

# STATES OF JERSEY

## OFFICIAL REPORT

**FRIDAY, 12th SEPTEMBER 2008**

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

**PUBLIC BUSINESS – resumption**

**1. Goods and Services Tax: exemption or zero-rating for foodstuffs and domestic energy (P.103/2008) (Continued)**

**The Bailiff:**

The debate continues on the proposition of the Deputy of Grouville. Does any other Member wish to speak?

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

I will be as short as I usually am. The first thing I would like to do is to draw Members' attention to the timing of this proposition. It was lodged on 17th June. There was obviously little hope of it being debated before the summer recess so it was inevitable that it would land on an agenda in early September and surprise, surprise, here we are days before the nomination for Senators and Constables and just weeks before the nomination of Deputies and we are back at the G.S.T. (Goods and Services Tax) starting blocks. The Deputy of Grouville, she rides into town on her charger with this proposition and look at the date. G.S.T. comes into force on 1st May and barely 6 weeks later the clamour for exemptions starts all over again. What does our erstwhile Council of Ministers do? They roll over. They roll over, apart from my next sentence. They roll over and leadership flies out of the window of the 9th floor of Cyril Le Marquand House and I am grateful to Deputy de Faye, Senator Le Main and Senator Ozouf for at least dissenting or stating in the Chamber that they will be voting against this; that is, in my view, a transparently political proposition. I am also grateful to the Constables for seeing the folly of this proposition and this debate proves once again the depth of common sense, leadership and practicality to be seen coming from the Constables' benches. **[Approbation]** I thank Deputy Le Fondré for showing real leadership and common sense in this Chamber and I do not need a G.P.S. (Global Positioning System) to find out the villains in this Chamber. I think there are Members of the Council that are showing signs of tiredness and I believe the public are showing signs of tiredness of the Council of Ministers. I am not going to repeat any of the speeches of Deputy Le Fondré or Senator Perchard and I, too, had gone back through *Hansard* on the final G.S.T. debate last November and the huge endorsement that Minister after Minister had given to a simple G.S.T. model with as few exemptions as possible. Somewhere, somehow, over the summer, Ministers have had a road to Damascus experience, or should I say, some Ministers have had a road to Damascus experience and now we find ourselves with this spectacular u-turn on G.S.T. When this Assembly voted to introduce G.S.T. I was one of those that voted against G.S.T. at every vote and every opportunity. I am not going to repeat all my reasons, however, I did listen to speech after speech, after speech from Ministers, some Assistant Ministers and other Members telling us that we had to keep a low G.S.T. rate at 3 per cent, we had to have a simple model and how the U.K. (United Kingdom) model, the U.K. V.A.T. (Value Added Tax) model, was one to avoid at all costs. We heard again, and we were reminded by Senator Norman earlier in the week that it was riddled with contradictions, the U.K. V.A.T. model, and indeed Senator Norman again reminded us of the nonsense system in the V.A.T. system in the U.K. and indeed in Ireland. Lo and behold, we have 3 Ministers standing up this week and suddenly telling us that the U.K. V.A.T. model is not so bad. Nine months ago, the U.K. V.A.T. model was one to be avoided at all costs. That was 9 months ago and now it is not so bad. It is acknowledged globally that the U.K. V.A.T model is a hideous example of how not to have a consumption tax. I could not believe my ears when Senator Shenton stood up and told this Assembly that the U.K. had done all the work on V.A.T., done all the work and all we had to do was follow it. He never once mentioned tax exemptions. I doubt one person will be added to income support if we support Deputy Le Fondré and I have had it confirmed since we rose last evening that Age Concern in Jersey feel that the elderly in Jersey will be better off under Deputy Le Fondré's model and not this proposition. **[Approbation]** I also heard Senator Kinnard bring in the moral prospective on G.S.T. and that G.S.T. on food was now a moral issue.

But where were you last November, Senator Kinnard? You voted for G.S.T. when many of us did not. So, what has changed since last November? We all knew then in the autumn of 2007 that an economic downturn was on its way. We knew about sub prime lending in America, we knew that there were riots in the Philippines to do with the price of rice and we knew about the rocketing price of fuel in the U.S.A. (United States of America) and globally. We knew that the credit crunch was coming. We knew that the boom we had experienced and the unsustainable times we were going through were going to change and that things were going to get tough. The Council of Ministers have got far better access to information and intelligence than most Members in this Assembly and yet they went through with G.S.T. So, here we are again, in this Assembly, in this week in September, with a clamour for exceptions and in this case, food and domestic energy when G.S.T. has barely bedded in. Eighteen weeks we have had G.S.T., 18 weeks. **[Laughter]** I am sorry but I am really frustrated that we are here again, Sir. I am really frustrated. One of my fundamental reasons, one of my reasons for opposing G.S.T. was the doubt that I had in my mind that this Assembly could keep it at 3 per cent and one of the reasons for this is this constant clamour for exemptions. If G.S.T. is to work in any way, shape or form and if we have to have G.S.T. as we have now, it has to be a simple, simple tax. If Members keep asking for exemptions on food, domestic energy, books, magazines, school uniforms, children's clothes and no doubt the list will extend in the next weeks, months and years then Members are in cloud cuckoo land, cloud cuckoo land, if they think it will stay at 3 per cent. They are also cloud cuckoo land about the cost of collecting G.S.T. and implementing all these exemptions. When this Assembly voted in favour of G.S.T. I believe that a simple model was the only model that would work, and I have to say we must keep it that way. I am, therefore, this morning filled with apprehension for the administration of this Island if Ministers are prepared to carry out this kind of u-turn at short notice. No wonder this Assembly is held in low esteem. I now want to comment specifically on what 3 Senators have said. I want to comment on what Senator Walker said in his speech about Members' chances facing the electorate and not supporting this proposition. All I say to Senator Walker is what utter, utter piffle. I listen to my electorate very carefully. I hold surgeries. I hold surgeries in Communicare and the Horse and Hounds **[Laughter]** I would say to Senator Walker that if he wants to feel the pulse of the electorate, come to the Horse and Hounds for an hour. I do listen to my electorate. Senator Le Main and Deputy Hilton share one of my surgeries at Communicare and that is once a month and I can tell you, and I am sure Deputy Hilton and Senator Le Main will confirm, that in the 3 years that I have sat in Communicare with these colleagues and since the introduction of G.S.T. not one person has asked me about G.S.T. at Communicare, not one person. There are other concerns in the Parish, in the Horse and Hounds, and I go back to the Horse and Hounds. The real pulse of St. Brelade is to be found in that pub and there is a cross-section of society there. What do they complain about and what do they ask me about? Well, the fisherman who fish off the beach at St. Brelade and who fish out at La Collette, they complain about the fuel increases. The technician at T.T.S. (Transport Technical Services) he complains about cut backs at T.T.S. The self-employed, they constantly complain about the bureaucracy that we, this Assembly, impose on them. Never have I been asked about G.S.T. This morning the Greffier has circulated a letter from a constituent at St. Peter urging us to not bring in exemptions and I can tell Senator Walker now that I will stand as a Deputy again for St. Brelade and I will take pride in the fact that I opposed G.S.T. and I will oppose exemptions. I will also tell Senator Walker that the public are not fools and to treat them as such is contemptible. They see the timing of this proposition and they see the poor response of the Council of Ministers. I warn this Assembly this morning that by listening to this clamour for exemptions you are handing *carte blanche* to this Treasury Minister or the next Treasury Minister to tinker with G.S.T. and raise the base rate sooner rather than later. It will be impossible to maintain a base rate of 3 per cent. Open the door to exemptions now and you open the door to a cavalry charge. We have heard Members say this week, including Senator Shenton, that they will bring back more propositions for more G.S.T. exemptions so we will spending another 2 days in another Assembly debating G.S.T. again and again after the elections. Thank you for that, Senator. I do not regard that as inspired thinking. So, here we are again this morning with

an unholy alliance of some Ministers and the exemption posse. I am not a betting man so next Tuesday night when all the senatorial candidates are being nominated, I will wager that those successful Members, Deputies and Senators, who stand for election or re-election will be those that stood by their principles and do not jump on to a populace band wagon with this awful proposition. Finally, Sir, it is a bad, bad thing to raise the expectations of the public by implying that we can have an exemption fill of G.S.T. and keep it at 3 per cent. It is also a myth that by taking G.S.T. off food that will dramatically improve people's standards of living, and I feel very strongly about perpetrating a fraud on the public. It is a myth to say we can have exemptions and hold the rate of 3 per cent so I say to Members: "Get real, stop living in Never Neverland and wake up." I acknowledge the courage, the clarity of thought and leadership that Deputy Le Fondré of St. Lawrence has brought and I ask Members to reject this proposition. **[Approbation]**

