for residents in St. Helier, in particular throughout the night, and I do not think it is the right move to make at this time; in particular because the Safer St. Helier initiative is currently in negotiation with nightclub owners to arrange that nightclub goers can stay on premises beyond 1.30 a.m. Yes, that is part of it. **[Interruption]** Right. This enables them to do that. Okay. In that case, I was going to vote against it; I will reconsider my vote and think about it. Whether this ... **[Interruption]** I am hearing argument about it. Right. It is not clear. It is not clear. I am tempted to vote against it because there is a risk of greater disturbance. I think I will maintain that position and vote against this proposition.

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

I think this is obviously money-orientated. It is nothing to do, I do not think, with saying St. Helier will be a better place because I do not believe St. Helier has been a better place with the later opening hours. Not for the residents of St. Helier. They are the ones that have suffered from it. All they have had is, instead of being disturbed at an earlier hour, they are now disturbed at a later hour and this will only, to my mind, compound it. But unless, of course, you live in St. Helier and you are a resident of St. Helier and you live by one of these places, you will never know that.

**The Bailiff:**

I call upon the Minister to reply.

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

The 2 speakers against the proposition, Deputy Southern and Deputy Huet, I do have some sympathy with what they are saying but I would say to them that this is a measure designed to assist in the arrangements for people leaving clubs at 2.00 a.m. and to make it more orderly for the arrangements for transportation, et cetera. I would say to them that this does have the support of the Licensing Unit and the Constable in terms of making St. Helier a better situation than otherwise would be the case. I just wonder whether Deputy Southern is almost sort of saying opposition for opposition's sake because this is something which has been consulted upon and which has the clear support of the Licensing Unit and other patrons. As for Deputy Huet, yes, it is money-orientated, I would say to her, but there is also an issue that we, frankly, cannot justify a position where you can buy a drink at 1.30 a.m. but you cannot buy a burger. Frankly, I think that it is an entirely reasonable situation for us to have some ... we should have made the latest permitted opening hours for places of refreshment when we extended the pub and club licensing hours, but she is entitled to her opinion, of course. Deputy Fox, Deputy Lewis, Deputy Hill, Deputy Le Hérissier and Deputy Hilton all, I think, share my view that this law ... in an idea situation, I would be bringing an alternative proposition. I would be bringing a proposition which effectively allowed, on a case-by-

case basis, the extension rather than the extension to be a maximum of 2.30 a.m. and then rolling it back. Certainly, if we did have another law, then I would be putting in place the arrangements that Deputy Fox has asked for; for there to be consultation with the parish assembly, et cetera. I regret to say to those Members that that is not possible within the constraints of this law and, sadly, as much as I would say that we would like to have a complete rewrite of this law, it is just not going to happen. So we need to find a way that is acceptable, that achieves the objective that we are trying to achieve and I have found, I hope, a way of dealing with that in the arrangements that we can extend the permitted opening hours but then they can be drawn back after consultation with the Connétables. I regret that that is not with the parish assembly but, of course, the Connétables will have their own ways in which they can consult. What I have said quite clearly, and indeed the provision of restricting the maximum opening period is, and I quote from the law: “Where it is desirable in order to avoid unreasonable disturbance to persons residing in the neighbourhood of any registered premises at any time attach a condition to the registration to allow them to be closed earlier.” So I can deal with the bringing back of the permitted opening hours by consulting with the Constables and we have agreed that (I am not a slave to it, I need to take each application on its merits), but each of those applications I will have regard to the vicinity of a club and also the vicinity of a public taxi rank and, in doing so, I believe that we will achieve the objective that we are seeking. The Connétable of St. Saviour asked if we could revoke the licence. Yes, that allows us to effectively put a restriction on it: not a revocation, as I understand it, but certainly a restriction on it. But I can also tell the Connétable of St. Saviour that I am not aware of any club opening until 2.00 a.m. in St. Saviour with a taxi rank and a place of refreshment that would fulfil that. Maybe he could tell me there is one but I am not aware of one. I think the real issue is those places of refreshment in St. Helier. I am grateful for the comments of the Deputy of St. John. There is a lot of work to be done and a number of other Members made reference to the enormous amount of work that we must do on licensing. Yes, this is a piece of the jigsaw but the work has commenced in relation to the reform of licensing. We need to make St. Helier a safer place, we need to make it a more orderly place and there is much work to be done and this Assembly will consider licensing changes over the next 12 months. I think that I have dealt with all of the matters, so I move the preamble to the Regulations.

**Deputy D.W. Mezbourian:**

Excuse me, Sir, the Minister has not responded to my question, which was the impact on those premises that are not in an appropriate situation.

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

I apologise to the Deputy. There were 2 comments. I did not move my piece of paper down. Deputy Mezbourian in relation to premises. Effectively, it will mean that those premises, after consultation with the relevant Connétable that they make representations and we agree would provide an unreasonable disturbance, will have their permitted opening hours restricted to probably 1.00 a.m., which is the current situation. So, they will not be permitted to open until 2.30 a.m. I will say to Members that there is a circumstance whereby if the States do agree this Regulation until 2.30 a.m., and I confirm every single place of refreshment is currently being looked at on a case-by-case basis and we will consult with the Connétables on that, there is a risk that a premise that would have a restriction put on it under Article 13(3)(b) could appeal. In that situation, there could be a period of time where a premise could then open and has the right to open to the maximum permitted period of 2.30 a.m. So I will be totally honest with Members about that; there is an appeal provision that could happen. I am not aware of any premise that that is likely to happen but there is a risk. I should have been clear to Members about that. I think I did not answer a question of the Connétable of St. Brelade and I cannot remember exactly what he raised, I am sorry.

**The Connétable of St. Brelade:**

It was to do with if the law were to be rewritten, that the presumption be towards 1.00 a.m. rather than 2.30 a.m. at present: the converse of the present proposal.

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

I think I covered that in saying that if we do get law drafted, yes, we would reverse it so that it would be 1.00 a.m. with an extension rather than the extension and drawing it back. Sir, I think the Constable of St. Helier wishes to ...

**The Connétable of St. Helier:**

It was not exactly a direct question but I did raise the possibility of Liberation Station being kept open later. Of course, it is more a matter for the Minister for Transport than the Minister for Economic Development, but it would be good to hear the Minister's views.

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

It is not within my purview. I am delighted with the operation of Liberation Station until 6.00 p.m. but I have to say I have some sympathy with the Minister for Transport in respect of the costs, et cetera. What we can do is we can help facilitate for there to be places of refreshment in the immediate vicinity and, indeed, one of the entities that I think will have an extension until 2.30 a.m. is, in fact, in the immediate vicinity of the weighbridge, which is the key area where there are clubs, et cetera, around there. I cannot do the job of the Minister for Transport, I am afraid, Sir. I move the preamble. The appel, Sir.

**The Bailiff:**

I ask any Member who wishes to vote who is in the precincts to return to his or her seat and I ask the Greffier to open the voting, which is for or against the principles of the Regulations. If all Members who wish to vote have done so, I will ask the Greffier to close the poll. I can announce that the principles have been adopted: 38 votes were cast in favour, 6 votes against.

<b>POUR: 38</b>		<b>CONTRE: 6</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Connétable of St. Ouen		
Senator T.A. Le Sueur		Connétable of St. Peter		
Senator P.F. Routier		Deputy J.J. Huet (H)		
Senator M.E. Vibert		Deputy R.G. Le Hérisssier (S)		
Senator P.F.C. Ozouf		Deputy G.P. Southern (H)		
Senator T.J. Le Main		Deputy J.A. Hilton (H)		
Senator B.E. Shenton				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy R.C. Duhamel (S)				
Deputy A. Breckon (S)				
Deputy of St. Martin				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				

Deputy P.J.D. Ryan (H)				
Deputy of St. Peter				
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 A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy of St. John				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**The Bailiff:**

Chairman of the Scrutiny Panel, do you wish to scrutinise these Regulations?

**5.2 Deputy G.P. Southern:**

No, Sir. I will turn that down. I may be accused of politicking if I did and I would certainly be hung by the rest of my Scrutiny Panel.

**The Bailiff:**

Very well. Do you move Articles 1 and 2?

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

Yes, Sir. I would draw to Members' attention we have already discussed the issue of the 2.30 a.m. and the second Regulation, which is that the Regulations will come into force 7 days after they are made. We have some work to do, the Connétables and myself, in respect of dealing with individual establishments but this would be something that is in place now within approximately the next 10 days and will deal, I hope, with law and order and public transportation for St. Helier in the busy run-up to Christmas. So I am grateful for Members to have agreed to take this today. I move the Regulations.

**The Bailiff:**

Regulations 1 and 2 are proposed and seconded? **[Seconded]** Does any Member wish to speak? I put the Regulations. Those Members in favour of adopting them, kindly show? Those against? The Regulations are adopted in Second Reading. Do you move the Regulations in Third Reading?

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

Yes, please, Sir.

**The Bailiff:**

Does any Member wish to speak on the Regulations in Third Reading? I put the Regulations. Those Members in favour of adopting them, kindly show? Those against? They are adopted in Third Reading.

**6. Draft Harbours (Administration) (Amendment No. 7) (Jersey) Law 200- (P.160/2007)**

**The Bailiff:**

We come next to the Draft Harbours (Administration) (Amendment No. 7) (Jersey) Law and I ask the Greffier to read the citation.

**The Greffier of the States:**

Draft Harbours (Administration) (Amendment No. 7) (Jersey) Law 200-, a law to amend further the Harbours (Administration) (Jersey) Law 1961. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

### **6.1 Deputy A.J.H. Maclean (Assistant Minister for Economic Development - rapporteur)**

The current law was introduced 46 years ago and, although there have been a few necessary amendments during that period, they simply reflected the evolving maritime industry. It has, nevertheless, served the Island well. I am confident that it will continue to do so following this proposed amendment that further addresses modern-day issues. The law essentially lays down the broad parameters for 2 discrete areas of port, shipping and small boat management. The first is the Harbours (Jersey) Regulations 1962. These ensure the effective and safe administration of the harbours themselves and they are key in controlling the movement of commercial ships. The second is the Boat and Surf Riding Control (Jersey) Regulations 1969. These provide a basis for the management of small craft operating in in-shore waters. This amendment is principally a piece of enabling legislation that is intended to provide a better framework for future regulations. It also seeks to strengthen and clarify the interpretation of the existing law. Members will, for example, note a few changes in terminology that address the changing nature of matters relating to the modern-day management of port safety and security. In essence, this amendment, if approved by Members today, will allow us to bring forward Regulations that we believe will help to safeguard our lifeline sea routes as directed by this Assembly as recently as March 2006 in P.24. A small but significant potential fault in the existing primary law concerns the definition of “territorial waters” which could affect the interpretation of both these sets of existing Regulations. I shall explain this in due course. Other minor changes are also now necessary to improve the working of the specific boat and surf riding controls. As Members will know, helping to ensure that the Island has reliable, frequent, affordable and sustainable ferry services is a crucial area of States policy. Car-carrying ferries have been controlled to a certain extent through the issue of ramp permits under current legislation. There are, of course, passenger-only ferry companies such as Manche Iles Express who continue to offer a valuable service to Granville and the other islands while Corsair has introduced its new services to St. Malo. These passenger-only services do not use the ramps and so, under current legislation, no permit is required. The draft Regulations would allow for these services to be controlled if necessary, although I should stress that there would be no intention to do so. Following the decision of this Assembly after debating P.24 in March of 2006, we have continued the regime of service level agreements with the car-carrying passenger ferry companies. However, this is not a robust arrangement as many Members will know from personal experience. The current law limits the States so that we can only make Regulations for the issue of permits that relate solely to the control of vessels loading or unloading vehicles on the ramps. The Minister, Senator Ozouf, and I believe that permissive power needs to be widened to be effective. We have to ask: what if there were legitimate Island needs to issue permits for other vital sea services in the future? The advice that we have received is that the conditions that can be attached to these ramp permits must, at the moment, be quite narrowly drafted and cannot cover a number of matters that the States may wish to influence regarding good passenger care or guaranteed all-year-round services, for example. Broad policy issues which relate to socio-economic needs of the Island rather than day-to-day port management alone may be outside of the ambit of the current law. We have tried to deal with these matters through service level agreements but, in reality, these represent little more than gentlemen’s agreements. I think many Members will agree, along with members of the travelling public, that these arrangements have proved, at times, to be ineffective. In particular, such agreements are difficult to effectively enforce. The changes thus strengthen the law in authorising Regulations that will offer the opportunity of a broader permissive regime. The Regulations would, for example, seek to include key requirements of the service level agreements within any permit that may be required in the future. Members will be aware of the much-abused phrase “open port duty”. What this means, as a starting point, is that U.K. ports are bound to welcome all commercial craft that are safe and which can be accommodated. However, there are