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

I had an awful lot to say in this debate but mercifully for you, Sir, and the House most of it has already been said and so I can be fairly brief. I would say short but I am always short **[Laughter]** - a quick word about leadership though. I have always maintained that Government needed to be flexible and to be responsive, but this does not mean that all the reasons for having championed one course of action can be summarily negated just a few months later without a great deal more thought and substantiation than is apparent in the Council of Ministers' comments. Someone spoke earlier of Government needing to take the people with it and in its decisions, but in this case, Sir, I do not feel that the Council has shown the strength needed to carry even many Members of this House including some Ministers with it. The Dean was quite right about the occasional leave for a u-turn. I also use Sat Nav but I regard it only as a back up if my own directional instincts fail. We should remember the machine is just following a programme based on the user's preferences, the quickest route, the shortest distance, no low bridges. Sometimes the u-turn suggested by that machine may not be the best overall route. The road it sends you down may be long, narrow, winding, bumpy. You may get a puncture, the wheel may even fail off. You may wish you had stayed on that main road until the next junction and then reviewed your position again after seeing the lie of the land. The point is you have always got to weigh up the options and look for the best alternative and it may not be the one that the machine suggests. The Deputy of Grouville is to be commended for setting in motion a most thought provoking debate. Others may have intimated that they were thinking of raising these issues, but she did it and she deserves the recognition for that. It is undoubtedly true that global economic changes and the pressures that have been brought to bear on Islanders need a response from Government. The only question is, and it is certainly a difficult question, how best to respond? Best for now, best for the long term, best certainly well beyond the autumn. I have struggled with what was on offer today and what may well be on the horizon with P.138. There has been a lot of talk about pushing people into a benefit culture and I am also concerned about that, however, there is a world of difference between a benefit and an entitlement. Adjustments to taxation thresholds and allowances require no application form and have little or no additional staffing implications, just a change of a figure or a formula. We have already heard that it is feasible to have any offset payments applied almost automatically. When, and if, the House comes to consider P138 it will be argued that all the required mechanisms are either already in place or have previously been agreed to be put into place. They are due to be implemented. We have been told during this debate that the Social Security Department will have the necessary systems in place in good time. It is, however, certainly true that not all Members will feel able to support P.138 if this current proposition fails. Can it really be enough to make the bird in the hand argument? Is that a responsible way to make a sound political judgment? We have got to get this right. I cannot and I will not speculate on next week's debate and will base my decision today entirely on firmer considerations. What do I know? So far we have only got 2 sets of G.S.T. returns on which to base the effectiveness of our collection mechanisms and the amount of collections. Based on these figures, we may raise up to a possible £51 million instead of the target of £45 million. It is surely unwise to accept such a narrow sample in any statistical predictions and

yet it seems to be taken for granted that this surplus will be achieved and maintained. We can only ever assist people in times of trouble if we have first raised the revenue to do so. The reasons for implementing G.S.T. have not changed. The case for few exemptions meaning the chances of a low rate persisting remains convincing, but there are a number of less certain considerations. Will people get the benefit that they are expecting? Since yesterday's adjournment I have talked to a number of people about what they believe this proposition would give them. While I cannot and do not claim to have consulted a statistically robust sample, it is certainly interesting to consider the response I have received. Some thought it would mean that their weekly shop would cost 3 per cent less, i.e. they were not focusing on the cost of detergents, toiletries and other non food items which make up a good proportion of their weekly bill. Others who had taken this into account, but had not followed the debate so far, thought that all their food would be G.S.T. free. Some who knew that there would be perhaps limited restrictions thought that they would be all right as it would only be the luxury items that would be exempted. Well, I understand that caviar, for one thing, is not V.A.T.able in the U.K. system. Some people were simply horrified that it was the U.K. system that was likely to be adopted. So, will the 3 per cent G.S.T. which may be removed from certain food items translate into a 3 per cent price reduction on those items and if so, will it be sustainable? The larger stores have indicated that they will drop prices, but perhaps the smaller ones who may not have the experience of dealing with the U.K. system will not be able to do this. They may not simply be able to apply the expertise of a U.K. affiliate in the transition to the U.K. style. They may need to employ new systems and this comes right on top of having to gear up for G.S.T. in the first place. There will be a cost that they just may not be able to absorb and then there is the cost of compliance as, in future, this will be much more arduous than a straightforward calculation of 3 per cent of the sales. If the cost of food is likely to continue to rise how will the consumer be sure that some element of this increased cost is not passed quietly back into the price rise? So, what is really important? Surely it is what happens next. We can only remove the 3 per cent G.S.T. once and this may, or may not, benefit the consumer to the full tune of the 3 per cent, but then we instantly lose the ability to pass on any future G.S.T. surplus if indeed there continues to be one, once the system is fully bedded in, to those in most need if the trend of the food price rises continues which we are told it will. What about the cost of enforcement? So far we have had, I think, about 85 per cent compliance, but it is reasonable to expect that with a more complex system which will take longer for all businesses, both large and small, to deal with, there will be a reduction in compliance rates, although I have not seen this quantified in any of the information. Furthermore, with increased complexity comes increased risk of error in the returns that are made. This will require additional administrative and audit support within the department and so surely will increase the cost of collection. Will the £300,000 envisaged as required to cover additional costs be enough for this as well as for the administration of the bureaucracy of the U.K. style system which, make no mistake, continues to evolve and be challenged and change, even years after implementation and also the law-drafting requirements and possibly court time. I am not convinced and I believe we need to think very carefully about the true costs of this proposal before being seduced by the apparent benefits. I believe I have a responsibility to look through the attractions of this proposition and see the long-term effects. I want to see the maximum benefit to the maximum number of people and I want to see the G.S.T. rate kept low for as long as possible. I have become so concerned that the hidden costs of this proposition may well negate any benefit that is passed on to the consumer. In all my earlier deliberations on the implementation of G.S.T., I was convinced that the only way to keep G.S.T. at 3 per cent was to keep it simple to administer and simple to collect. Earlier this week, I voted in support of the amendment which would have removed G.S.T. from all food items. That was a huge sea change for the way I felt, but I still maintain that that could have been more simply achieved. The public of this Island have called repeatedly for efficient government and a cut in expensive bureaucracy. This proposition ties us to what everyone has acknowledged is the most bureaucratic nightmare, possibly the world's most complex and burdensome V.A.T. system. Is this the best that we can do for our Islanders? I am not convinced.

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

I am 5 foot 9, and I will be short. I only rise to clarify a couple of issues brought up during the debate. I noted that when it was stated that the Co-Operative chain would remove the 3 per cent G.S.T. if this went through, that Senator Perchard mouthed the words: "Oh, no, they will not." Sir, they will. I have that from an eyeball-to-eyeball meeting with the Chief Executive. Perhaps I have more trust in his assurances than I have from some of the assurances given on the floor of this Chamber. My surgery is in St. Peter's Co-op. I go there approximately 3 times a day to collect the paper and to buy food. I have very close contact with the parishioners there and they come from all over the Island and from all walks of life. I further note from conversations with my parishioners that they see the removal of G.S.T. on food as a real tangible step in reducing their food bills and, in general terms, were appalled in the fact that the 3 per cent levy was ever raised on that essential commodity, Sir. I support this proposition.

### **1.4 Deputy S. Pitman of St. Helier:**

Having opposed G.S.T. consistently since even before I was elected, I have heard nothing these past 2 days to change my mind. Even Deputy Le Fondré's proposition, which is well meaning, I am sure, but the fact is it would ultimately create an even bigger problem by dragging more people into the benefit system, something which is contrary to what the proponents of the new income support system said it would do. Anything, Sir, that further divides Jersey into a 2-tier society must be avoided. Further, a question I have asked of Deputy Le Fondré is what will happen when this Government feels the need to put up G.S.T. in 3 years' time, I would expect. The Deputy could not answer me. Just as other speakers have said a tax on food is immoral, and the truth is we do not need it. If only the Treasury Minister demanded that 1(1)(k) residents paid their rightful share of tax, indeed, Sir, not only could we absorb the lost revenue on food several times over; we would be well on the way to writing off the alleged need for G.S.T. completely. We must support the Deputy of Grouville's proposition in its entirety, just as 20,000 signatories would expect us.

### **The Bailiff:**

I will call on the Deputy of Grouville to reply.

### **1.5 Deputy C.F. Labey of Grouville:**

At last. I would like to thank all Members for their contributions over the past 3 days. Unfortunately, I feel my proposition has been subject to diversionary factors, some deliberate, some otherwise. I cannot help but feel Members have become very confused of what the issue is we are debating. We are not debating the Council of Ministers' u-turn. We are not debating why Jersey prices are higher than in the U.K. We are not debating the merits of the low-income support and we are not debating Deputy Le Fondré's proposition that was lodged just one week ago. The issue is should we, as a Government, be responsive to the unprecedented high food and energy costs facing Islanders. Should we be adding to the burden by adding a tax to these soaring prices? If not, should we consider easing these costs by exempting life's essentials, food and domestic energy? That is the issue. My proposition was lodged 3 months ago as a direct response to our food and energy inflation, and I make no apology for that. We have a tax surplus of £6 million and we have the opportunity to help our people with these soaring prices. I have brought forward a proposal that will ease these price rises. It will not cure them, but for a government to be adding to the huge inflation rises by taking a percentage cut at this time is, in my opinion and that of some Members including the Dean, immoral. Sorry, the Constable of St. Mary criticised the Dean yesterday for making a political speech. Well, this is an Assembly. It is a political Assembly. We discuss political issues, and the Dean is a Member of this Assembly and I, for one, welcome his contribution as I find it positively enlightening. **[Approbation]** I have found the response of some Members to be standing up now and saying: "Oh, yes, we want to help Islanders but not in this way", yet for 3 months have sat on their backsides and done nothing. I wonder what they would be doing now if Deputy Le Fondré had not cobbled together his proposition at the last minute to ease their conscience. Now, I do not know if I should be grateful of the support of the Council of