limitations on that duty. U.K. ports can, and mostly do, make availability of services and facilities but such services and facilities are still subject to terms and conditions set by those individual ports. What is more, in the case of small Island communities, opening the port to all and sundry is not always the safest option if the intention is to protect vital lifeline sea routes. We are certainly not alone in this regard as certain Scottish routes are restricted to single operators and the Isle of Man has an agreement also with a single ferry company. Of course, we are not part of the U.K. and this open port duty is not enshrined in Jersey law. However, I would emphasise that our support for the open port principle is clear. It is also central to the aims of the Minister and I in striving to deliver economic growth. This is precisely why this amendment to the primary law should not be interpreted in any way as anti-competitive. It is certainly not intended in that way. But we must balance our free market desires with the need to retain effective, precautionary controls to ensure that we can adequately protect our lifeline sea routes, an objective that has already been overwhelmingly supported by this Assembly in the past. For that reason I am asking Members to support this amendment so that we can bring forward Regulations early next year for a permissive process for port facilities, with fair and reasonable terms and conditions attached to any permit that may be required in the interests of the Island. This should not be seen as an opportunity to deny any operator the right to bring their vessels to the Island except in those circumstances prescribed by States policy. The clear intention would be to avoid the need for permits wherever possible. However, if a permit process is the best option, then that process will have to be open to all who apply. Members will appreciate that we are not debating the important detail of the Regulations themselves today. I am merely seeking Members' agreement by supporting these amendments to proceed and bring forward the effective Regulations for the harbour and local waters. This amendment seeks to clarify and improve the scope under which Regulations can be made in the future. In conclusion, this law will amend the Harbours (Administration) (Jersey) Law in 2 ways. Firstly, it will make it clear that the expression of "territorial waters of Jersey" as presently used in that law includes all the sea within the seaward limits of the territorial sea adjacent to Jersey. Without this change of definition, much of the sea area of bays and the sea above low water level would be excluded from the area to which the law applies. Secondly, it will amend the law to provide explicitly that the use of an amenity or the provision of a service in a harbour or in territorial waters may be made subject to a person obtaining a permit or entering into an agreement, but this will only be possible if and when new Regulations are approved by this Assembly. The draft Regulations are currently out for consultation. Those included in the consultation process include the J.C.R.A. (Jersey Competition Regulatory Authority), port users and Scrutiny. I should also add that a few States Members have also made valuable contributions to the consultation process. We have promised to revert to port users before the final version of the Regulations are lodged and, of course, this cannot be before the primary law amendments have been passed by this Assembly and, of course, Privy Council. Sir, I move the preamble.

**The Bailiff:**

The principles are proposed and seconded? [**Seconded**]

**6.1.1 Deputy S. Power of St. Brelade:**

Apart from my parish duties and my duties on Scrutiny and on Planning, I think the whole area of the harbour is the area that I feel the most passion for and I hope Members will bear with me for the next few minutes while I explain why I am not going to support this amendment. However, I did tell the Assistant Minister yesterday that I was going to compliment him so I will do that right at the start now to be seen to be fair. The Assistant Minister does a remarkable job in carrying out his role at Harbours and he does so with finesse, aplomb, courtesy and good humour. Sir, I have told him I would compliment him and I have done so. However, having got that out of the way, I would like to compare the existing state of affairs at Jersey Harbours to the ill-fated Apollo 13 lunar mission depicted in the film Apollo 13 and I would depict Deputy Maclean to a character in Apollo 13. Members will remember that the film starred the actor Tom Hanks as Commander Jim Lovell

in the recreation of the lunar mission. In this mission, N.A.S.A. (National Aeronautics and Space Administration) named the command module Odyssey and the lunar module Aquarius and Members will recall the story was about bringing the crippled command module back to earth safely. I would compare our Deputy Maclean to Commander Lovell and that he has to bring his Odyssey back squarely to something approaching normality. I do wish he has a happy landing in his command module that we know Harbours to be and that his Odyssey does not drop him in the drink like the original one. He has been there 2 years and I have said in the Chamber on more than one occasion I am always appalled at how long it takes to do anything within the States system Deputy Maclean must know this now at Harbours. Moving on, Sir, the statement made to the media recently about the proposed amendment to the Harbours (Administration) Law as to increasing competition is unfortunate as the results will be entirely the opposite. Commercial experience, commonsense and the lessons from the recent past should not be overtaken by what is in my opinion flawed economic theories. Encouraging more legislation to control trade and encouraging competition may be well intentioned but, as Members know, the result will be treated like bureaucracy and a monopoly again. Lessons should have been learned from the existing service level agreements. I stand corrected on what I said on Radio Jersey on Sunday: there is more than one service level agreement; there are 3. Despite them having been introduced in 1998, there has only once ever been a competitive tender and what that did was to create a monopoly on the northern route. This amendment, in my opinion, has been coordinated and instructed from within the Economic Development Department and not from within Harbours and this brief is not to instil competition but to ensure that Jersey Harbours maintains proper, up-to-date shipping legislation and that would apply primarily to safety, security, anti-pollution and the like. I have talked to a great deal of operators, Sir, in the port and there is a view that some senior management at Harbours have little practical understanding of harbour ordinance. Indeed, one operator went so far as to say that some senior management at Harbours had very little appreciation of commercial matters. I would also pick up: twice I think the Assistant Minister has said that his understanding of the amendment, as he keeps referring to it as a Regulation. Members will be aware that there have been no more than 6 shipping companies operating in the Port of St. Helier during the last couple of decades and the interest from new operators has been almost non-existent. So my first question would be: do we really need to legislate for a handful of users? If we add this, Sir, to the following situation, it starts to become farcical if there were to be competitive tendering arrangements for harbour facilities and a new operator was appointed. Here are some examples. What would happen to the long leases on warehousing in Jersey and in other feeder ports if we were to apply this? What would happen to the contracts with large retailers in the port? What would happen to the transport network? I also would ask what would happen to the jobs of their workforces? The possibility is that this also could have a knock-on effect in Guernsey because Jersey does not handle alone because of its port capacity and some of our facilities are shared with Guernsey. Could I point out to Members that a ferry link is merely a link in a long, long chain. The Assistant Minister referred to the J.C.R.A. I would contend that the process that the J.C.R.A. went through in 2005 with the stevedoring licence was not satisfactory. After 2 years there is still no contract and I would say is this is a satisfactory result that we have an incumbent company like Troys hanging on for over 2 years? Sir, I would like to point out to Members that nearly 65 per cent of harbour income comes from cargo and I would also like to point out that the Attorney General pointed out some 5 years ago that the 1947 Harbour and Light Dues Law is illegal and that the tariff since then has been set virtually at officer level with the port users and is covered by Article 49. It is not true, therefore, to say that there are no controls except the ramp permit. Indeed, all harbour concessions, including the tariffs, come under Article 49. If I can quote 2 small pieces: (1)(f) which requires harbour permission for any business activity; and (2) "on the terms and conditions that the Minister thinks fit." Can I add, Sir, that there are 400 different tenancies within Harbours and these are freely negotiated within policy and within recognised business practices. Sir, the Assistant Minister said that the law was 45 years old and is out of date and that it has been amended many times, but the Ramp Permit Law was only introduced in 1998 in order to underpin

the 3-year service level agreement which was originally awarded to Condor by tender. As it turned out, it was the only contract ever offered in a decade and it is hard to believe that more permits are likely to encourage competition. In my opinion, Sir, the result of involving Jersey States and Jersey Government in tender processes is that the terms and conditions are not commercial as they attempt to please all sectors of the community. Let me give another example. The service level agreement with Condor, specifically the one on the northern route, specified an all-year service, with weatherproofing in the winter months by a conventional ferry. This provided Condor with a States' backed sponsored monopoly as, on the assurances given, a rival operator would have to meet the same conditions, which would have been commercial suicide. The present terms also explain why it is more expensive to travel to the U.K. from the Channel Islands or vice versa than it is to travel from the U.K. to France via the Channel Islands. When Sogestran, the company that took over Emeraude, applied for a ramp permit to operate the French route, it was turned around within 48 hours by the then Tourism Department and Harbours Department. Following the formation of ministerial government and the absorption of Jersey Harbours into the Economic Development Department, along came Mr. Howard-Davies of H.D. Ferries. After 3 months of frustration, being bounced from one department to another and from one bureaucrat to the next, he decided to start selling tickets to force the issue. The result of that was pandemonium and panic in Economic Development and at Harbours. Indeed, with the benefit of hindsight, Sir, this was a very clever move as a ramp permit emerged almost immediately. So it is not surprising that Mr. Howard-Davies seems to think that there is some sort of internal problem within the Harbours Department to counteract his best efforts. Recently, Sir, despite a management reorganisation at Jersey Harbours and the appointment of a high-powered business director, there is now a tender invitation for a consultancy study into Harbours' commercial future. It is my personal opinion that it is almost certain to come out the same as the last 2 studies, which recommend more commercial freedom. So I ask Members this. Is it really appropriate now, at this time, to instigate changes to legislation when there is a major review going on at Jersey Harbours? Can I also point out: is it not the role of the J.C.R.A. to encourage competition using the Competition Law? However, J.C.R.A.'s recent adventure into Harbours and their inquiry into the takeover of Channel Express by Ferryspeed was, in my opinion, a fiasco. What it did was it resulted in a customer of Ferryspeed, D.F.D.S. (new to Jersey, having no previous presence in the harbour), acquiring a lease, acquiring a warehouse in the Elizabeth Terminal, a prime location for R.O.R.O. (roll on, roll off), and this is on the strength that they would use the warehouse for competition in refrigerated freight. So far, to date, there is very little evidence of that happening. Whatever the effect, the real effect was to shut out other established operators working from inadequate facilities. The rental was also significantly increased by Harbours to the new operator, which is hardly conducive to reducing prices in the shops. So I urge Members to think very long and hard about enabling more harbour legislation in these turbulent times and these ongoing problems at Jersey Harbours and I leave Members with these thoughts. Compare the employment levels at Jersey Harbours and Portsmouth. Portsmouth handles 11 times more freight, more cars, more passengers. Jersey has more indirect employment. Ponder why staffing levels at Jersey Harbours have run so high. I use this minute or 2 to give you an opportunity to look at manning levels at the Harbours Department in 1987 when they occupied the old Tourism building adjacent to the old Tourism office: in 1987 when the then Harbour Master was fully involved in the West of Albert reclamation, the design, preparatory work, dredging and creation of the Elizabeth Terminal and the Elizabeth Marina, the administration of the Albert Pier, when there were many, many hydrofoils, Vedettes, Tridents and other boats. This was the staff at the Harbour office in 1987: one Harbour Master, one deputy and 4 assistants, total of 6; one commercial manager, total of one; counter staff including registrations, 3; accounts department, 5; a cargo inspector, 1; secretaries full-time, 2; total 16. I have the rest of the Harbours Department figures for 1987 if Members would wish to have a copy. Ponder then why a former Harbour Master (not the one I have just referred to) was appointed recently to head up the Jersey Port Users Association and there was a legal challenge to his appointment by the Harbours Department. Ask why Manche Iles Express, owned 100 per cent by the Conseil Général

de la Manche who have invested over € 30 million in the company to access the Channel Island market from 3 French ports, to which the Assistant Minister has referred to, should now be in a situation to be asked to tender for a service that they have created without a scintilla of investment from the States of Jersey. Ask why the Jersey Harbours Department at the moment disputes the role of Jersey Electricity Company as a port user. Ask the Assistant Minister himself, when I have ceased to talk, whether he is personally committed to the use of service level agreements or ramp permits and ask the Assistant Minister himself how solid the ground he and the department are on if there were to be a legal challenge to the ramp permit system or the service level agreement. Finally, Sir, before I sit down, I will quote from an extract in 2006 from the *Institute of Directors, the Industry Sub-Committee: Service Level Agreements, Shipping and Port Services Inquiry*. They make a number of points, which I do not intend to read in full because it is quite long, but they say that service level agreements do not work; the history of service level agreements does not prove that they benefit competition; service level agreements are anti-competitive and focus only on passengers; service level agreements have failed to encourage growth due to the need to subsidise weatherproofing; and winter services and service level agreements are unsuitable if constructed to satisfy all interests. I thank Members for listening and I ask them to seriously consider their vote on this Draft Harbours (Administration) (Amendment No. 7) (Jersey) Law as, in my opinion, it is not in the Island's best interests.

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

I would like to begin to address this with my Consumer Council hat on because I can say, from experience since 1995 and even before that, that ferry travel is a very, very emotive issue for people and whether it is U.K. or France, it is a real live issue over the years and indeed it is now. I remember we organised a public meeting in 1999 on a wet Saturday morning and we got over 300 people in the town hall. We attracted not just Condor (in fact we had to really force Condor to go), P&O turned up with an executive team, as indeed Sea Containers did and brought in executives to support their then application for providing a service. But what we have here today, Sir, I believe is very welcome. I can understand the frustrations of the Minister and the Assistant Minister in trying to wring out a service level agreement from this because, as the Assistant Minister mentioned, the laws are 46 years old. So I do not think we can shoot the messenger here, Sir, because it is certainly older than them, or it appears that way to me. What is being proposed, Sir, I think, is welcome and indeed long overdue. There is a passage in the report, Sir, that I would like remind Members of and it says that: "As Members will know, helping to ensure the Island has reliable, frequent and affordable ferry services is a crucial area of States policy yet the law limits the States to making Regulations for the issue of permits that relate solely to the control of the ferry ramps for vehicles. The power needs to be widened to be effective." That, in effect, is the principle that we are looking to today. I would remind Members, and especially Deputy Power, and it is with some frustration, that H.D. Ferries actually walked away from a service level agreement on the winter and I did not get any 'okays' about that. People complained and said: "What are we supposed to do?" It was before the half term or round about the half term and some people had made arrangements. So there weren't 'okays' for H.D. Ferries. They were complaining about it although their service, to some extent, had been welcome as to bringing competition in the route but, to some extent, they went down under a bit of a dark cloud by doing that. When you think about it, tactically it is a good move when passenger numbers are going to be tight, the weather conditions could be difficult, there were one or 2 problems with a vessel. It was a very tactical withdrawal on their part and they said: "Well, we will be back again in March." I bet they will and I can understand. Publicly, they had ridden some image problems to get where they were but, having said that, it was not all good news although there was some good news in there. The report goes on to say: "Furthermore, the advice is that conditions attached to ramp permits must at the moment be quite narrowly drafted and cannot cover all matters that the States may wish regarding good passenger care. Broad policy issues which relate to the socio-economic needs of the Island, rather than day-to-day port management alone, are also believed to be outside the ambit of the current

law. To date these matters have been the subject of somewhat unsatisfactory service level agreements.” I do remember, Sir, in 1999 the then Jersey Transport Authority, to much trumpeting and fanfare, had these service level agreements signed in a very public way. But when you look at the minutiae and the detail, then enforceability became a problem and standards became a problem, transparency and accountability: there were some very real issues with that and we have lived with that. I can understand why the Minister and the Assistant Minister would like to give this some teeth because if you are going to have an agreement with somebody, the best thing to do is to put it in the drawer and not hit each other over the head with it. But if problems do occur, like a lease or a contract of employment, then you bring it out and decide or determine who should be doing what and to what standard. I think we have suffered because we were not able to do that and the agreement on the U.K. route rolled on from 1999 to 2002 and we are where we are. It is due for review and it is something, Sir, that I can say that the Consumer Council have applied their minds to and will be working on that in the next few months to try and influence where we go from the end of next year. It is about service. It is about security. It is about quality. But it is in a commercial environment and, again, Sir, we do have an ongoing monitoring exercise going on at the moment. One of the incumbents did disappear but I can say to the Minister and the Assistant Minister that this receives the full support of the Consumer Council. It has been discussed. It is, as Deputy Power might say, a necessary evil but it needs to be there to give the end user some comfort when things are not working out. I think, Sir, it is positive progress and I think the Minister and the Assistant Minister are to be commended for finding a way round this; to do it, to put something in place that gives the Island the necessary service that it needs and indeed requires. With that, Sir, I would ask Members ... I understand, perhaps, that Deputy Power does have some frustrations but I think we have to look at the people who need to use this, who want to use it, and if we had a reliable service, at the right price, of the right quality, then it is proof that more people would use it. I hope Members will view it in that vein.

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

This is probably one of the most important bits of legislation that has been brought to us this week. I know that major things like G.S.T. (Goods and Services Tax) and the budget, et cetera, is important. We can do lots of things around the other such legislation but when it comes to an island such as Jersey with its 89,000 population, the one thing it cannot live without is its air routes and its sea routes. In my previous profession it was known as economic key point security, which means that we have to maintain certain levels and certain standards for the quality of life and the wellbeing of the people of the Island and the community in which the States of Jersey and the parishes, et cetera, serve that Island. To do that, yes, it is very important that we have commercial freedom for our sea routes to enable a flourishing commercial operation of bringing our goods supplies and services and people to and from the Island. But it also has to be done with responsibility and that responsibility sometimes requires that we have something in our pocket to make sure that we do not get left high and dry or in some other very difficult situation that we cannot operate. That is what these proposed Regulations are. They are not to put the big heavy hand to try and curb competition or make things difficult for the operators, because without them we would be left high and dry. Years ago we had big civil emergency exercises and we maintained in this Island that we had 3 months’ supply of dried biscuits and margarine and things like that to ensure that the Island would survive long enough to be able to bring in other supplies should, for some reason, normal supplies dry up. In those days the supermarkets were also required to have big warehouses so that they maintained certain levels of essential items for the community to survive. We do not have such regulations now and, indeed, deregulation in this sector and others like it has meant that it is cost-effective or more viable to be able to have the big warehousing in fact for sustainability to be on the mainland. We rely upon several lift on and lift off and R.O.R.O. ferries to provide that service to the Island and, indeed, it was not that many months ago when it became known that the hospital only had 2 days’ supply of food to feed their patients, et cetera, and that the bad weather could seriously affect the supplies to the Island which could cause difficulties.

So it is essential that Economic Development and the Harbours and Airports do have safeguard Regulations in hand in case the circumstances change that they need to be able to do it. As we have just previously had with the Refreshments Law, our current laws are sometimes not able to ... the principal law is not able to sustain that in our changing times that is required. That is why it is necessary for amendments to laws such as broadening our Regulations to enable the sustaining to be very important. Now, I have been involved, as you know, behind the scenes along with many other people, of course, to sustain our sea routes. It is very important. Part of that sustaining is to increase competition, to increase all-year-round services, but it is not just for passengers and for tourism, it is also essential for producing the transport for our local produce, whether it is a fresh produce that is grown on our fields, in glasshouses and poly tunnels, et cetera, but it is also our thriving sea produce from our 'moules' and all the other fish that is gathered within our waters or brought back to the shores here. To achieve the success of our commercial operations it is essential that we have the appropriate shipping and air routes to be able to do this. Up until now we have had periods when the system has broken down, we have had singular monopolies where the price of products go up, sometimes £100 on a round trip or 3 times the price of the previous commercial operations or other domestic operations, and this provides anxiety, it provides the non-stability and people looking obviously at alternatives to provide that long-term stability. I believe that these Regulations today are designed to help ensure that stability. It does not have to be used. It is like many things in any enforcement, whether it is law enforcement or any other enforcement. You do not have to use things all the time but sometimes you have to have them there just in case they are required because it takes a long time to bring in principal laws and change Regulations. If you have something up your sleeve then it provides that extra safeguard and often it will provide that extra reassurance in getting the right documents agreed for service level agreements, ramp permits or any other and not only to this Island. Because of the, if you like, dried out harbour that we have, we have to have shipping that is very limited. You cannot just go and buy or charter a ship off the shelf, you have got to go and sometimes have special ferries made, like they have done at the regional government in Normandy, or you have to go around the world to find one that would be suitable for these waters. There is also that the Channel Islands hopefully will continue to try and work together in ensuring that it assists in the commercial viability of an operator which also assists in the quality of merchandise that is being brought to the Island. Clearly, we are also grateful to new ports of call like the one that has been built in Granville at the moment, which also provides us with competition and alternative choices. I am not going to do go through things that have already been said. I think I shall leave it there, but I would urge the House to support these Regulations having covered some of the other aspects that we should be considering today.

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

I am trying to work out why there are only about 28 people in the Assembly to hear this debate. Either Members are in the Members' Room eating my Quality Street or they think that they agree with these proposals or they are completely disinterested. I hope that it is not disinterest because, as Deputy Fox has rightly said, the management of our sea routes is absolutely fundamental and, indeed, if we did not put appropriate arrangements in place and we did not have an appropriate licensing regime and we did not have S.L.A.s (service level agreements) in place then we would be criticised, no doubt, with public meetings with hundreds of people that were affected by this, travelling to tell us that were not doing the job properly. The reality is this is important and we are being asked to make some seriously important changes to the law which governs our vital sea routes. I am grateful for both Deputy Fox and Deputy Breckon's support. Deputy Power, well, I listened to his speech and I also listened to his observations and remarks on Radio Jersey on Sunday. I think that I would summarise my feelings as those of complete exasperation. Much of what he says is unfair; a lot of the other information is simply untrue. I would respectfully suggest to Deputy Power that he should raise his game in terms of the criticism concerning Harbours and the administration of our sea routes and harbours administrations. I have been trying to work out exactly what he fundamentally thinks because I am a little confused. Deputy Power has got a track

record of being involved in various different ventures concerning setting up sea routes. He has certainly taken very vigorous stances in relation to saving Emeraude, et cetera. I think that I can distil his view currently, today, as the views of being somebody that simply says that we should not have any form of regulation at all. That is what he said on Radio Jersey the other day, that we simply should have no regulation, no permits, people should be able to just sail in and come and go as they please. Now, frankly, somebody with the knowledge of sea routes, with the difficult economy of some of our sea routes, Deputy Power should know better. It simply will not work. What this Assembly needs to recognise, and I hope endorse, is effectively a sensible situation concerning licensing, a sensible arrangement concerning the enforcement of those licensing arrangements, because currently the laws that we have and the arrangements that we have are not particularly fit for purpose. What I would say to Deputy Power, and what my Assistant Minister eloquently explained, is that this is effectively an enabling piece of legislation. The detail of the Regulations, the detail of any licensing arrangements will come back to this Assembly for approval. So he is speculating and if he votes against these arrangements he is effectively sending the message out that it is simply no regulation, no effective regulation, no licensing.

**Deputy S. Power:**

Will the Minister give way? Is the Minister aware of what the Institute of Directors has said about service level agreements and the type of stuff he is proposing, and is he also aware that there are many, many people within the port area, within port administration, that have reservations about this? Would he give a 100 per cent ringing endorsement of the way the Harbours Department is run right now?

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

This is about the law concerning the licensing of ferry routes. I am afraid the Deputy is not going to get away lightly with me in simply scattergun accusations of inappropriate administration or whatever because I simply will not do that. I have full confidence in all of the departments I am responsible for and it is up to the Assistant Minister and I to ensure that where problems arise we deal with them. We are dealing with a change in the law. We are dealing with an invitation to the States to agree that we have the power to bring Regulations in order to better put in place regulations and licensing, agreed by the Consumer Council, agreed by thoughtful people such as Deputy Fox that fully understand the difficulties that we find ourselves with enforcing service level agreements. I have to say I despair with the comments made by Deputy Power and the tack that he takes because I simply do not quite understand where he has come from and how he has arrived at the current situation. We need effective regulation and this is the law that is designed to achieve that and, of course, the detail is subject to States approval later on. I would urge Members to support the Assistant Minister's proposals.

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

While I may not share some of the thoughts and comments from Deputy Power from St. Brelade, I do have my own concerns. The previous law really concerned itself with the administration of the harbour areas and any facilities or provision of services in those places. What this law seeks to do, if I have got the right end of the stick, is under Article 2, as amended, to give further powers to administer harbours and territorial waters. So that will mean not only the ability of different craft to cross our territorial waters, but provision of services which are already there will be able to be regulated, licensed, charged for, permitted or entered into agreements with the express permission of the Minister for Economic Development. Now, I am not really sure, Sir, particularly with an environmental hat on in terms of long-term energy provision, whether or not I would at this point in time specifically wish to pass over the Minister for Economic Development any responsibilities for determining whether or not, for the sake of example, the J.E.C. (Jersey Electricity Company) should be charged retrospectively for the cable that is on its seabed; whether or not a similar thing applies to the Jersey Telecom Company for any such cable work on the seabed; whether or not the

Minister should have overall control through his Harbours and Airports Department as to whether or not the Island moves in a direction to support offshore wind farms or tidal power or whatever. I think the Minister is absolutely right in one respect. Perhaps in the broader context the old law is not sufficient to do the things that he might wish to do in the future. But in that respect, Sir, what I think should happen is rather than for us to agree what has been put forward as some minor revisions to the law today, I would much prefer to see a proper root and branch exercise undertaken to bring the Harbours Administration (Jersey) Law fully up to date taking on board those energy and other area considerations. On that basis, Sir, I feel that I am unable to support the drift of allowing the department to have overall authority for those things because they have not properly been specified in my view, and until they are I do not think that States Members should support them.