Ministers or not because their support has detracted somewhat from the issues in hand. It has been described as an embarrassing u-turn which obviously makes a far better headline than a responsive government, but I know which I would prefer. It is not the macho charging-forward, come what may, head-in-the-sand leadership style that the Deputy of St. John and Senator Perchard demand. No, thank you. I want a government which listens and responds to the plight of the people, who responds to world events, who responds to soaring inflation. I would say the Council of Ministers, the majority of them, are willing to listen and, to my mind, that is a good thing. That is a good thing if the Council are willing to do that. We have to consider that, as well as high inflation levels, this season has been a wet harvest. The multiples are cutting the price paid to farmers so that many farmers in Europe, around the world and in Jersey are giving up. Senator Perchard, being a man from the agricultural industry himself, in his speech astoundingly said: "Since last November, nothing has changed." Well, I do not know which world he lives in, but it is not the same as mine. There is going to be a food shortage, and food and energy are going to become more expensive, and that is not just from the price of oil. We can ease this burden by not charging a tax on top of that. It is that simple. The alternative that has been belatedly proposed is, in my opinion, perverse, bureaucratic and expensive. It imposes a tax on food and energy and then sends the consumer down to the Social Security Department to claw it back. They have got to go back to security to claw it back or they give them tax allowances. Some people, a lot of people in Jersey, will not go down to Social Security, will not fill out the forms and will not make claims. I do wonder if ever these people are considered. The larger retailers have all promised that they will remove G.S.T. at 3 per cent from their food prices, and they have said they will remove it in the same matrix as they put it on. In other words, if there had to be a rounding up, they will round down. So, given that the larger retailers are the ones where we will get 90 per cent of the revenue, I think that is what really matters. They have also said, along with the Chamber of Commerce -- I see Senator Ozouf is shaking his head but maybe he needs to go and speak to some of the larger retailers because that is what they have promised me. They also said, along with the Chamber of Commerce, that they will help the smaller retailers. Let us face it. Those of us who shop at the corner shop -- Sir, I find it very difficult. It has been difficult enough to cobble together 3 days' worth of comments without somebody in front of me **[Approbation]** heckling.

### **The Bailiff:**

Members must allow the proposer to speak without interruption.

### **The Deputy of Grouville:**

I will touch on Deputy Le Fondré's proposition because it seems to have dominated this debate. I am afraid I find his proposition flimsy. Some of the figures are incorrect, but disturbingly, he deals with averages, statistics and percentages. It deals with families with 2.4 children. Personally I do not know any families with 2.4 children. It deals with a weekly food bill for 4 people of £50. I live with 3 teenagers and, after my boys have played rugby, I would respectfully suggest that £50 is a little light. **[Approbation]** The annual cost of £300,000 - and a big play has been made on this - attributed to the administration of my proposition is totally unjustified. Nobody has justified that figure and makes no attempt to explain where it comes from. The collection of G.S.T., with or without exemptions, amounts to retailers writing a quarterly cheque after going through computerised till receipts. It is a self-declaration system. Treasury have to bank those cheques with or without exemptions. Auditors or the civil servants, the same civil servants, will be sent to check or police the retailers' records, with or without exemptions. What Deputy Le Fondré and others have confused is the collection of G.S.T. with or without exemptions. He attributes the £300,000 to the collection of G.S.T. Now, also we have £400,000 food rebate scheme. Now, we would not need to give £400,000 back in food rebate if it was not added to the food in the first place. **[Approbation]** Nobody, apart from my friend Deputy Gorst, has thought of this. So my system, if you are to believe the £300,000 in the first place, saves £100,000 and that is just on the monetary side without the civil servants to conduct this food rebate scheme. The Constable of St.

Martin highlighted the many flaws of the low-income support. He brought in a raft of paper and complaints that he wanted to go and see Senator Routier about because a lot of his parishioners are finding anomalies with the low-income support and there are a lot of issues that need to be ironed out. Yet, alarmingly, so many of the Constables said: "Well, it does not matter. We will charge the tax. We will charge the G.S.T., and if there is a problem, people can go and claw it back with low-income support." Yet fully admitting it is flawed. Deputy Ryan, who was Chairman of the Corporate Scrutiny Panel, who produced a report on G.S.T., recognised that there is a lot of overplay made with exemptions and the amount of civil servants. I was very grateful to him the other day for emailing his thoughts and details; details that we have not had from many Members who have stood in this Assembly and opposed it and criticised the administration costs. They have not justified them. I have to say, Sir, that I find Deputy Le Fondré's proposition, if I may be so bold, a typical accountant's proposition. **[Members: Oh!]** It deals in pounds, shillings and pence. It deals in averages, statistics and percentages, and nothing much more. Similarly, in some Members' speeches - Deputy of Trinity was one - they have dwelled on the system; the system that we must keep simple, notwithstanding we have exemptions of doctors' fees, medical supplies, school fees and, oddly, phone cards. The system, the administration, the inconvenience to retailers, the leadership, low-income support, tax allowances. We are not running a business and a lot of Members get confused. They seem to think that being in government is exactly the same or should be exactly the same as running a business. I admit it is quite handy to have a grasp on financial matters, but government's indulgent things that are not all profit making - we do not run a hospital to make a profit - it is different, but to listen to some people speak about my proposition, it has all been about administration systems. It has not been about people. I would like to get back to that. I would like to focus on the people that we serve. Now, introducing a new tax such as G.S.T. was never going to be easy and I am afraid the Council of Ministers failed miserably in taking the people with them. I think even they will admit to that, and if they are offering a political gesture, as they were accused of the other day - as this proposition could be accused of a political gesture - by offering some exemptions given that we have derived a surplus -- but if we can offer a political gesture back to those same people that we have derived the surplus from, surely that is a good thing. I have no problem with easing people's burdens at this time. We have inflation. We have inflation of 13 per cent on food and 26 per cent on energy. There are some people out there that believe taxing these commodities in the first place should never have happened and is immoral, as we heard from the Dean yesterday. I am afraid if you indulge in taxing contentious items, then they are going to come back to this Assembly, time and time again, for debate. That is our job, Deputy Power. So whether we have got to debate it once or 50 times, that is our job. That is what we are here for. An example I found fascinating, which is why no amount of statistical analysis would help, was the example of Pound World and how they added 3 pence tax on to their items. Lost so much business. Business stopped. Now, you are not going to tell me those people could not go up by an extra 3 pence, but they voted with their feet because they really resented paying this tax. I would like to thank Deputy Gorst for his contribution that he made yesterday. His speech, I think, was one of the best in this whole debate. His contribution was not wacky as he feared it would be. He took a holistic view of the situation and did not just concentrate on systems, administration and deference but in people and how much better it would be to leave money in their pockets. One argument given from the politics of envy benches, I would call them, from those Members such as Senator Le Main who was so concerned my proposition just might in some way benefit the well-off in this Island and therefore he is going to vote it out and not go along with the Council of Ministers, yet some politicians, like Senator Le Main, who have been in this Assembly since 1972, I believe, have sat here while we have this ludicrous supplementation situation to the tune of £60 million. **[Approbation]** What has he done about that? That is subsidising the well-off. What has he done? My proposition is not an extended, expensive shopping list for the Treasury. It is, I believe, the art of the possible. Our tax receipts are better than predicted because our Treasury Minister has been prudent. Threats of the 3 per cent G.S.T. rate having to go up are now redundant and they should remain redundant until other tax measures have come into place as they have been promised. I say

that is not alternatives to G.S.T. as Senator Ozouf said yesterday. It is other tax measures. We have a booming economy and this ought to be celebrated, but it ought to be celebrated by the whole community as it is the whole community who have helped create our success, but as a consequence of that success, coupled with the world's energy prices, we have food inflation running at 13 per cent in the last 12 months alone. The Council of Ministers now recognise that people are struggling with their food bills, and not just people on low-income support. So I do not understand why they cannot recognise that people are also struggling with their energy bills. Household energy is running at 26 per cent. That is double that of food, and next year Jersey Electricity is going to go up by 25 per cent. So, if anything, domestic energy is the one that really ought to be looked at. So it is surely, in my opinion, illogical to exempt food and not exempt domestic energy. There are a lot of people struggling in this Island and, as I keep on saying, it is not just those on low-income support. It is people in our society who have drawn up their budgets to get on the property ladder, to have a family, have had to pay or are paying £500,000 for a mortgage. They are working, they are paying tax and they are struggling. Now, these people do not want to be lowered into the low-income support scheme, but they do feel resentment of a government taking a cut on their essentials, on their food and domestic energy, especially with high inflation. Asking the Government to allow people to feed themselves and keep warm in their homes without being taxed on it is not unreasonable. That is what my proposition seeks to do. It is about feeding themselves and keeping them warm, letting them keep their money in their pockets without taking it off them and then expecting it to be got back by some other means, via civil servants ... Anyway, in summary, all I am asking to do is to allow people to feed themselves and keep warm without being taxed. I make my proposition and I ask for the vote in 3 parts.