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

I refer first of all to the areas of territorial waters and I would ask the Assistant Minister to confirm that in the revised arrangements the Jersey Harbours set-up will be in a better position to administer the numerous safety issues which come to light out of these areas, particularly with regard to control of activities from the beaches on the water side as opposed to the beach side. As time goes on there are numerous activities which become more prevalent, and safety at sea is a poignant issue which I feel Jersey Harbours must have a grip of and I would like to be certain that this will be assisted by this change. Secondly, Sir, I would ask the Assistant Minister to confirm that the regulation changes will enable our sea routes to be organised and to be effective within our limited market, within our limited infrastructure and within, of course, our limited customs and immigration facilities. Because we have noticed over the last years, the last year particularly with the increase in number of ferry traffic coming into the Island, there seems to be a mismatch very often with the service which Customs and Immigration are able to provide without being extremely stretched. I think it is important that this be taken into account and would ask the Assistant Minister to confirm this. Finally, if I could just refer to the Article 4A particularly - perhaps this will be discussed later but he may, in his summing up, clarify this - where facilities are referred to, does this apply simply to ramps as in the report on the P.160/2007? If you go further along there seems to be a little bit of a looseness in here, and I would like to be confident in knowing exactly what the facility is. Is it a quay, is it a pontoon, is it a boat hoist, or is it just a ramp? So I would just ask for confirmation on that. Thank you, Sir.

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

Very briefly, I think it is necessary for Jersey to safeguard in regulation and in law these very important areas. I think that when the law comes back to the Assembly it may need to be a case that we look at how that law applies to the responsibilities of administering certain areas within those laws, in particular with consultations with other departments. While the Chairman of my Scrutiny Panel has spoken about tidal power and electricity generation being an issue, it may have gone a bit left field for most Members but it is a very, very appealing industry at this stage in time. One of the largest resources of tidal energy in the United Kingdom's waters is around us as we all know. Many of the other foreign companies and European companies and international companies developing some very significant tidal energy facilities - some in Korea that we have recently been speaking with - are very keen to come and do business here and we have invited them to take part in some further negotiations and some introductions specifically to the Economic Development Minister and the Chief Minister and the electricity companies, et cetera, in the future. There are issues about citations of developing tidal farms and offshore wind farms and those are out for consultation in relation to the energy policy. So while I support this I would say that there needs to be some more realisation among ordinary Members and the public that indeed this is certainly a very, very important piece of work that we are beginning here today, if not extending. I think that maybe it has not really dawned upon many Members that there is a significant resource and a significant responsibility of allocating that resource through these types of Regulations that will

come forward and will probably have to be drafted quite cognisantly of those facts in law. I am sure it has not been missed by the Minister or his Assistant Minister, or indeed the Law Officers, but it is overall - although there are some reservations in the back of my mind - right that the States of Jersey protects these issues and protects them as soon as it can. You may need to work on them in the future but for now I believe personally that I will support it because I am more minded, given some recent information I have received in relation to the state of the tidal energy producing industry, that it is an appearing industry and it will certainly be within our realisation within the next 20 years at the latest.

**6.1.8 Deputy P.N. Troy:**

Deputy Power referred to the tender process for the northern route in 1998 and I remember that P&O expressed an interest and tendered. I was amazed at the time that Condor continued on the route because it made sense, I felt, to switch to a major operator with multiple routes and opportunities to cross-sell to a huge database of travellers. Of course, P&O would have had all of that: it had multiple routes; people travelling to Dover could have been offered opportunities to travel to Jersey at discounted prices and so on. I came to the conclusion that of course the tender was a sham. It was never going to introduce a new operator. Why turn down an international operator with massive financial resources and impressive marketing strategies and return the route to a debt ridden company? It just does not make sense. The public of Jersey have been paying for it ever since. They have been paying inflated travel fares at Condor because Condor have to finance the large fees and interest charged by an international bank on a very large debt. We are subsidising an international bank. The people of Jersey are subsidising an international bank. What perhaps should have happened in those days when the bank ventures group took over Condor, the bank should have written down its debt. It should have written off a large proportion of the debt and then they could have offered fair travel prices to all the people of Jersey. But they have not done that, they have loaded the debt into the company and we are all paying for that debt every time we buy a ticket. A bank venture group owns 100 per cent of Condor, Q.E.D. (*quod erat demonstrandum*). Would you want a bank running your company? I would not. I would borrow money from them and I would do it very cautiously but I would not want them running my company. I do not think the people of Jersey want a bank running its travel links. So I would ask the Assistant Minister when is the next tender to take place, because it was last tendered in 1998. As I believe the ramp permit for Condor is currently being reviewed on an annual basis, can the Assistant Minister justify why the northern route has not gone back out to tender as it should have when the contract expired? Why is that company being given preferential treatment there? Will the Minister and Assistant Minister give a commitment to putting the northern route back out to tender in 2008, exactly 10 years after the original tender? Because, if not, they should really consider their position because the public are fed up with having to pay inflated prices to the U.K. This is a matter where if it does not go out to tender and if all tenders are not considered seriously, the people who are making the current decisions should go.

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

The Deputy just made some pretty strong comments about a company that is operating in Jersey and about debt, and I think that it is inappropriate for him to have made such comments casting aspersions on their financial arrangements. Debt is a perfectly normal issue concerning equity. I think it is quite wrong for the Deputy to have used his position in this Assembly to cast aspersions on the funding of an organisation which I know to be completely erroneous.

**Deputy P.N. Troy:**

All I said was I would not want a bank running my business and travel to the Island, Sir. That is the problem that we have.

**The Bailiff:**

Perhaps we will not go any further down that particular road.

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

I really just have a question for the Assistant Minister and it is based on Deputy Troy's speech. Is it not true that shortly after we engaged in the tender process that P&O pulled out of all their cross-channel routes? That is my understanding and if that is the case then all I can say is thank goodness we did not award them the tender.

**The Bailiff:**

I call upon the Assistant Minister to reply.

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

First of all I will make my summing up as brief as possible, which I am sure will appeal to Members. However, I would not want to miss the opportunity of responding to one or 2 of the comments that have been made. I will start in particular with Deputy Power who was very kind in complimenting me to a famous actor and a famous film. I found his speech was more like the name of the rocket in question - Odyssey and I felt that a great deal of the content of the speech came from something like Jackanory. Sadly, there is a lack of content that is accurate in many of the points that the Deputy raised. I will cover just a few of those briefly, if I may. He touched on the issue about monopolies and clearly we are in a position now where we have a competition regulatory authority, the J.C.R.A., and I am sure Members have some degree of satisfaction and comfort from the fact that they are now operating in the Island and providing the safety net necessary to ensure that monopolies are not operated unless they are done in a completely transparent and open fashion with the proper open checks and so on. The Deputy referred to the fact that I talked about this amendment being a Regulation. In fact I did not, I referred to the fact that until this amendment is passed we cannot bring the Regulations forward and I referred to the fact that the detail is in the Regulations. We are not discussing today the Regulations. There seems to be a little bit of confusion there. He also asked whether or not we need to legislate for a small handful of operators. I would say that is precisely why we do need to have the protection of the legislation because we do have so few operators, there is a possibility ... and it has happened to this Island in the past where we have been put in a position of potentially having no operator serving our sea routes. That is, quite frankly, catastrophic. He referred to the J.C.R.A. again and suggested that they had taken an unreasonably long period of time in relation to the stevedoring contract. Clearly this is not a subject ... many of the points the Deputy raised are not directly relevant to the amendment that we are discussing today, but nevertheless I do want to mention this particular point. That particular contract has gone on for a long time; it is not just the J.C.R.A. that are at fault here, there are several parties involved. It is reaching a conclusion and we hope to have it resolved certainly by the end of this year, by Christmas time. So that is an important point, but it has taken too long. There was also reference to other operators, in particular H.D. Ferries, and some suggestions of the principal of that company in the way in which he was dissatisfied with the way he was treated by Jersey Harbours. I have to raise an objection to that because the reality of fact was that that company was given all assistance, plenty of assistance, in advance of a service being put on. They were asked to provide plenty of information to the Harbours Department and to Economic Development and that information was slow in coming forward. We provided them with support; we continue to provide them with support. We are continuing to encourage them to come back, which we believe, and they have certainly indicated they are going to do, in March of next year. But so far as service level agreements are concerned it was an example of how the system does not work. It was an example of the inadequacy of the service level agreement regime that we operate at the moment. That an operator like H.D. can suddenly decide to stop services over the winter period, the less attractive period, the less attractive period for operators, there is less money in it for them, and yet come back when there is cherry picking to be had in the summer, it is not the sort of situation that is particularly favourable for the Island. The Deputy also mentioned other

items such as commercial agreements and the charging for commercial sheds at the harbour and how they are charged at too high a level and he made some connection to the cost of food. I have to remind him that, quite frankly, we need to bear in mind first of all the Harbours Department needs to be commercial in all the activities that it undertakes and I think it would be only fair and reasonable that the public, and indeed taxpayers, expect us to be so, otherwise it is going to have to be funded further from the public purse by taxpayers. So there has to be a sensible balance. There are occasions at the harbour where, in fact, some services are not charged necessarily at the going commercial rate but that is clearly identified and it is done for charities and for other organisations or, indeed, where there is perceived to be a benefit to the Island. But it is clearly identified as indeed it should be. The Deputy mentioned that there had been a legal challenge by the ex Harbour Master who is now heading up the port users from the Harbour Department, and I have to say that is simply not true. There was no legal challenge. The issue was questioned, there is no doubt about that, but there was no legal challenge and I think it is important that facts are correct when they are brought forward. He also raised a point about the Manche Iles Express and the amount of support that they get from the French Government. We welcome that. Quite clearly it has been very beneficial to the Island. We support the Manche Iles Express but to say that Jersey Harbours or Economic Development have done nothing whatsoever to support that is completely and utterly untrue. There has been significant investment in the Albert Terminal. There has been plenty of support through Jersey Tourism in terms of promoting the services in France. Money and support is given and will continue to be given, but to draw a comparison between what we as an Island with a population of 90,000 can contribute compared to a regional government that gets support from across France is clearly not a particularly fair comparison to make. There are clearly many challenges with Jersey Harbours which the Deputy raised, challenges that we recognise and the Minister and I are working hard to deal with these issues. There will be a number of improvements and changes over the coming year and I suggest that if the Deputy has any further concerns that he comes and talks to us about it. We are always more than happy to listen to concerns that he has had. There have been suggestions of conspiracy theories of ways in which operators and other actions that go on at the harbour. I have invited in the past the Deputy to come in and see me about this and, indeed, to be fair to him he has been in and we have sat around a table and I have asked for written details of accusations that have been made by operators or others. Until we have those we cannot move forward, we cannot action them, but I can assure Members and members of the public that we would take any accusations absolutely seriously and will act upon them if they are proven to be accurate and true. I will move on to Deputy Breckon and thank him very much for his support and for the support of the Consumer Council. A number of other Members also showed their support which, again, I am very thankful for. Deputy Duhamel raised some points, in fact, with regard to the Articles, Article 2 in particular, which we will come on to in due course. He was linking energy and environment issues and indeed the territorial waters and the way in which we had moved the line. Frankly, it is not a point and not relevant as far as cables, telephone cables and electricity cables. No, the Harbour Department or Economic Development are not looking to legislate in this amendment for those issues at all. This is about safety, safety matters regarding small craft and inshore matters that, frankly, in the existing law is somewhat weak in this area in terms of deciding upon where, indeed, the law can be effective. This is simply a tidying up issue. The Constable of St. Brelade raised that very same point about territorial waters. It is a safety issue. It is one that we believe this amendment will help to strengthen and improve because there are, as he rightly pointed out, quite a number of new activities continually being introduced in and around our bays and beaches and so on that need to be properly regulated from a safety perspective. He also asked about the fact that sea routes, as he rightly points out, have been quite successful and effective, certainly in this last year. In fact our figures are up 5 per cent over 2006. The point to mention here, of course, is we have not got back to the 2005 figures in terms of arrivals. We have got close to it but we have not quite got back there and his specific point was about Customs and Immigration and the delivery of their services and, indeed, other related services in terms of facilitating arriving passengers and cars. There is an issue here with regard to the services from