#### **The Bailiff:**

I remind Members that the first vote is in relation to paragraph (a)(i), and I 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 voting, and I can announce that the result is a tie. **[Members: Oh!]** 25 votes were cast in favour, 25 votes against, and in accordance with the provisions of the States of Jersey Law, the proposition accordingly falls.

<b>POUR: 25</b>		<b>CONTRE: 25</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator P.F.C. Ozouf		
Senator L. Norman		Senator T.J. Le Main		
Senator F.H. Walker		Senator J.L. Perchard		
Senator W. Kinnard		Connétable of St. Ouen		
Senator T.A. Le Sueur		Connétable of St. Mary		
Senator P.F. Routier		Connétable of St. Peter		
Senator M.E. Vibert		Connétable of St. Clement		
Senator B.E. Shenton		Connétable of Trinity		
Senator F.E. Cohen		Connétable of St. Lawrence		
Connétable of St. Helier		Connétable of Grouville		
Deputy A. Breckon (S)		Connétable of St. Brelade		
Deputy G.C.L. Baudains (C)		Connétable of St. Martin		
Deputy P.N. Troy (B)		Connétable of St. Saviour		
Deputy C.J. Scott Warren (S)		Deputy R.C. Duhamel (S)		
Deputy R.G. Le Hérisier (S)		Deputy J.J. Huet (H)		
Deputy J.A. Martin (H)		Deputy of St. Martin		
Deputy G.P. Southern (H)		Deputy S.C. Ferguson (B)		
Deputy of Grouville		Deputy of St. Ouen		
Deputy of St. Peter		Deputy G.W.J. de Faye (H)		
Deputy J.A. Hilton (H)		Deputy J.A.N. Le Fondré (L)		
Deputy P.V.F. Le Claire (H)		Deputy of Trinity		
Deputy D.W. Mezbourian (L)		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:**

Well, now, we come to paragraph (a)(ii), and I 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 voting. I can announce that paragraph (a)(ii) has been lost: 19 votes were cast in favour, 31 votes against.

<b>POUR: 19</b>		<b>CONTRE: 31</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator F.H. Walker		
Senator L. Norman		Senator W. Kinnard		
Senator B.E. Shenton		Senator T.A. Le Sueur		
Senator F.E. Cohen		Senator P.F. Routier		
Connétable of St. Helier		Senator M.E. Vibert		
Deputy A. Breckon (S)		Senator P.F.C. Ozouf		
Deputy G.C.L. Baudains (C)		Senator T.J. Le Main		
Deputy P.N. Troy (B)		Senator J.L. Perchard		
Deputy C.J. Scott Warren (S)		Connétable of St. Ouen		
Deputy R.G. Le Hérisier (S)		Connétable of St. Mary		
Deputy J.A. Martin (H)		Connétable of St. Peter		
Deputy G.P. Southern (H)		Connétable of St. Clement		
Deputy of Grouville		Connétable of Trinity		
Deputy of St. Peter		Connétable of St. Lawrence		
Deputy J.A. Hilton (H)		Connétable of Grouville		
Deputy P.V.F. Le Claire (H)		Connétable of St. Brelade		
Deputy D.W. Mezbourian (L)		Connétable of St. Martin		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Deputy R.C. Duhamel (S)		
		Deputy J.J. Huet (H)		
		Deputy of St. Martin		
		Deputy S.C. Ferguson (B)		
		Deputy of St. Ouen		
		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		
		Deputy A.J.D. Maclean (H)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

**The Bailiff:**

Now, the Assembly having rejected paragraph (a), paragraph (b) accordingly falls.

**2. Goods and Services Tax: exemption for fruit, vegetables and milk (P.104/2008)**

**The Bailiff:**

Now, Deputy Pitman, you wish to continue with your proposition relating to the exemption for fruit, vegetables and milk?

**Deputy S. Pitman:**

Yes, Sir.

**The Bailiff:**

Very well. I ask the Greffier to read the proposition.

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

The States are asked to decide whether of opinion (a) to refer to their Act dated 13th May 2005 in which they approved the introduction of a broad-based Goods and Services Tax (G.S.T.) at a rate of 3 per cent fixed for 3 years and to their Act dated 18th April 2007 at which they approved the Draft Goods and Services Tax (Jersey) Law 200- and to agree to vary those decisions in order to exempt from G.S.T. all fruit, vegetables and milk (but not related dairy products) in support of wider government initiatives encouraging a health lifestyle and diet and (b) to request the Minister for Treasury and Resources to bring forward for approval the necessary legislation to give effect for the decision.

### **2.1 Deputy S. Pitman:**

I will keep this short, Sir, as all the arguments have been discussed in the last debate. With the majority of the Council of Ministers, including the Chief Minister, voting for the Deputy of Grouville's proposition because they want to alleviate the burden of hard-pressed families, it will be very interesting to see just how sincere they are in that. After all, as Senator Shenton has pointed out, too often in this House it is all about who brings a proposition as to whether or not it is successful. My proposition has focused on exempting basic healthy food essentials that we tell the people of Jersey that they must eat and ensure their children must eat. As I said earlier, in the near future we shall see G.S.T. rise as demands on the States budgets increase. We must, Sir, do everything in our power to encourage a healthy population. After all, this is the role of government. The benefit in exempting these foods is clear. So what will be, I wonder, of more importance for those who have just voted unsuccessfully for wider food exemptions: the fact that exempting fruit, vegetables and milk would make a telling difference to the health of the ordinary working people of Jersey or the fact that it is brought by a member of the J.D.A. (Jersey Democratic Alliance)? Sir, I make the proposition.

### **The Bailiff:**

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

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

We heard earlier this week the difficulty in defining all foods in comparison with the U.K. list. To try to define fruit, vegetables and milk, with certain exceptions, would be a task far, far greater. That is a shame in a way because certainly I do not disagree with the idea of encouraging healthy eating but one has to be practical about these things. This proposition, well meaning though it may be, is totally impractical. It has very limited benefit in terms of helping people with the higher costs of fruit and vegetables and milk. But, really, Sir, the fact that it is unworkable makes it a non-starter to begin with. So I am afraid I cannot support this proposition and suggest that Members see it likewise.

### **2.1.2 Connétable D.J. Murphy of Grouville:**

I shall not be supporting this for 2 reasons. Firstly, as the Treasury Minister has said, it is virtually unworkable. I would like while discussing this to make a second point, that is, that the costs of our vegetables in Jersey is horrendous. When I see that we are paying 80p a pound, for instance, for a pound of Jersey Royals over here and they are for sale in Southampton in Tescos at 60p a pound, that is after paying packing charges, that is after paying travelling charges, shipping, freight, the whole lot, and we are still paying over the odds. You will find that the same applies to home grown vegetables in Jersey: peppers, courgettes, cabbage, cauliflowers, broccolis - you name them, they are all more expensive here than they are in the U.K. and this is the home grown variety. I am not talking about the stuff that is imported into Jersey. So I think we should concentrate here on perhaps looking at why the prices here are so high that they are virtually hurting people. I believe that we should be looking at this in depth.

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

An example of the way in which we debate things: a back-bencher brings forward a proposition to do something about almost anything and immediately people get up and start saying: "Oh, no. We should not do it this way. We should do it some other way." Those people have sat on their benches for the last 2 years, 3 years, since 1972 and done sweet nothing about it. But as soon as somebody else comes up with an idea: "Oh, no. Let us rubbish this one. It is not the right way." It happens time and time again. We had it earlier. This way, removing G.S.T. from foodstuffs was also: "Let us not do it that way. Do it another way. Sometime later. Sometime never. Let us do it a different way." That is what happens, time and time again. Then we get statements like: "We ought to look at the price of our potatoes. They are absolutely horrendous, compared to the mainland." They may well be horrendous compared to the mainland. We are putting 3 per cent on them. It is all part of it. Then we are told: "Absolutely unworkable. Cannot be done. Cannot be done. Ah, ah, ah, ah. Typical Council of Ministers exaggeration. Could be done but might be expensive." The cost benefit analysis would say: "Probably the cost is not worth the benefit." But that is not unworkable, that is not undoable. Be careful with your choice of words, Treasury and Resources Minister. But pause for a minute and the cost benefit does not work out. Why? Because for the moment it is only 3 per cent. So, taking 3 per cent off things does not seem really worthwhile because 3 per cent is not very much. That 3 per cent overall for the average family in Jersey, the overall impact of that 3 per cent on all goods and services, I remind you, is £600 for the average family. Three per cent sounds insignificant. £600 per family on average is significant, of which something like between £50 and £60 goes on food. So it is significant. Nevertheless, I can see that the cost benefit analysis might look a bit weak. But I ask Members to pause for a minute and think about the future. It might not be for 3 years and it might not be for 6 years and it might not be for 10 years and it might not be in our lifetimes. But, sure as eggs is eggs, and sure healthy food is healthy food, it will be 17.5 per cent at some stage. It will go up. That is the beauty of G.S.T. It is the tax collector's dream ticket. They can move it up whenever they so choose and they will and they do. So what we might be talking about: yes, it might be difficult to do now, it might not look like it is worth the candle but it might save us an awful lot in the future. When it does get to 17.5 per cent then we will see the damaging effect of taxing food. It is shameful to put tax on food. It is a crime to put tax on healthy food. We should vote for this proposition.