Customs and Immigration. We have been involved in some useful, meaningful dialogue with the department, with Home Affairs on this matter, but it is a matter that is going to need to be addressed fairly soon. Home Affairs have budgetary issues. They did reduce the number of staff that were facilitating those services in 2005 and with the figures increasing again they are struggling so we do need to be mindful of that. The final point from the Constable was concerning facilities. My understanding is that the facilities refer to all the facilities of the harbours, pontoons, all the ones he mentioned and any others that he might care to think about. Deputy Troy used, as Senator Ozouf said, some fairly strong language. He gave us an interesting history lesson about the sea routes and he gave some interesting banking advice as well. **[Laughter]** I am sure that Condor would feel much the same, I am sure they are not particularly happy in having such a reliance on banking arrangements. It is a difficult situation. He asked about the tender. 1998 there was a tender, he is absolutely right about that. My understanding from the history of this issue is that Jersey was supportive of P&O of that time. It was a joint decision and I believe it was Guernsey who, in fact, were not. So that is where I believe the issue lies. As far as the future is concerned, we are and have been in some meaningful discussions with our colleagues, counterparts, in Guernsey whose agreements with Condor end in January 2009. The intention is to have a joint Channel Island policy with regard to, in particular, the northern route, the argument being quite clearly that together it is a fine example of where the Island should be working together. It would be in our common interests to. There are certain economies in terms of doing that, and I certainly hope that we can reach agreement with Guernsey to have a common policy to deal with matters such as this. It is not likely, and it is not likely to be a resignation issue, I might add as well, that there will be a tender. But the amendment to this law, and indeed the Regulations when they come out, do allow for that to happen in the future should we decide it would be in the interests of the Island. That has to be, and will remain, the primary point. I would just like to conclude by re-emphasising this amendment is principally a piece of enabling legislation that also seeks to strengthen and clarify the interpretation of the existing law. Members will have fully appreciated, as I mentioned a moment ago, that the detail is in the Regulations. This is not the Regulations; this will just allow us to bring the Regulations forward to this House in the early part of next year. The Regulations are still open for consultation and some Members have already taken the opportunity to participate. I would urge any other Members who might have concerns relating to the Regulations to come forward and to bring their concerns to us. I would particularly urge Deputy Power, who has concerns over the matters relating to the Regulations which we have not got to yet of course, he has not been involved in the consultation process and I would very much welcome that he would do that as he has so many issues that are concerning him. We have also given an undertaking to revert to port users before the final version of the Regulations is lodged and, of course, we will be doing that. By supporting this amendment Members will be confirming their overwhelming support for the protection of our lifeline sea routes as was demonstrated in March of 2006. I think that is the key point at this particular juncture with regard to the amendments to this law. The Regulations will come in due course. Sir, I maintain the preamble and ask for the appel.

**The Bailiff:**

Very well, I ask any Member in the precinct who wishes to vote to return to his or her seat and ask the Greffier to open the voting, which is for or against the principles of the Regulations. If all Members who wish to vote have done so, I will ask the Greffier to close the poll. I can announce that the principles have been adopted: 41 votes were cast in favour, 5 votes against and one abstention.

<b>POUR: 41</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 1</b>
Senator L. Norman		Deputy R.C. Duhamel (S)		Senator B.E. Shenton
Senator F.H. Walker		Deputy P.N. Troy (B)		
Senator T.A. Le Sueur		Deputy J.A. Hilton (H)		

Senator P.F. Routier		Deputy S.S.P.A. Power (B)		
Senator M.E. Vibert		Deputy of St. John		
Senator P.F.C. Ozouf				
Senator T.J. Le Main				
Senator F.E. Cohen				
Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Brelade				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy A. Breckon (S)				
Deputy J.J. Huet (H)				
Deputy of St. Martin				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy of St. Ouen				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
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. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				
Deputy of St. Mary				

**The Bailiff:**

Deputy Southern, do you wish to scrutinise the ...?

**6.2 Deputy G.P. Southern:**

No, thank you, Sir.

**The Bailiff:**

Do you move the Articles?

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

Yes, Sir, *en bloc* if possible.

**The Bailiff:**

Yes, Articles 1 to 8 of the Bill are proposed and seconded? **[Seconded]** Does any Member wish to speak? Deputy Duhamel.

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

I would like to ask the Attorney General, if I may, on legal advice to the House. Is he able to state with any degree of certainty at this stage whether or not the provision of amenities within territorial waters would be judged under Article 4 as substituted as amenities providing a provision of the service in territorial waters or a facility which is used and, as such, could potentially require payment of fees or charges? It is in relation to what I was thinking of before. We do have cables on the seabed which provide a service. They are in territorial waters. There are talks underway and potentially underway into the future, as to whether or not, as I said earlier, wind farms or tidal power farms, which would be a facility in territorial waters providing a service. As far as I can see the way the Regulation 4 has moved away from the tight specification which was to do with ramps and permit licences for facilities and amenities that were provided at harbours, by introducing the words "territorial waters" we do seem to be widening the ambit of the law which potentially, I think, could include such businesses or potential businesses or existing businesses. I just seek assurances on the A.G.'s (Attorney General) behalf that my fears are unfounded and, indeed, the wording of Article 4 is tight enough to exclude those items from the administration of the Harbours and Airports Department.

### **6.3.2 Mr. W.J. Bailhache Q.C., H.M. Attorney General:**

Can I just make sure I understand the question properly? Is the question whether or not Regulations can be made to enable a charge to be laid against somebody who puts a cable on the seabed? Is that what the question is?

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

Not just companies providing cables on seabeds but it goes beyond to companies that may potentially wish to engineer offshore tidal facilities or wind farms. Specifically, as far as I read it, Regulation 4 does allow any facilities or facilities providing a service within territorial waters to be restricted and to potentially open up through the department the opportunity for the department to require payment for fees or charges or to come under its administration. The question really, Sir, is whether or not my fear in that regard is unfounded or, indeed, I should be worried.

### **The Attorney General:**

Can I just think about that a moment?

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

While the Attorney General is thinking about that, I would simply say to Deputy Duhamel that there is the small issue of getting planning consent for wind farms or other things and I believe that the planning law would cover requirements for permits. Indeed, I would also remind the Deputy that there is a provision in this Assembly to have a user pays charge and any new charge must come before this Assembly. There is no intention of starting to charge for undersea cables or telecommunication cables or anything like that as far as I have been briefed and the Assistant Minister has been briefed. These are technical changes that are required to deal with the issues of safety in our seas. But if that has helped the Attorney General to consider the matter, I hope those observations may be useful.

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

Just briefly, the issues in relation to this may obviously in the future be safeguarded at planning and I am sure the answer the Attorney General gives us will make things a little more clear. But one of the things that we have identified among a raft of issues that are presented with this appearing industry - and I do make that point again, this is an appearing industry, it is emerging and appearing in locations around the U.K. waters - that these facilities do represent not only a source for renewable energy but they represent a significant issue in respect of safety for maritime vessels and users of territorial waters. In many respects, even scuba diving or fishing, et cetera. So there are issues about safety and that is why we raised them.

**The Bailiff:**

Attorney, is this a matter on which you need notice?

**6.3.5 The Attorney General:**

I do not think so, Sir. My reading of Article 5 of the amending Law, which substitutes new Articles 4 and 4A, is that it would provide a facility by which fees could be charged for laying a cable or establishing a wind farm or tidal power or anything of that nature. It has to be remembered that the territorial waters are Jersey's territorial waters and, therefore, if it were some private institution that were wanting to set up some tidal power station it would be on land which did not belong to it because the land would be within Jersey's territorial waters. It would be surprising if it were not required to apply for some sort of permit and surprising if it were not required to pay some sort of fee for that if it were going to be generating substantial profit. So, within the ambit of 4 and 4A I think it would be possible for fees to be charged.

**6.3.6 Deputy R.C. Duhamel:**

If I can continue with my speech from where I left off, I had asked for advice from the Attorney General and I was waiting on him to give it. It will be short, bearing in mind that my fears have been substantiated by the legal advice to this House from the Attorney General. I go back to the original point I made, which is that we are, on the one hand, being given assurances, firm assurances, from the Assistant Minister of Economic Development that this law is primarily to give extra powers in order to regulate the facilities that are provided at the harbours or such like, like docking points. It does not, and that is what we have been told, extend to further administration of other waters but we are hearing from the Attorney General that the way the law has been written this could be the interpretation. So I would maintain that in agreeing Article 2 the key words really that cause the problems, and in Regulation 4, are the addition of the words "territorial waters" and in order to bring certainty, or greater certainty, to the legal position, I would formally propose that those words be struck out in order to give those assurances. Otherwise we are, in effect, passing over administrative control and responsibility for everything that happens on territorial waters, albeit that other permissions may well need to be applied for through planning or other bodies, the Treasury I would have thought would be one of them. As I say, given the assurances from the department and the Ministers and the Assistant Minister that, in their opinion, that was not what they were seeking to do within the law, that really underlies my concern about it. I think we should not be supporting it in that regard.

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

Notwithstanding the concerns raised by Deputy Duhamel, really from the point of view of Jersey Harbours and Economic Development and the law, we have to consider the wider ramifications here in terms of altering the terminology relating to territorial waters. The aims and objectives from our point of view with regard to the law was purely a safety issue. We were looking to ensure that the inland harbours and areas that are currently covered are done so under safety matters. The Constable of St. Brelade has very rightly pointed out there are a significant number of additional activities that occur in and around these type of areas and it was those that we were looking to tighten up the law on to ensure that safety matters and issues could be carefully taken care of. I do understand Deputy Duhamel's point, Sir, but I really think in the greater scheme of the law that what we are trying to achieve here is perfectly clear, but it should be perfectly clear, hopefully, to Members and I would maintain the position, Sir. Clearly if Deputy Duhamel feels aggrieved by it then he can choose to vote against it. Thank you, Sir.

**The Bailiff:**

Do you want the appel? The vote is for or against the Articles of the law. The Greffier will open the voting. If all Members who wish to vote have done so, I will ask the Greffier to close the poll. I can announce that the Articles have been carried: 39 votes were cast in favour, 5 votes against.

<b>POUR: 39</b>		<b>CONTRE: 5</b>		<b>ABSTAIN: 0</b>
Senator B.E. Shenton		Deputy P.N. Troy (B)		
Connétable of Grouville		Deputy of St. John		
Deputy of St. Peter		Deputy P.V.F. Le Claire (H)		
Deputy K.C. Lewis (S)		Deputy R.C. Duhamel (S)		
Senator F.E. Cohen		Deputy S.S.P.A. Power (B)		
Connétable of St. Brelade				
Deputy C.J. Scott Warren (S)				
Senator L. Norman				
Connétable of St. Martin				
Deputy G.W.J. de Faye (H)				
Deputy I.J. Gorst (C)				
Senator F.H. Walker				
Connétable of St. Ouen				
Connétable of St. John				
Deputy J.B. Fox (H)				
Deputy of St. Mary				
Connétable of St. Mary				
Connétable of St. Saviour				
Deputy J.A. Martin (H)				
Deputy J.A.N. Le Fondré (L)				
Senator T.A. Le Sueur				
Deputy D.W. Mezbourian (L)				
Senator P.F. Routier				
Connétable of St. Clement				
Deputy A. Breckon (S)				
Deputy S.C. Ferguson (B)				
Deputy of Trinity				
Senator M.E. Vibert				
Connétable of St. Helier				
Deputy J.J. Huet (H)				
Deputy of St. Ouen				
Senator P.F.C. Ozouf				
Connétable of Trinity				
Deputy of St. Martin				
Deputy P.J.D. Ryan (H)				
Deputy S. Pitman (H)				
Senator T.J. Le Main				
Deputy of Grouville				
Deputy A.J.D. Maclean (H)				

**The Bailiff:**

Do you move the law in Third Reading, Assistant Minister? **[Seconded]** Does any Member wish to speak on the Bill in Third Reading?

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

At this stage can it be referred to Scrutiny?

**The Bailiff:**

No, I am afraid not.

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

Because I thought the Standing Orders said that at any stage a Member could propose before the Third Reading that it be referred to Scrutiny, Sir. Given the recent intervention of the Attorney

General in relation to the specific item of territorial waters, I am completely satisfied with everything else that has been proposed but that causes me discomfort, Sir, and I would like to propose, if I am able to, that the States consider or request the Scrutiny Chairman of the relevant panel - Deputy Southern, I believe - to take this for a very brief period. The law is not coming back until January in any event, and I am sure that we can just separate these 2 issues to the comfort of Members.

**The Bailiff:**

Deputy, I am sorry to have been wrong in my initial response to you. Under Standing Order 79 you are quite right that any Member of the States may propose without notice that (a) the debate on any proposition be suspended; and (b) the States request the relevant Scrutiny Panel to consider having the proposition referred to it. It is very unusual, if not unprecedented, I would say.

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

May I say, Sir, it is kind of you to apologise [**Laughter**] but it has got to be the first time in history that I have been right and you have been wrong, Sir.

**The Bailiff:**

It is kind of you. It is open to you to propose without notice, Deputy, that the debate on the proposition be suspended before the vote is taken on the Third Reading if you wish to do so. I need to know whether you are going to propose ...

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

I do, Sir, and very briefly - I take cognisance of the time - Members have heard what I have had to say and have heard what has been said. I hope we do not need to have a debate on it. All I would say is that the Minister and the Assistant Minister have heard strong support for their moves with the caveat that we believe, having visited recently and seen the emerging appearing industry, that there could be a potential here for some more clarity and some better safeguards than at present are being presented.

**The Bailiff:**

Deputy Le Claire has proposed that the debate on the draft law be suspended and the matter referred to the relevant Scrutiny Panel. Is that proposition seconded? [**Seconded**] Does any Member wish to speak?

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

I would just say very briefly that Scrutiny are perfectly entitled to review and scrutinise the arrangements for a law but I would encourage them, if I may, to engage with us. I do not know whether or not we are dealing with the Economic Affairs Scrutiny Panel or we are dealing with the Environment Scrutiny Panel. Could you just make it clear which panel we are dealing with here, Sir?

**The Bailiff:**

I think it is the Economic Affairs Scrutiny Panel.

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

I would encourage them to work with us and to scrutinise the Regulations and any matters concerning the actual law. I would say one thing to Members: we want to get this law in place in order to invite the States to make the decisions concerning the Regulations. We are currently in December 2007 and there are issues concerning service level agreements and other matters that do need to be dealt with before next season. I am sure that many Members would agree with me that there is concern about the issue of our ability to enforce and keep companies to their service level

agreements and, as the Assistant Minister and I have explained, we do need a stronger ability to regulate our vital sea routes. The current arrangements are not suitable. Agreeing for effectively a suspension of the debate and matters for scrutiny on something which I would respectfully say is pretty tangential to the issues we are dealing with will probably mean that we do not have that strength in terms of Regulations for that time. So I would just say to Members, if they vote in favour of this suspension we are probably going to lose another year of effectively doing service level agreements for next season and that would be a matter of huge regret.

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

Briefly if I may, the reason I am supporting the reference to Scrutiny is really on grounds of the States being offered a piece of legislation which quite clearly, in my mind at least, goes further than the intention of the department. If that is not the case and the intention of the department is clearly stated that the words “territorial waters” do not necessarily apply, then I would have thought through the scrutiny process, by looking at the legislation, there is an opportunity perhaps to come back at a later stage and to delete those words and put everybody’s minds at rest. But I raise the point, Sir, it is fundamentally wrong for this House to be bringing forward laws, and in the matters of legislation all legislation is important, it is not something we do particularly well in terms of unpicking laws or making sure that they are looked at properly. This might well be a case to determine whether or not the act of bringing legislation to the States for agreement should be tightened up a little bit. If it is open to interpretation and that interpretation is too wide and it is clearly against what the department wanted, then it is incumbent upon that department to ask the Law Officers to write the law in the way that more closely represents what they wanted in the first place. I support the reference to the Scrutiny Panel, Sir.

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

If I may, I have already turned this down under Article 72 on behalf of my panel. I have no wish to have it referred to me in particular; however, it is in the hands of the House to decide whether they do so. If the concerns expressed by Deputy Le Claire and Deputy Duhamel are considered valid then please let them refer it to us, but can we have the vote?

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

Just for clarification, please, Sir, I understood that under Standing Order 79(2)(a) a proposition that had previously been referred to the Scrutiny Panel in question could not be referred to again, Sir.

#### **The Bailiff:**

Yes, but it has not yet been referred to the Scrutiny Panel. The Scrutiny Panel declined to have it referred to it, but it is still open to other Members to say that it should be scrutinised.

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

I do not know that Deputy Le Claire needs to be too concerned here. I have some concerns about this policy, this Bill, too, but the Regulations are going to come back to the House later on anyway so Members can have their say then and amend them or bring forward amendments if necessary. I cannot see the need to delay this, which I would have concerns about which have been articulated by the Minister for Economic Development. Even though I have concerns about this I think it would be wrong to delay it. I think it can be sorted out when the Regulations come back before this House, those concerns that Deputy Le Claire and Deputy Duhamel have.

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

Very briefly, just a point. The existing law (which, of course, is 46 years old as I mentioned earlier on) already contains the term “territorial waters”. All we are seeking to do here is to change the definition in the way in which you interpret territorial waters. I would not have thought the points raised by Deputy Duhamel are any different. We are not making any changes here at all. Territorial waters are already there.

#### 6.4.7 The Connétable of St. Brelade:

As a Member of the Economic Development Scrutiny Panel we received this in draft form prior to its being lodged on 16th October 2007 and have consulted with those involved, have been perfectly satisfied with the answers given and I think that in truth 16th October to 5th December is quite a fair period Members have had to ask questions about it. I think that we have little to gain by delaying it.

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

As I said, in realising and understanding the industry through Scrutiny involvement last week in the tidal industries and the understanding of that, this is where this is all stemming from. My only concern is that in going away and preparing a law in principle under the responsibilities of a particular Minister that we may be giving something to a ministry that may not perhaps have the correct responsibility. I wanted to see if there was a better use of the States administration in considering that. I appreciate that some Members, if not all Members, are satisfied with the safety regulation issues and the innocuous manner of the Bill and, in particular, the safeguarding of the sea routes. That is not the argument we were hearing when I suddenly proposed this. We suddenly heard counter arguments about the extension of a year and the jeopardy of a service level agreement, something completely different. I will just sit down and ask for the appel.

#### The Bailiff:

Very well, the vote is for or against the proposition of Deputy Le Claire to suspend the debate and refer the matter to Scrutiny. I will ask the Greffier to open the voting. If all Members who wish to vote have done so, I will ask the Greffier to close the poll. I can announce that the proposition has been lost: 5 votes were cast in favour, 40 votes against.

<b>POUR: 5</b>		<b>CONTRE: 40</b>		<b>ABSTAIN: 0</b>
	Connétable of St. Mary		Senator L. Norman	
	Deputy R.C. Duhamel (S)		Senator F.H. Walker	
	Deputy P.N. Troy (B)		Senator T.A. Le Sueur	
	Deputy P.V.F. Le Claire (H)		Senator P.F. Routier	
	Deputy S.S.P.A. Power (B)		Senator M.E. Vibert	
			Senator P.F.C. Ozouf	
			Senator T.J. Le Main	
			Senator F.E. Cohen	
			Connétable of St. Ouen	
			Connétable of St. Clement	
			Connétable of St. Helier	
			Connétable of Trinity	
			Connétable of Grouville	
			Connétable of St. Brelade	
			Connétable of St. Martin	
			Connétable of St. John	
			Connétable of St. Saviour	
			Deputy A. Breckon (S)	
			Deputy J.J. Huet (H)	
			Deputy of St. Martin	
			Deputy C.J. Scott Warren (S)	
			Deputy R.G. Le Hérisssier (S)	
			Deputy J.B. Fox (H)	
			Deputy J.A. Martin (H)	
			Deputy G.P. Southern (H)	
			Deputy S.C. Ferguson (B)	
			Deputy of St. Ouen	
			Deputy P.J.D. Ryan (H)	

	Deputy of Grouville		
	Deputy of St. Peter		
	Deputy G.W.J. de Faye (H)		
	Deputy J.A.N. Le Fondré (L)		
	Deputy D.W. Mezbourian (L)		
	Deputy of Trinity		
	Deputy S. Pitman (H)		
	Deputy A.J.D. Maclean (H)		
	Deputy K.C. Lewis (S)		
	Deputy of St. John		
	Deputy I.J. Gorst (C)		
	Deputy of St. Mary		

**The Bailiff:**

Now we return to the debate on the Third Reading. Does any other Member wish to speak on the debate on the Third Reading? I put the Bill in Third Reading. Those Members in favour of adopting it, kindly show? Those against? It is adopted in Third Reading.

**7. Draft Amendment (No. 8) of the Standing Orders of the States of Jersey (P.162/2007)**

**7.1 Senator M.E. Vibert:**

A number of Members have indicated to me they would wish to finish this sitting by lunchtime if possible, and in keeping with the season perhaps I can offer them some cheer. I am quite willing to put off my proposition on amendment to the Standing Orders. I would crave States Members' indulgence to have it as the first item on 15th January 2008 because it is important that it is discussed then before other items relating to the composition and election of the States are debated. So, if Members are happy with that, in the interests of seasonal greetings I will withdraw and ask for it to go in January.

**The Bailiff:**

Are Members content to allow Senator Vibert to withdraw this matter until January?

**8. Draft Amendment (No. 32) to the Tariff of Harbour and Light Dues (P.163/2007)**

**The Greffier of the States:**

The States are asked to decide whether they are of opinion in accordance with Article 6 of the Harbour and Light Dues (Jersey) Law 1947 to approve the Draft Amendment (No. 32) to the Tariff of Harbour and Light Dues as set out in the appendix to the report of the Minister for Economic Development dated 19th October 2007.

**8.1 Deputy A.J.H. Maclean (rapporteur):**

This amendment seeks to increase harbour dues for arriving and departing passengers and vehicles by 2.5 per cent in line with Treasury guidelines. It further proposes an increase of 4.3 per cent for leisure moorings, visiting yachts and leisure spaces in line with the Retail Price Index. I think it is safe to say this is probably not an effective process to have to trouble this Assembly with essentially commercial matters. In this regard we are progressing the Draft Harbour Charges Law which is awaiting the pending Harbours Review. Once complete, and we had hoped this would have been the case during 2007, the Minister and I would hope to bring forward this particular law which would remove the need to come annually to the Assembly for the alteration of harbour charges. I propose the amendment.

**The Bailiff:**

The amendment to the tariff is proposed and seconded? **[Seconded]** Does any Member wish to speak on the amendment?

## **8.2 Deputy S. Power:**

Members will be pleased to know that I will be very brief on this. As was previously stated on the previous Draft Harbours Administration (No. 7) Law, that law was 47 years-old; this law is 60 years-old and the Attorney General ruled 5 years ago that this law was illegal. What is wrong with this process is that freight dues are now decided under an obscure harbour regulation and it is based on a mooring fee and a landing fee per unit landed. The States have approved P.129/2002 in October 2002. I would like to ask the Assistant Minister when specifically the revision to this law will take place.

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

I used to work at the marina collecting fees from visitors and we recognise the immense benefit to the economy of French and English visitors to the harbours on small vessels and their contribution to the economy. I am wondering whether or not this is the same sector that would be influenced by this 4.5 per cent indicated rise and whether or not I will support it on this occasion. I would like to ask if it is, is the Assistant Minister cognisant of this issue being somewhat of a thorny issue in relation to our price charges in comparison to other marinas according to some visitors? Would he be prepared in the future to give us some information about comparative charges in other jurisdictions close by, like France, for example, where charging in marinas may be more favourable which would be a dispensation to tourism?

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

I am sorry Deputy Baudains is ill today and cannot be with us because I am sure he would have risen now to put in a word for all the small boat owners in the Island as well as owners of local leisure craft. I do want to preface my remarks by saying I do not hold the Assistant Minister or the Minister for Economic Development responsible or in any way to blame for the things I am about to say. I also welcome the Harbour review which I think will take matters further forward. I have to say that I am not going to be supporting Part B where 4.3 per cent is due to be levied on leisure moorings around the Island irrespective of whether it is to do with the Retail Price Index or not. I want to put it to the Assistant Minister, would he care to outline what Harbours have done for all those local people who keep their leisure craft in Gorey, at Bouley Bay, at Rozel, at Bonne Nuit Bay, Belcroute, St. Catherine's, St. Brelade's Bay and so on and so forth? Other than send the odd chap out with a pot of paint to paint over the rusty railings from time to time and ensure that the ladders have not fallen into the sea, what exactly are small boat owners and leisure craft owners around the Island getting for these fees? I suggest to the Assembly they are not getting very much. Similarly, when we look at the marinas in the harbour it has been very well known for some years now that they are regarded by the Harbours Department as simply a cash cow to pay for departmental activities, constantly fleeced on a yearly basis with additional charges. Again, what exactly are they getting for this money? All I can see is that apart from anything else there is virtually not even a position to park their vehicles conveniently to access the marina. It seems to me it is still, and has been, an entirely unsatisfactory state of affairs that has gone on for years, which is why I do not point the blame at either the Minister or his Assistant Minister: they are new to this field. The record of the Harbours Department is not a good one particularly when you look around the Island outside of St. Helier Harbour. I have had it suggested to me that one of the reasons, or perhaps the reason, why the east pier of St. Aubins is about to keel over and fall to pieces was due to over-zealous and poorly supervised dredging of the harbour in the past which simply undermined the foundations. I assume Harbours would have been responsible for that. The Harbours Department are responsible for St. Catherine's breakwater and the maintenance there was so lax that an enormous hole was discovered by a dog belonging to a former Deputy of Trinity. They refused to go to the end of St. Catherine's pier because the dog was aware of the danger. Subsequently, Harbours have managed to get their act together and stopped the entire pier falling into the sea but only due to, unfortunately, a very unattractive rescue operation which has completely ruined the end of the pier for anyone who wants to go fishing there as they used to of

old. I think the Harbours Department record has been slack, to put it mildly, and here we are being asked to pay yet more money. What are small boat owners getting for this money? Nothing, in my view. What are local leisure craft owners getting for this? Nothing, in my view. I would like to hear from the Assistant Minister what he has provided in all those harbours I have mentioned that are outside St. Helier Harbour. What facilities have been introduced this year, last year or the year before other than routine maintenance? I do not think the Harbour Department deserves any more money and I will be voting against Part B if I am allowed to vote separately, otherwise I shall be voting against this completely. There comes a time when Members need to draw a line in the sand and say: "Get your act together."