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

Just very briefly, I would be bound to support this proposition and will if the proposer, when summing up, can just clarify a few definitional points that I will raise with regards to whether the following example will be liable for tax exemption. A tin of baked beans may be but would perhaps the proposer just confirm that they will be exempt, which is thumbs up. A tin of baked beans with sausages. Will they be exempt? Muesli, which is fruits and cereal and other -- will that be exempt? Crushed apples that form a juice, will that be exempt? Cider, will that be exempt? Crushed apples as well. So there are many examples that I have that I have just dreamt up. If the proposer when summing up could just provide some clarity to these peripheral issues, I will support her proposition.

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

The Constable of Grouville is absolutely right when he cites that the real issue is the unexplained cost of fruit and vegetables, and, I would say, milk, in Jersey, compared to the UK. Members might have seen in last night's *Jersey Evening Post*, Jersey Enterprise advertised to start a programme about bringing buyers to producers. There are buyers in Jersey who can buy local produce, local vegetables to much greater quantities than before. That would have some sort of effect on reducing pricing without the cost of freight, et cetera. We can do a great deal more to raise awareness of local produce in local supermarkets, et cetera, and that work is now done. I would also say that we have been extremely successful in raising awareness of local fish and bringing awareness of local fish, lobsters, crab and other wet fish to local consumers. That is working and working well. Of course, fish, while good for you, while healthy, is not included in

this proposition. That really goes to the heart of my personal opposition. These things are, without doubt, well-intentioned. But I am afraid, simply having definitions such as “just fruit and milk” does not cover everybody’s purchases if you design to do it. It creates an actual nightmare of definition, as I am sure Senator Perchard has just said. We can cut the price of fruit, vegetables and fish in Jersey. We can do that by more competition. We can do that by raising awareness of local produce. I just want to finally say, Sir, that in the context of this proposition, in the context of the last one, the debate is difficult. I do not think that we have seen the end of all of these exemption debates in this Assembly. Perhaps that is a good thing. Perhaps the new States is going to have to decide on this and other exemptions. I think beforehand we need to try and convince the public that there are better ways, more intelligent ways, more certain ways of giving benefits to people but not this way.

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

Firstly, Sir, the previous speaker could have supported the previous proposition and prevented what he now calls “a debate on a nightmare situation.” I presume this proposition refers to fresh fruit and vegetables alone and to milk that is fresh. I believe this proposition refers not to tinned products but to fresh fruit, fresh vegetables and fresh milk. We know, as has been said by an earlier speaker, about the high cost. He referred to the high cost of fruit and vegetables and it is across the board. This is why I supported the previous proposition. The high cost of food is right across the board in Jersey. As he said, why do we pay more here for Jersey Royals. We are always told it is the cost of importing food that makes things expensive here. But this is the other way round. We are exporting our potatoes and then we should be getting the benefit of cheaper prices for the products we produce. So, obviously, while I know a lot has been done on the question of whether or not we need a third supermarket, I feel these questions the J.C.R.A. (Jersey Competition Regulatory Authority) need to do ongoing work about why everybody in Jersey pays so much more than elsewhere, our neighbouring France and England, for food. Obviously, insufficient competition may be a reason but we need full answers to this. I do not see a problem from the point of legislation in part (b). The legislation can make quite clear the Deputy’s intention if she clarifies that she is talking about not tins of fruit but fresh fruit, vegetables and milk. I would have preferred, obviously, that we had sufficiently supported the previous proposition. I will support this proposition because in principle it is a moral issue and I do believe it can be done, that it is not a bureaucratic nightmare.

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

As with the previous proposition, as I said, it is sometimes necessary to look at alternatives, other methods of doing things. The economists call it “substitution”. I have been working with 2 young entrepreneurs to enable improvements to be made in school diets: snacks at break and so forth in an attractive format and at an affordable price. The same product will be easily and cheaply available to the more mature in the population. This is going to achieve similar ends to those proposed by the Deputy but is direct to the consumer, cost-effective and efficient. We will, in fact, be having a presentation in due course and Members will be invited, Sir. I have also noticed in the press that there has been a significant rise in the sales of vegetable seeds and a significant increase in the demand for allotments. Again, basic economics. With expensive resources you look for different methods. The proposition is also smacking of the nanny state. “This is healthy for you. We will make it cheap. You must eat it.” Far better to put money back in people’s pay packets and so forth, their pension, their income support and so on to spend as they want. Less government, not more. Keep it simple. The main arguments I made in the last proposition. I will not mention them again. You can breathe again. Members can breathe again, Sir. But I will not support this proposition. It is cumbersome, complicated. Keep it simple.

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

I will be supporting the proposition. Members seem to be lost over the last 2 days in focusing away from propositions that were debated on to the needs of those of us in Jersey that have to call upon

income support to make ends meet. If there is a need for people to be supported in our community and it is recognised that they need more support, or if there is a need for more exemptions in people's incomes, given the fact that we are such a massively successful financial jurisdiction with some £400 billion of deposits held in Jersey, why is it that we have been unable to set in place a system that would be able to provide for that and more, without having to look at day upon day upon day of argument about whether or not we are taxing people's food? If the States wish to continue with setting up scheme after scheme after scheme and system after system after system after rebate after rebate after rebate, and suggest that it is not bureaucratically burdensome, then they are ignoring the fact that the States as a department has continued to grow year on year on year. The sorts of taxes that we could be implementing and should be implementing and levelling within Jersey could do much to provide us with the income to pay for these low quintiles of income, these low households, many of which are too proud to call for support, even when they have nothing. There is one thing they cannot take away from you when you have nothing and that is your pride. Sometimes it is better to hang on to that than satisfy the needs of today because your pride will carry you through. In the future, the Members of this Assembly that will carry on into the next States Assembly, including people like the Minister for Health, Senator Shenton, who holds a responsible position within one of the larger retailers in the Co-Op, need to start to work with the other Members in the Council and look at implementing schemes where, if we are going to continually insist that people are put on to low income rent rebate and income support systems, that they are given cards such as the H.I.E. (Health Insurance Exemption) card to exempt them from food purchase G.S.T. when they appear at the till. If Members want to target the less well off, then they are going to have to open their eyes and their ears and realise that there are quite a few of them and they are going to have to identify them, they are going to have to go out there, they are going to have to be honest about it. They are also going to have to be honest about the fact that there are quite a few well-off people that are not paying as much as they could or should and that includes the financial companies and international banking institutions that have made Jersey a very expensive place to live, an impossible place to achieve home ownership for many, and a place that is now seeing the vast majority of people leaving its shores with housing qualifications that have long since been something people have desired: 50 per cent at the last count of people leaving the Island had housing qualifications and only 12 per cent of those returning had them. So we are seeing, year on year on year, wealthy individuals attracted to the Island because of the flourishing financial institutions that they come to work for. Well done to them. The finance industry provides an enormous amount of wealth to the States of Jersey. But either it is not providing enough or the States of Jersey is not administering that money well enough. For Members to stand up day after day over the last 2 days especially, and say that we would be better off targeting this if we kept on taxing food to those that were in need, ignores the fact that we still have people in need, ignores the fact that there is more work to do and ignores the fact that the millions upon millions upon millions of pounds that have come to Jersey have done little to eradicate poverty. It was in 1999 I think or 2000 the States committed to eradicate poverty. They may as well have committed to put a man on the moon. The poor will always be with us. But until we get past the moral issues upon taxing food and taxing people who are too proud to ask for help, we will never help them. The States of Jersey could also raise revenue if it embarked upon something that is long overdue from an environmental perspective and an economic perspective: renewable energy and the generation of income that that could provide, given our geography and our location in the world. If anybody had a G.P.S. system and they wondered what we were doing sitting in this Island surrounded by the energy that we are, they would be amazed because every other international country in the world goes out within its territorial borders and it seeks out that energy, and it provides the benefits from that energy to its people. This proposition today may well be flawed and it may be difficult to work. But at least the Deputy is trying to address the balance. I am afraid to say and ashamed to say that for the last 10 years that I have been in this Assembly it is the same old story. "That will not work. That is too soon. That is too late. That is too much. That is too little. No, no, no. No, no, no. Wish we could. In this instance this is a difficult one but however, I support the Deputy, I

support the principle but, but, but.” Maybe this does not work. But one thing that also does not work is this States Assembly: hard enough at sorting out the problems that exist within society. I will support the proposition and if Members are genuinely interested, which I question, at supporting those that are less well off, then it has got to get to work, it has got to roll up its sleeves and this Assembly has got to start to justify what it is doing with the millions of pounds that it is taking in tax because it does not seem to be achieving very much.