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

I hoped Ministers would give their colleagues a little bit more support sometimes, [Laughter] hearing from across the Chamber something on which, I have to say, sadly I have absolutely no notice of. In fact, I enjoyed some food with Deputy de Faye last night and it would have been nice if he had raised his rather excitable objection ...

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

As the Minister well knows, information is all about the timing of delivery. [Laughter]

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

This is the season of goodwill and so I will not respond. I think the Assistant Minister will no doubt say of the good work that Harbours do in securing mooring facilities. All I want is to respond to the earlier comment that has been suggested that the harbour charges are illegal. I fully understand the reasons why that conclusion was reached by somebody. I would not say that they are illegal. The fact that they would be illegal if the amount of money collected was over and above the cost of the provision as far as the tariff of a due for cargo being brought into the Island, that was the issue that was dealt with. I am advised that the previous committee did reconstruct the charges and that there is a defensible position in respect of the charges that are levied so effectively they do not become a tax. Notwithstanding that, we agree that there should be a new law and that law is being considered and will be brought to this Assembly within the next few months. I would urge Members respectfully, including my good colleague the Housing Minister, to please consider the important funding issues of harbours. For a department of the States having lodged something on 23rd October, having budgets set, I do not think it is reasonable for somebody just to raise an objection on, frankly, some spurious grounds. If there are concerns about harbour charges then the proper way would have been to bring those issues to our attention and certainly we will look at them, but to simply throw Harbour's budget out - which is effectively what it is and this is the reason why it has been set today; these are the tariffs which are going to be the fundamental part of our budgetary arrangements and the income next year - would be quite wrong, I would respectfully suggest. Can we do better? Will we do better next time? Yes, we will, but please do not throw out the whole basis of charging for light craft and other harbours around the Island. That, I think, would be unreasonable.

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

The conclusion that I reach from Deputy de Faye's speech is that perhaps Harbours should be employing a dog which we could maybe call Captain - any other suggestions for a name could be sent to the Assistant Minister - or, as it is Christmas, we could perhaps get a turkey on the cheap.

#### **The Bailiff:**

I call upon the Assistant Minister to respond.

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

There is not a lot of sign of festive spirit from what I have heard so far, most of which was blowing down the back of my neck a few moments ago. [Laughter] Deputy Power gave a, thankfully,

short speech on this occasion. His specific question was about the date and he specifically wanted a date. I am afraid I cannot give him a specific date other than to say we are moving fast to ensure that the Harbour Charges Law is brought to this House. We want to be able to do it as early as possible in 2008. There is still a small amount of work to be done. There is a review of the harbour to be completed. When that is done we believe we will be in a position to move forward, so it is something we are dealing with and taking the utmost responsibility over. Deputy Le Claire raised some relevant points about marinas and charges to marinas and comparison of prices. Yes, we have been looking at comparisons of prices. Interestingly, it is not something that was historically done but certainly since the Harbour Department has become part of Economic Development and with our desire to grow marine leisure industry as a whole, we have to know what the other markets and in particular competing markets are doing. It was a particular issue when the decision was taken, the very wise and generous decision by the Treasury Minister not to put duty on marine fuel. That was done quite simply because we gave an undertaking to grow the marine leisure industry, but we had to understand exactly what it was and how we were going to do it and understanding competing areas. What I can say to the Deputy at the moment is our marinas are at a more competitive rate than the U.K. We are of a similar rate to Guernsey and we are more expensive than France, but I think to put that into some degree of context we have to also understand the level of facilities that are being offered and also the facilities within the wider Island, the location that boat users may decide to come to. But all these factors are being fed in. We have developed a marine leisure growth group which is designed to look more closely into this issue and decide how we can drive marine leisure growth which we are determined and dedicated to do. Deputy de Faye raised a number of points and in particular he was asking and has a great deal of concern for small boat owners and he is quite right to have concerns for small boat owners. The Island has a rich tradition in boating. There are many, many boat owners, not just those that have large craft but there are small ones as well. It is a very important leisure activity and it is clearly important for the development of tourism as well. How are we dealing with the outlying harbours? The Harbours Department is responsible for the infrastructure of the outlying harbours and it is a significant cost. It is not just the minor items of getting a paint brush out and swishing it around once a year. There is far more to the infrastructure of the harbour. The Deputy mentioned, for example, St. Aubins. He did suggest that the activities of dredging had probably caused the problem with the harbour wall. Regardless of that, the walls and the harbours around the Island are hundreds of years old. They need maintenance; they need to be looked after. This money has to come out of Jersey Harbours and that is one of the reasons why messing with budgets at this late stage, not that I do not disagree necessarily with his point and the point raised by other Members, but we have to realise that these facilities are expensive from a maintenance point of view. Fees also in outlying harbours are relative to the facilities that are available and they are clearly a lot lower than we would expect to find in Elizabeth Marina or be it more central or larger areas. I think it was unreasonable for the Deputy to suggest that marina users are being fleeced. I have certainly not heard that. In fact, I had the pleasure of meeting with the Boat Owners Association only a couple of days ago - the chairman of that organisation - and I have been invited to their A.G.M. (Annual General Meeting) next Monday. If the Deputy is correct in his assumptions maybe I am the one that is going to be made to walk the plank or be fleeced before I get out of that particular meeting, but I am very much looking forward to the opportunity of talking to boat owners as part of the Association with the plans that we have for the future of developing marine leisure within the Island. In terms of the development of marine leisure, one other point I would like to make is there is a new Business Development Manager at the harbour and I believe that she is doing sterling work in attempting to develop the marine leisure industry and to help to build relationships with boat owners. I have to say that it is clearly recognised by both the Minister and myself that there is a great deal of work to be done at the Harbours Department and there is a great deal of work to be done in terms of communication and better communication. A fine example of that was a situation very recently with Elizabeth Marina and the lack of parking for both boat owners and marine traders. That was a situation that was not clearly communicated. There were

other parties involved. Thankfully we are moving rapidly towards a resolution of that situation thanks to the co-ordinated efforts of both the developer, Dandara, and W.E.B. (Waterfront Enterprise Board) and the Harbours Department. Generally speaking, Jersey Harbours has a great deal more to learn in terms of communication with its customers and that is something that we are more than aware of. I think I have covered all the points I want to at this stage. I would like to call for the appel.

**Senator F.H. Walker:**

I should have declared it before. I believe I do have an interest in Part 2 of this. Are we taking the vote separately or together?

**The Bailiff:**

It is a matter for the Assistant Minister.

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

I am more than happy to take it separately.

**The Bailiff:**

The Greffier corrects me. The Assembly is not being asked to approve the different parts of the Harbour and Light Dues. What the Assembly is being asked to do is to approve the amendment which the Minister is subsequently to make. It is the Minister who makes the amendment and so the Assembly is being asked either to approve or to disapprove what the Minister is going to do. So the Assembly can vote either for or against the Harbour and Light Dues as a whole.

**Senator F.H. Walker:**

In that case I will declare an interest and not participate in the vote.

**The Bailiff:**

Very well, Senator Walker has declared an interest.

**The Connétable of St. Brelade:**

Likewise, Sir, if I may I would declare an interest and not vote.

**The Bailiff:**

The Connétable of St. Brelade likewise.

**The Connétable of St. Saviour:**

Likewise, Sir, if I may.

**The Bailiff:**

I expect that there are a large number of Members who have small boats and I do not think that the mere fact that a Member has a small boat necessarily disqualifies him from taking part in the vote. I ask the Greffier to open the voting which is for or against the proposal. If all Members who wish to vote have done so, I will ask the Greffier to close the poll. I can announce that the amendment has been carried, 35 votes in favour, 7 votes against and one abstention.

<b>POUR: 35</b>		<b>CONTRE: 7</b>		<b>ABSTAIN: 1</b>
Senator S. Syvret		Senator T.J. Le Main		Connétable of St. Brelade
Senator L. Norman		Deputy R.C. Duhamel (S)		
Senator T.A. Le Sueur		Deputy J.J. Huet (H)		
Senator P.F. Routier		Deputy of St. Martin		
Senator M.E. Vibert		Deputy G.W.J. de Faye (H)		
Senator P.F.C. Ozouf		Deputy S.S.P.A. Power (B)		
Senator B.E. Shenton		Deputy of St. John		

Connétable of St. Ouen				
Connétable of St. Mary				
Connétable of St. Clement				
Connétable of St. Helier				
Connétable of Trinity				
Connétable of Grouville				
Connétable of St. Martin				
Connétable of St. John				
Connétable of St. Saviour				
Deputy A. Breckon (S)				
Deputy J.A. Martin (H)				
Deputy P.N. Troy (B)				
Deputy C.J. Scott Warren (S)				
Deputy R.G. Le Hérisssier (S)				
Deputy J.B. Fox (H)				
Deputy J.A. Martin (H)				
Deputy G.P. Southern (H)				
Deputy S.C. Ferguson (B)				
Deputy P.J.D. Ryan (H)				
Deputy of Grouville				
Deputy of St. Peter				
Deputy J.A. Hilton (H)				
Deputy P.V.F. Le Claire (H)				
Deputy J.A.N. Le Fondré (L)				
Deputy D.W. Mezbourian (L)				
Deputy S. Pitman (H)				
Deputy A.J.D. Maclean (H)				
Deputy K.C. Lewis (S)				
Deputy I.J. Gorst (C)				

**9. Draft Community Provisions (Wire Transfers) (Amendment) (Jersey) Regulations 200- (P.172/2007)**

**The Bailiff:**

Now there is one further matter on the Order Paper, the Draft Community Provisions (Wire Transfers) (Amendment) (Jersey) Regulations 200- (P.172/2007) and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

The Draft Community Provisions (Wire Transfers) (Amendment) (Jersey) Regulations 200-. The States in pursuance of Article 2 of the European Communities Legislation (Implementation) (Jersey) Law 1996 and having regard to Regulation EC No. 1781/2006 of the European Parliament and of the Council of 15th November 2006 on information on the payer accompanying transfers of funds, have made the following Regulations.

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

I would like to ask Deputy Gorst to act as rapporteur and ask him to be brief, Sir.

**9.1 Deputy I.J. Gorst (rapporteur):**

These amending Regulations will complete Jersey's implementation of Financial Action Taskforce Special Recommendation 7 on wire transfers, which is one of the 9 Special Recommendations. The amending Regulations introduce oversight provision into the Community Provisions (Wire Transfers) (Jersey) Regulations 2007 which is the principal Regulation. It came into force on 23rd July 2007. It does not, however, include any provision for oversight compliance nor does it specify which contravention will constitute offences. This is because at the time, though the principal

Regulations were approved by the States, the approach to be followed by the U.K. in these areas had not been finalised and has only very recently been agreed. It is important that the Island implement Special Recommendation 7 in a way which is equivalent to the European Union and in particular the U.K. This is because one of the conditions for individuals and businesses in Jersey to be able to continue to use U.K. payment systems in the same way that individuals and businesses do in the U.K., i.e. as domestic transfers, is that Jersey implement the same rules on transfers that apply in the E.U. (European Union). The U.K. has already made an application to the E.C. (European Commission) in respect of Jersey and the other Crown dependencies to allow transfers between the U.K. and Jersey to be treated as domestic transfers. It is unlikely that this application will be determined until such time as the amending Regulations are brought into force. The E.C. may approve the U.K. application only if it is satisfied that Jersey payment service providers are required to apply the same rules as those established in equivalent E.U. legislation. In simple terms these amending Regulations should allow for Jersey to continue to use BACS and CHAPS payment systems for sterling payments. Sir, I maintain the Regulations.

**The Bailiff:**

Is the long title, the principles of the Regulations, seconded? Does any Member wish to speak on the principles? I put the principles. Those Members in favour of adopting them kindly show? Those against? They are adopted and you move Regulations 1 to 5, rapporteur?

**9.2 Deputy I.J. Gorst:**

Yes, *en bloc*, please.

**The Bailiff:**

They are seconded? [**Seconded**] Does any Member wish to speak on any of the Regulations? I put the Regulations. Those Members in favour of adopting them kindly show? Those against? They are adopted in Second Reading. You move the Regulations in Third Reading?

**9.3 Deputy I.J. Gorst:**

Yes, Sir.

**The Bailiff:**

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

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

We now come to Arrangement of Public Business.

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

Would it be possible at this stage to withdraw P.187/2007? There was an error and part (b) of that has been withdrawn and it has now come as P.188/2007.

**The Bailiff:**

I was going to come to it in due course, Deputy, but certainly Members should note that the Deputy will withdraw one of her propositions and substitute another.

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

I would like to propose the Arrangement of Business as outlined in the pink sheet under M with 3 additions and one date alteration. The 3 additions are as agreed this morning: P.162/2007 which is the Draft Amendment (No. 8) of the Standing Orders of the States of Jersey, it was taken on 15th January; P.186/2007, the Draft Employment Relations Registration (Jersey) Regulation is also taken on 15th January; and P.188/2007 which has just been lodged, the Establishment of a Working

Party to examine the operation of third party appeals on 29th January; the one alteration is P.185/2007, Draft Taxation (Land Transaction) (Jersey) Law 200- which has moved from 15th January to 11th March. I would like to propose that.

**The Bailiff:**

And P.162/2007, have you mentioned that? P.162/2007, the one left over today?

**The Connétable of St. Clement:**

Yes, but could I ask that it goes as the first item on 15th January?

**The Bailiff:**

The first item in the Order Paper. Are Members content with all those arrangements?

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

P.183/2007 and P.184/2007 were lodged yesterday. They have far-reaching constitutional implications for the Assembly and I just would like to offer the suggestion that there should be a 2 week later lodging period for these. These are issues which are profoundly going to change the make-up of this Assembly, the way the Island is governed, and this is the last time, because this is the actual law, that we will have to deal with that. I would have thought that the minimum lodging period, and it is a minimum lodging period, should be extended somewhat in this circumstance. I would like to suggest in the absence of anybody else doing it that P.183/2007 and P.184/2007 are shifted by 2 weeks for that purpose.

**The Connétable of St. Clement:**

We are just implementing the decision of the States to bring these forward and so I would resist that proposition because to get them into the statute book and in force by the 2008 election it is necessary to do them as early as possible. I ask the Assembly to resist that proposition.

**The Bailiff:**

It is not yet a formal proposition. Are you going to propose it, Senator?

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

Absolutely, Sir.

**The Bailiff:**

Seconded? [Seconded]

**10.4 Deputy G.P. Southern:**

May I second that proposition? I suggest that it would be last minute. It seems too I have not had time to read the particular document in full and what it recommends and how it recommends approaching. I think if we give ourselves an extra fortnight we do not lose anything and we possibly gain a more mature and reflective decision.

**10.5 Deputy A. Breckon:**

Can I say that it is 6 weeks from now and there is some major stuff come from Ministers and others, and even the Strategic Business Plan and other things, where this is the appropriate time. The other thing in support of it staying on the agenda for 15th January, Members have prior notice of this because some of the principles of it have already been agreed and what P.P.C. (Privileges and Procedures Committee) are doing in effect is putting the finishing touches to what the House has already agreed in 2 instances.

**The Bailiff:**

Would Members wish me to put this to the vote? Very well, those Members in favour of deferring the debate on P.183/2007 and P.184/2007 by 2 weeks to 29th January kindly show? Those against? I think the decision is fairly clear but I will take the appel if a Member calls for the appel. Very well, the arrangements remain as set out in the Order Paper.

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

I was waiting for the Treasury Minister to speak. I understood he was going to lodge a share transfer. Either I have missed it or it has been lodged but could he give us an update on the share transfer proposition?

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

The share transfer legislation is titled the Draft Taxation (Land Transactions) (Jersey) Law 200-(P.185/2007) and that was the one that was down for 15th January. I have asked it to be deferred to give people longer time to consider before it is debated. But it has been lodged; it was lodged yesterday.

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

I obviously have not got a copy but thank you very much. I did notice it here but I did not have a copy.

### **CHRISTMAS GREETINGS**

#### **The Bailiff:**

Senator Syvret, at this stage of proceedings brevity is probably the soul of wit.

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

I am sorry to disappoint you but I do have some things to say in the customary Christmas greeting. Those Members who do not wish to hear, who wish to go to lunch, are entitled to do so should they wish. Sir, Your Excellency, fellow Members, but especially the people we are here to represent, as Father of the House it is customary for the Senior Senator to lead the seasonal exchange of greetings with which we end the year. In these addresses it is common to reflect upon the year past and to contemplate the coming year. It is the birth of Christ that we mark with these reflections and which we celebrate in this season of goodwill. Christ taught many things in the course of his life. Among his teachings was the virtue of honesty. For even though I am an ordinary, fallible person with no particular religious convictions, still I could not stand here and falsely claim that the past year has been a episode upon which we as an Assembly could look back upon with satisfaction or even self-respect. This has not been a year in which we have displayed wisdom, compassion or even basic common sense. As is now public knowledge, we as a society, Jersey, this community, have begun the awful task of facing up to decades at least of disgraceful failure and worse towards children. I will not refer to my personal experiences of 2007; perhaps I will speak of such things on another occasion. Instead I wish to speak of the children, the victims, the innocent, the many who have been catastrophically failed by the edifice of public administration in Jersey, year in and year out, decade after decade. We like to imagine ourselves as being some kind of model community, a safe, well-governed and happy group of people. While I cannot speak in detail of individual sufferings now, nor of the many betrayals, I can say this, that as far as I am aware the coming months and years are going to require the most painful reconsideration of our communal values, our competence and our collective ethics. Indeed, I am not aware of a more wretched and shocking example of communal failure in the entire 800-year history of Jersey as a self-governing jurisdiction. How much worse could things be than the systemic decade-long betrayal of the innocents? As we approach the birthday of Christ we should reflect upon his words. When on occasion some little children were brought to Jesus, Jesus' disciples became angry and rebuked those who had brought the children into Christ's presence. Scriptures then tell us that when Jesus saw it he was much displeased and said unto them: "Suffer the little children to come unto me and forbid them not for of such is the kingdom of God." Jesus is also recorded as saying: "And who so

shall receive one such little child in my name received me but who so shall offend one of these little ones which believe in me, it were better for him that a millstone were hanged about his neck and that he were drowned in the depth of the sea.” I would hope that these simple words that place children and their welfare at the heart of human values could be accepted by any decent person regardless of their particular religious thoughts or beliefs. Greater minds than mine have said that we may gauge the quality of a society by how it treats its children. Having learnt what I have learnt in the course of this year I have to say our smug self-satisfaction as a charitable and civilised community in fact conceals a festering canker. Although it would be bad enough for us to have amongst our midst the abusers that are to be found in all societies, the victims in Jersey have been doubly betrayed, betrayed with indifference, betrayed with contempt, betrayed with the naked and idle self-interest of an administration that should have been protecting these, the most vulnerable of the vulnerable. Some people seem to enjoy being politicians. This is not a view I have ever understood. My 17 years as a States Member have to me been a fairly consistent period of struggle, on some occasions so Kafkaesque, so dispiriting, that many times I have just wished to cast it all aside and seek a civilised occupation instead. But nothing, nothing, nothing in those 17 years even begins to approach the sheer existential bleakness of this year, of trying to contact, to listen to, to help so many people whose childhoods and lives were wrecked by abuse, often abuse at the hands of the States of Jersey and its employees and doubly wrecked by the conspiracy of cover-ups engaged in by public administration. A few brave people, front-line staff, victims and whistle blowers, began to bring these failings to my attention. As my understanding developed, I took extremely high powered specialist advice on child protection issues, and I think this Assembly should acknowledge with gratitude the involvement of Chris Callender, Andrew Nielson and their leader, Frances Crook of the Howard League for Penal Reform. The support and guidance of the Howard League was a great source of strength to me and those whom I was working with in Jersey. Likewise, Professor June Thoburn, who agreed to bring her world-renowned expertise to the post of chair of the Jersey Child Protection Committee. In particular, I believe we should acknowledge the bravery, integrity and unshakeable commitment to child welfare exhibited by Simon Bellwood. He alone among the entire panoply of the child protection apparatus in Jersey said that the way we were treating children in custody was simply wrong. He alone took a stand against the appalling ill treatment of children who needed care not abuse; that he was sacked for his efforts really speaks volumes and illustrates well the ethical void within the system we are responsible for. I repeat, we must focus upon the victims and the friends and families who suffered along with them. For a period of many months I investigated these issues and the more I investigated the greater became my alarm and anger at what I was learning from people throughout our society. Jersey being the kind of place where many people know other people, the chains of contacts which developed, the networks of victims and witnesses simply grew and grew. Sometimes new revelations occurred almost by the hour. As I met and spoke with people of all ages, young teenagers to retired people, it became clear to me that what we were facing was something far worse than occasional isolated instances of abuse. What Jersey had tolerated in its midst was a culture of disregard ...

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

I have got to object to this. I really have got to object. I have never heard in nearly 30 years as a Member of this esteemed House such a diatribe of ... I cannot explain it. I do object and object for the many people in this Island and the Members of this Assembly. I might be the odd one out but I stand up as the longest serving Member of this Assembly to say that I am shocked and dismayed at this absolutely disgraceful diatribe from Senator Syvret.

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

I was going to wait until the end of Senator Syvret’s speech to say that I think it is vitally important that we, the Assembly, all agree, we all know that we are totally against any form of child abuse at all and this Assembly will do its best to uncover anything that has been covered up at all. I think

that Senator Syvret bringing forward this today, it is the wrong occasion to bring this forward, but we are totally against child abuse as a government.

**The Bailiff:**

Senator, I must say from the chair that I do not think this is the appropriate moment for you to ...

**Senator S. Syvret:**

Well, with all due respect I disagree and I will conclude my speech.

**11.4 Senator F.H. Walker:**

There is a point of process here. The Senator is, by tradition, speaking on behalf of all his fellow Senators and can I make it abundantly clear he is certainly not speaking on my behalf in what he is saying, and I think from the words around me he is not speaking on behalf of his colleagues either. I wonder whether on that basis he does indeed have the right to continue to hold the floor.

**The Bailiff:**

Senator, I think the Chief Minister is correct in that respect. You are speaking in a representative capacity at the moment on behalf of the Senators. It is not the occasion for an expression of your own personal views on a matter which is of great importance but not for today. Now, if you wish to continue at all you must continue in a traditional sense otherwise I must ask you to sit down.

**11.5 Senator S. Syvret:**

I am going to complete my speech. I would advise Members to listen to the conclusion of it.

**The Bailiff:**

Senator, I am sorry but you must listen to what I am saying. I am not going to permit you to continue in this vein. You must either continue in the traditional vein or you must sit down.

**Senator S. Syvret:**

You, Sir, are conflicted in this matter.

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

I urge all Members to walk out of this Assembly if he carries on.

**The Bailiff:**

May I please have some order. Senator Syvret, if you are not prepared to accede to the words of advice that I have given you I must ask you to sit down, please.

**Senator S. Syvret:**

Why can you not allow me to conclude my speech?

**The Bailiff:**

Because it is not the occasion for the speech that you are giving. You are not representing the views of your fellow Senators.

**Senator S. Syvret:**

Well, I would rather hope that the views I was expressing and the sentiments I was expressing would, in fact, chime with at least some Members of the Assembly because I am, in the spirit of the time, as we approach Christmas, giving thought to the less fortunate, to the victims, those who have been ignored, those who have been failed. I believe as we approach ...

**The Bailiff:**

Senator, I am sorry. Every Member is with you in that respect, but as Deputy Troy has very eloquently said it is not the occasion for this kind of speech. Either you are going to continue in a traditional vein or you will please sit down.

**Senator S. Syvret:**

I am going to continue my speech.

**The Bailiff:**

Very well, I must direct you to sit down, Senator.

**Senator S. Syvret:**

As I met and spoke with people of all ages, young teenagers to retired people, it became clear to me that we were facing something far worse, but the strength and bravery of the many victims was a source of strength to me. As I contemplated several years of bitter struggle ...

**11.6 The Bailiff:**

I direct you to sit down, Senator, or I am ... Senator, will you please sit down? Very well, with great regret I must adjourn the Assembly and we will have to forgo the remaining speeches. The Assembly is adjourned.

**ADJOURNMENT**