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

We have an issue here that keeps coming back. People say it is morally wrong to be doing this. It was said in the previous debate and it is being said again here. I am afraid I have a problem with this and I disagree with the Dean and it is not often I do that because I think he speaks very sensibly here in this House. But I do take issue. Let us not pretend that the State does not take a charge on food. Whether we put this tax on or not, we charge to bring it into the Island through the harbour, we charge on the fuel that moves it, we charge on the profits of the people that sell it or the companies that sell it, we even charge rates on the buildings where it is sold and there is an Island-wide rate. These are all charges that are included in the cost of the food. So let us not pretend that the States do not take charges on it. Whether we call it a tax or a charge, it happens. It may be difficult to split it up but it is there. If it is morally wrong for us to take this charge as a G.S.T., it is equally wrong for us to take it in transport, in import and in labour costs. If it is a moral issue we are going about it the wrong way. We have never queried it before. Why should we be querying it now? I am afraid I think this is feel good politics. I take a pragmatic view on this. I would rather that we were able to give money back where it is needed to those in need and on the middle income earners. We can do this, we can target it. I think Deputy Le Fondre’s method is better than what we are doing here. This is not going to achieve anything that we are not doing already. We are taking money on food. Let us not pretend that we are not.

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

I think Deputy Pitman is to be commended for an attempt at a joined-up policy for once. Most of the propositions that come to the House seem to work within their own limited silos of responsibility but this one is one of the first that I have come across that does make an attempt to tie in with wider Government initiatives, encouraging a healthy lifestyle and diet. Now, that, to me, makes eminent sense. If we stray away from the arguments about whether or not you are robbing Peter to pay Paul in terms of bolstering income support or doing other things to take away from the rich and feed the poor, I think those arguments are necessarily too restrictive. This, on the other hand, goes to the nub of the issue that we could all probably support in that we would all like and should expect to enjoy a healthy lifestyle, and, indeed, try to minimise the hospital bills and the ills that are caused by an unhealthy lifestyle and diet. Basically this is a policy that makes an attempt to try and integrate with the health policies of the Health and Social Services Department. We are told by the health authorities that we should all expect to live healthy lifestyles, and, indeed, by doing so, we could minimise amount of monies that will have to be spent on dealing with the health problems that an unhealthy lifestyle and eating poor food would cause in later life. If we look at the proposition part (a), notwithstanding some of the remarks that have been made about whether or not the word “fresh” is missing, I think if it is read without stopping too closely on the comma, it does actually say: “To agree to vary those decisions in order to exempt from G.S.T. all fruit, vegetables and milk (but not related dairy products) in support of wider government initiatives encouraging a healthy lifestyle and diet.” Now, in appending the second part of that sentence, the “in support of wider government initiatives encouraging a healthy lifestyle and diet”, we allow the Minister for Treasury and Resources, in bringing forward for approval the necessary legislation, the opportunity to define the types of fruit, vegetables and milk products that would be acceptable in order to encourage those healthy lifestyles and diets. So I think it is fairly clear without having to go to the attempt of introducing the word “fresh”, which in the U.K. and other government circles causes no end of problems. Are dried foods fresh? Can you support the sale of a piece of fruit for

more than 5 days if it is overripe? It is not exactly fresh; it is stale. So I think we do not really need to get into those arguments, Sir, providing we pay attention or allow the Treasury and Resources Minister, if, indeed this goes forward, to look into working with the Health Department in relation to the initiatives for healthy eating. That is why I think, Sir, that this particular proposition is supportable. It has got nothing to do about whether or not you should be able to afford healthy eating at the top of the social tree or not at the bottom, about whether or not we should be distributing monies. Everybody should have a right to be able to eat food at a reasonable cost and to expect to eat basic foods. I think the difficulty for me over the last debate, Sir, was the confusion as to whether or not certain processed foods deserve to have the tax taken off them. There are certain hamburgers that you can get in super-size portions. I would not, and did not, support the idea that we should be taking tax off those foods because quite clearly the cost to the Island would come back by way of having to deal with the obesity problem and other people's difficulties in later life. So that is probably enough, Sir. I think it is supportable in this particular case and if there is a will to endorse the policies and the strategic policies of the Health Department, and I think there is, then, indeed, we will find a way and allow the Treasury and Resources Minister find a way to come forward with the necessary nitty gritty as part of the legislation to sort out the definitions in the proper way.

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

This really is astonishing this morning. We have just had a 2-day debate that admittedly ended in a no-score draw in some respects, or even a score draw. Here we are going around it again. But, having seen my colleagues on Council of Ministers endure lengthy discussions about the absolute vital importance of ensuring that we get G.S.T. on foods through, because if we do not we will never get in, and then 5 months later the majority of them suddenly have this new vision that this was a terrible mistake and no one could have possibly foreseen the massive rise in food rises and so on, which, of course, was blindingly obvious to, apparently, everyone else, I am now looking and listening to States Members who voted in the last debate we have had against exemptions and now think that it is a good idea. I mean, it is not just u-turn. This is spinning on a top. It is quite the most extraordinary approach. I know I slipped out for a cup of tea. But what happened while I was away? Because people suddenly seem to have lost their grip of the principles they had roughly half an hour ago. I say to Members: "Nothing has changed." We do need to remind ourselves of some of the rather odder and quirky decisions that we have made in the past. Let us go back to television licences briefly. We finally sorted ourselves out to a large extent. But at one point it was going to an age criteria, in other words, as soon as you got to a certain age you could not afford television licences and had to be assisted by the States. Quite clearly, that was patent nonsense. There are plenty of wealthy people over a certain age who could easily afford a television licence, not to say dozens of them. Now, this is in the same area. We have just been talking about the principles of taxation and redistribution of wealth and we have just decided, albeit marginally, that we will continue with the broad principles of G.S.T. so that in the case of taxation of food in particular, where we know, according to the statistics, that the wealthy in the Island spend 3 times as much on food as the less well off, that we can take 3 per cent across the board, which means proportionally you are taking more money from the wealthy and we can give it to the people who need assistance in buying food products. The story is exactly the same in this proposition. It is the rich people who, when you visit their houses, their salad bowls and fruit bowls are overflowing, overflowing with freshly-bought orange and apples and their children just pop in and out and help themselves. It is a nice way of going about a wealthy lifestyle. But at the poorer end of spectrum, no, I am afraid you cannot afford organic bananas because they are more expensive. You may struggle to buy fruit. You may struggle to buy decent fresh vegetables and because you do not have a car, to drive out to a farm shop because you do not own a car. But apparently that is not a problem. Apparently that is not a problem. I say to Members: what has changed? The same proportions of the Island buy fruit, vegetables and milk, in fact, sadly, it is more likely that the better off are buying fresh vegetables, organic fruit products and so on and it is the less well-off who cannot

afford to do that. So it seems to me perfectly reasonable to have the system which we currently have and it does not need changing, where we take the tax off the entire food purchasing arena and redistribute the money to the people who do need some extra money to buy milk, fruit and vegetables. That is clearly the case. Now, let us also look at the administrative and legislative issues involved here. One of the powerful reasons for the Council of Ministers supporting the U.K. approach, albeit the most awful way to deal with things globally, in the expert advice of many consultants, was simply the fact that the legislation was already in place and we could simply, as happens in just about all our legislation these days, copy it over, change the names and the headings and we have got an instant framework that could be put into place, plus we knew that all the software, all the bespoke U.K. V.A.T.- charging software was readily available to be applied into the local arena. If push came to shove and we had the latest jaffa cake issue to be dealt with, probably by the Royal Court, the Royal Court and all the lawyers involved would be able to lean heavily on ongoing jurisprudence in the United Kingdom where the cases are either also being heard or have been heard. Now, I am afraid, if you stray off and go in any other direction, in legal and jurisprudential terms, you are going to be on your own because this is going to be, effectively, new legislation. We will have these issues. What is fruit? It always came as a shock to me to discover that tomato was a fruit. But we will be finding problems coming along the line, doubtless: does this apply to dried fruit? Is there an issue about how the fruit is dried because it might be processed? What is the different between a ginger root and a crystallised ginger root? Has that been processed? If adding sugar makes a difference I would have thought, for those of us who are acceding to this concept in health terms, yes, it would. So I think we can already see the potential for looming litigation. While I originally contemplated a career among my learned friends, I cannot condone more cash going into the wallets of the dark-gowned folk simply on the grounds that we have made a rather odd decision today. Vegetables, similar; milk, but not related dairy products. Well, that is going to cause some issues for a start. Oh, we just let the milk stand around a bit. So we are not going to call it yoghurt. We will call it “old milk” and we will not have to any G.S.T. on it. So, I foresee endless issues. It is going to cost money to draw up the appropriate legislation. It is more administrative bureaucracy to make sure that people are not cheating it out there and we will inevitably be furnishing the pockets of my learned friends because there will doubtless be litigation in due course. The real point is that in the same way as it is illogical to hand out benefits just because somebody has reached a certain age, it is similarly illogical to suddenly say that these particular items will be exempt from tax because we know, and I suggest Members just consider this: the people who are buying fruit, vegetables and milk without difficulty are the better off, and the people who have issues about buying fruit, vegetables and milk are the less well off. I say the principle here is a very simple one. It is not taking money in one hand and handing it back with the other because you are not handing it back to the same people. You are taking it off the people who are spending a lot of money on food items and you are giving it and distributing it to the people who are having issues about having enough money. That is the moral issue. That is the moral issue. It is not some sort of moral problem about taxing anything. It is what you do with the tax that you have raised. That is where the reality kicks in. I say it is an entirely proper and moral position when you know that your tax base includes wealthy people, that you have to clearly understand that every time you make an exemption you are favouring the people with more money. What you should be doing is imposing the tax and redistributing the taxation you have taken across the board but primarily in this case, I suggest to Members, from the better off and you ensure that you have an appropriate mechanism to deliver it to the people who probably are not buying fruit, who are probably are not buying as many vegetables as they should be and may not be buying appropriate amounts of milk and dairy products because currently they do not have enough money. That is the morality in the system, Sir. That is why we must take, as we have done up until now, a firm line on G.S.T. It is not immoral to tax food. It is moral to take the money from the better off and give it to the worse off. That is the moral position, Sir.

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

When I first read this proposition I presumed it was based mainly on health concerns rather than cost issues but I am not certain. The reason I suggest that is because I asked: if not, why is it so restrictive? Noone lives solely on fruit, vegetables and milk. What about meat? I refer to Senator Norman's rabbit yesterday, which, incidentally, is not safe, Sir, because I rather like rabbit. Perhaps this is a vegetarian cause being promoted. I have to say, if the Deputy is concerned with health matters, presumably she would support a higher tax on those with a higher body mass index rather than those with a lower one. Also I wonder if the reference to all fruit applies perhaps even after it has been processed. I am thinking of grapes, in this instance. As Deputy de Faye has just said, really: what is the definition of "fruit"? Obviously, as a grower previously, I am aware that it includes tomatoes. So it raises another issue. Does it apply to part of a sandwich? What happens when vegetables and fruit are only part of a product? Does it apply? Does it not? What is the definition of "fruit" or "vegetables"? Does it apply to Marron Glacé, for example, a delicacy I rather like? Yesterday we rejected Senator Norman's amendment because it was not sufficiently defined. There would be all sorts of arguments as to what it constituted and what it did not. I see no difference with this proposition. I did reluctantly support the last proposition but I do not believe I will be able to support this one.

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

I will speak fairly briefly because obviously we have been talking about this issue for a number of days. I would like to just pick up a couple of points. Senator Ozouf mentioned that he is committed to helping the fishermen on the Island and how much he is doing for them. I do not quite see how adding 3 per cent to the cost of fish is helping the fishermen. Also within G.S.T. a lot of people would have certainly, if the Deputy of Grouville's proposition had gone through, a number of people would have dropped out of the G.S.T. loop altogether: fishmongers, market producers, so on and so forth. They would be selling items that would all be exempt from G.S.T. and therefore they would not have the burden of G.S.T. at all, so from an administrative point of view it would have been an absolute manna from heaven for them. As I say, I do not see how taxing fish is helping anyone, really. Senator Perchard and Senator Ozouf also brought up the fact that this proposition lacks definition. But, of course, if they had supported the Deputy of Grouville's proposition, that would have had all the definition within it. So, again, they are making an argument after they rejected a proposition that would have answered all their questions. Maybe they are just committed to taxing the food of the people of the Island. Deputy de Faye's speech I was going to comment on, but, to be honest with you, I was so speechless that perhaps I will not because I think he fails to understand what a struggle some people on the Island have. On the odd occasion I do the shopping, which is not too often, I am occasionally behind someone that is counting their pennies as they get to the till to make sure that they can afford the meagre items in their basket. Deputy Ferguson mentioned that a far better way, rather than support healthy food, is to give the people the money back in their pockets. But the trouble is, if you give the money back in their pockets they are more likely to go out and buy doughnuts than they are likely to buy fish or other healthy food. The whole point of taking the tax off healthy food is to ensure that people do eat healthily. Obviously, as Health Minister, the Medical Officer of Health and I have had long conversations about how we can encourage the Island as a whole to eat more healthily. She was very keen on an idea of Senator Cohen to exempt healthy food. But we did have a difficulty in trying to work out exactly how this would be put in place. But there is no doubt that this Island does have a problem with regard obesity. It does have a problem with regard its diet. It does have a problem with a government that perhaps is not sending out messages strong enough to encourage people to eat more healthily. If people do eat more healthily it is going to save the taxpayer an absolute fortune in later life because people will stay healthier, they will eat healthier. Trying to turn around and say: "We are going to lose this little bit of tax revenue," is a false economy because we need to make sure that people eat healthier and we need to do a lot more. Obviously, as Minister for Health and Social Services, it is my responsibility. So it does fall on my shoulders to make sure -- and we will be coming out with policies in the New Year and if this does not go

through I am happy to talk to those Members of the Assembly that are interested on how we can get this message across. But it is a very, very important message and we have to do something. Although it has got problems of definition, I will be supporting this, because, obviously, in principle, it is the right method and it is saying the right thing. I believe that this House must not forget that we are here and we should be run for the benefit of the people of the Island. I think with the last G.S.T debate we were too interested in what it would cost us a government and not interested enough in what it cost the people of the Island.

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

I was deeply disappointed that the Deputy of Grouville's proposition failed in such a difficult way by a tie and I was hoping that we would finally get ourselves in a position of removing G.S.T. on food, something that we can now well afford to do. Regrettably, as they say, we are where we are and we have got to move forward. But I have rarely found anyone who accepts that G.S.T. should remain on food, and it is my view from those I have spoken to that we should be doing something to remove G.S.T. on food and I am sure other propositions will emerge in time. As Members will know, I proposed, and it has been referred to by Senator Shenton, a healthy foods option. The proposition before us is extremely well meaning, and, had it not been for its fine definition, I would have felt that it offered us a way forward. But something that is supposed to be healthy food must be healthy food. While Senator Shenton has said that it is difficult to address what is healthy and what is not, let me assure the House it is very simple. I worked out a list with the Medical Officer of Health that was both simple to implement, clearly understood by everybody, and, while you can always argue that someone will find a problem with it, you would have found it very difficult in terms of macro definition to knock holes in it. However, the Council of Ministers considered it and considered it against the alternative, which was the Deputy of Grouville's proposal and decided that it was better to support the Deputy of Grouville's proposal rather than go forward with my proposal. Because of the definition today that I believe is wrong, I will be voting against today's proposition. But I do intend to bring forward to a new House my own proposition designed to deliver a healthy food G.S.T. exemption option in consultation with Senator Shenton and in consultation with the Medical Officer of Health. I believe it is eminently possible to deliver it. It is very affordable and it has the opportunity of setting the direction forward for this generation and future generations to ensure that we are all a significantly healthier society.

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

It is often said that politics is the art of the possible but in truth, politics is the art of Machiavelli and I think we have seen a good deal of that at play over the last couple of days. If Senator Cohen is going to bring his proposition to exempt healthy foods forward at some point in the future, I wish him a good deal more success than I had bringing a virtually identical proposition prepared by the same Medical Officer of Health some time ago which Senator Cohen voted against.

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

I made it very clear that the reason I voted against G.S.T. exemptions in the past is because at the time it was presented as unaffordable.

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

That may well be the case but clearly the Senator was mistaken. I will certainly be supporting the proposition today because I no longer have any faith that we can always be confronted with arguments to the effect that, well, we need not bother supporting what is before us today because something different will come along in a couple of weeks' time or a few months' time or whatever and that will solve the problem for us. I am afraid it just is not going to wash. In fact, the debate of the last few days on this and some of the changes in position we are seeing are truly remarkable. I will say this for Deputy de Faye: he may well be the leader of the "Let us get unelected" political party, along with Senator Ozouf but they have at least been consistent in that. They were joined this morning in that grouping by Deputy Duhamel, who now perhaps recognises the folly of this

manoeuvre and now quite outrageously seeks to pronounce himself in favour of this particular proposal. I still think it is supportable and should be done but would require a good deal of definitional work, some legislative work, certainly. But I am afraid it is no longer good enough, I am afraid. People like Deputy Duhamel, all of this kind of rather eccentric flip-flopping and changing of views and complete eccentricity in the way he votes. Really, if the people of Jersey are ever to gain any kind of control over the future of their community, this debate which we have had surely has finally provided ample proof that the only way we are going to do that is by holding politicians to account, which means by party politics. Although I have written on my blog certainly I was not going to try and launch a Jersey Charter this side of the elections, after the result of the debate this morning I am seriously in discussions with people already about changing my opinion on that. Certainly, one of our party target seats will be that of the hypocrite Deputy Duhamel. **[Members: Oh!]**

**The Bailiff:**

Senator, I do not think that the word “hypocrite” is an acceptable Parliamentary expression. Will you please withdraw it?

**Senator S. Syvret:**

Very well, I withdraw “hypocrite” and replace it with “deeply eccentric”.

**The Bailiff:**

That is perfectly acceptable. **[Laughter]**

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

Well, I have heard it all now that nobody in this Chamber seems to know what fruit and vegetables are and we are going to have lots of arguments and definitions. Also, Deputy Ferguson is beavering away at some alternatives, so do not worry, and she is going to present it in a couple of weeks. I do hope it is not some sort of new business that she was promoting. It sounded very much like it, but I am sure she will let us know in a couple of weeks. But it is not healthy because she cannot support this proposition because she said if we take tax off healthy foods we are telling people to eat healthily. Now, we have not heard from the Minister for Education but I do know, having school children, at the start of primary school and at the start of each year of senior school you get home a list of what would be a good, ideal, healthy lunch. Do not forget, these children, many of them are leaving home about 8.00 a.m. in the morning, mine do, to walk to Le Rocquier School and after dawdling home they get home about 3.45 p.m. So a couple of pieces of fruit - and I had the shock of my life the other day, 4 pears for £2.10, so let us say an average of 50 pence - some cut-up salad, a healthy sandwich, a grain bar, this is the sort of list. Two or 3 children, you are talking on average about £3 a day with their drink of water. A lot of them, unfortunately do like the bottled water. Now, I use one bottle and keep filling it up from the other bottles but other than that at school it is 60 pence for a bottle of water - 60 pence for a bottle of water. It has just gone up this year, it was 50 pence in the machines, it is 60 pence now. Now, I have looked at the alternatives which some of you may vote for and even on the highest rebate system you are going to give income support people £3, so you might cover one day for one child on a low income - one child. It does not cover right down to the bottom even if you do the alternative. I did vote for the main exemptions; it did not go through - I am not a sore loser. I think this is, as the Deputy says, it is in line with ... we have just heard the Minister for Health, and as I say it is a complete directive from Education what you give your children, and it includes fruit and it includes vegetables or salad stuffs. So as Deputy de Faye seems to think, it is very nice and he says that there are lots of rich people out there and their children are eating lots of fresh fruit. Well, that is fine; that is good. It is not going to cost a fortune apparently because he says they can all afford it and we might take a bit of money off them, but even if we did take a bit of money off them, we are certainly not, under any of these propositions, giving it back to the poor with enough fruit and vegetables they need to eat. So I am sorry, Sir, I think to me it is quite straightforward. I could not argue over a tomato: it does

not fall under a vegetable; it falls under a fruit. It is covered under both; it is quite simple. I will support it and I urge all Members to do the same.

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

Life these days is too complicated. Basic foodstuffs are not what they were and as a consequence an administrative nightmare in terms of compliance, consistency and definition prevails. A trip around the supermarket will show you, as it did me this week, that there are a vast array of different fruit and vegetables from all sorts of obscure sources throughout the world. The carbon footprint of bringing all these items into Jersey is phenomenal and while titillating the palate does nothing for the less well off and in truth there is a long-term detrimental effect. This proposition, Sir, would benefit the wealthy. Let us not kid ourselves about that. There are more sensible ways of encouraging healthy food consumption rather than the clearly ineffective G.S.T. exemption method as outlined in the proposition. I urge Members to reject this proposition as I shall be doing.

**2.1.18 Deputy K.C. Lewis of St. Saviour:**

I will be brief. I too regret that the Deputy of Grouville's proposition was lost and I would urge her to return it to the States in the not too distant future in the new Assembly. I do not believe in Goods and Services Tax on any foodstuff as a matter of principle and I will be supporting this exemption for fruit, vegetables and milk.

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

While I recognise that there are flaws with this proposition, I just want to reiterate a couple of points, without stepping on the toes of the Minister for Health, that the Minister for Health raised. I think this is an issue that as a society and as a Government we are going to have to start to get to grips with. It is often uncomfortable for governments to place themselves in what might be considered a nanny role or a big brother role, but the issue of obesity and healthy eating is one which will rise up the agenda. That is rightly so, Sir, and as I say it is something that as a government this Assembly will need to get to grips with. On the surface it might appear to be a very private issue what one consumes; one's weight; how one exercises and one's lifestyle. But in reality, although they may be private decisions they have a large effect upon society and certainly upon Government provision, particularly in the area of healthcare, from requiring extended and larger lifts, to requiring larger stairs, to requiring a complete overhaul of the hospital bed system, carrying mechanisms, all these areas, Sir, which are going to cost us as a government millions - millions of pounds. Therefore, Sir, the days of us turning aside and not facing these issues, I am afraid, have gone. No matter how uncomfortable I, coming from my particular political persuasion, might find that - the nannying role of Government - it is one that in that area we are going to have to face. If I return now to this proposition I could be tempted to vote against it because its definition is not clear. However, I would ask those people who voted in favour of the Deputy of Grouville to look beyond those difficulties and see if, as Senator Cohen said, he will himself be lodging a proposition regarding healthy food. If that is indeed in the near future, this current proposition falls upon the Minister for Treasury and Resources to bring forward necessary legislation. That is going to take some considerable time, months, probably - well, I would say most certainly not before this session ends, Sir - so it will be into the coming year. That could be quite easily rolled into a more fuller proposition which looks at the whole healthy foods option. Therefore, Sir, on those grounds alone, in the light that it will not happen quickly, in the light that it is a start, and it is a start down a road that we must tread, I will support it.

**2.1.20 Deputy S. Pitman:**

Firstly, I would like to thank all those who have contributed to this debate, including Senator Ozouf who will not support this proposition because it does not include fish. I would ask him then why did he not bring an amendment to this proposition to include fish? With regard to Deputy Baudains, the reason why I chose these 3 items of food for exemptions was because this government has been preaching simplicity when it comes to G.S.T. In answer to Senator Perchard,

he asked me to consider whether or not I believed a tin of baked beans were vegetables; tin of baked beans with sausages, Corn Flakes and cider. The first one may be. A tin of baked beans with sausages, I would not say was vegetables. Corn Flakes I would not say were vegetables or fruit. Cider I would not say was a vegetable or fruit. Also, and in answer to Deputy Scott Warren as well, I believe with a bit of common sense I am sure that the Treasury Department with the Health Department could work out what was vegetables and fruit and milk. If this Government sincerely wanted to encourage its people to eat healthily, they would make this proposition workable. As the Health Minister pointed out the more this Government encourages healthy eating now, the less expense it will cost the States in the future. I maintain the proposition and call for the appel.

**The Bailiff:**

I ask the Greffier to open the voting which is for or against the proposition. All Members who wish to vote have done so? I shall ask the Greffier to close the poll and I can announce that the proposition has been lost: 19 votes were cast in favour; 28 votes against.

<b>POUR: 19</b>		<b>CONTRE: 28</b>		<b>ABSTAIN: 0</b>
Senator S. Syvret		Senator F.H. Walker		
Senator L. Norman		Senator T.A. Le Sueur		
Senator W. Kinnard		Senator P.F. Routier		
Senator B.E. Shenton		Senator M.E. Vibert		
Senator F.E. Cohen		Senator P.F.C. Ozouf		
Connétable of St. Helier		Senator T.J. Le Main		
Deputy R.C. Duhamel (S)		Senator J.L. Perchard		
Deputy A. Breckon (S)		Connétable of St. Ouen		
Deputy P.N. Troy (B)		Connétable of St. Mary		
Deputy C.J. Scott Warren (S)		Connétable of St. Peter		
Deputy R.G. Le Hérisier (S)		Connétable of St. Clement		
Deputy J.A. Martin (H)		Connétable of Trinity		
Deputy G.P. Southern (H)		Connétable of St. Lawrence		
Deputy J.A. Hilton (H)		Connétable of Grouville		
Deputy P.V.F. Le Claire (H)		Connétable of St. Brelade		
Deputy D.W. Mezbourian (L)		Connétable of St. Martin		
Deputy S. Pitman (H)		Connétable of St. Saviour		
Deputy K.C. Lewis (S)		Deputy J.J. Huet (H)		
Deputy I.J. Gorst (C)		Deputy of St. Martin		
		Deputy G.C.L. Baudains (C)		
		Deputy S.C.		

		Ferguson (B)		
		Deputy of St. Ouen		
		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
	Deputy of Trinity			
		Deputy S.S.P.A. Power (B)		
		Deputy A.J.D. Maclean (H)		
		Deputy of St. Mary		

### **3. Draft Amendment (No. 8) of the Standing Orders of the States of Jersey (P.115/2008)**

#### **The Bailiff:**

We come next to P.115 Draft Amendment (No. 8) of the Standing Orders of the States of Jersey and I ask the Greffier to read the citation of the draft.

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

Draft Amendment (No. 8) of the Standing Orders of the States of Jersey. The States in pursuance of Article 48 of the States of Jersey Law 2005 have made the following amendments to Standing Orders.

#### **3.1 Deputy S.C. Ferguson (President, Chairmen's Committee):**

This is a fairly simple proposition. The Scrutiny Panels are limited at the moment with the way they can co-opt members and very often we have found that we needed to co-opt a particular member where the elected member has considerable experience which we would like to use. This is a very simple proposition which just relaxes to an extent our ability to co-opt, and I think will make for a very much better method of scrutiny. It limits the co-option so that it is not a permanent change to a Scrutiny Panel but it does give us a little more freedom to make sure that where we have people with particular experience, particular specialities, we can include them on our Scrutiny Panels. It is, in effect, Sir, a small matter of housekeeping and I would ask for the States support in this and I make the proposition.

#### **The Bailiff:**

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

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

I would just like to expand a little bit on what the President of the Chairmen's Committee said. With the Health, Housing and Social Security Panel we were doing 2 significant reviews: one we were looking at some housing issues and the other one was long-term elderly care. The situation was with myself, Deputy Martin, Deputy Le Hérissier and Deputy Power and with the long-term elderly care we were seeking to recruit a Member from the Connétables bench. The problem is that we could not do that unless one of the panel dropped out and it became a Scrutiny Sub-panel. We could not have an additional member to those 4 that I have just mentioned and that caused us some problem as to how we do it and it meant that one member had to drop out. So, as it were, we manage without for now but it would have perhaps helped the review if we could have had a Connétable on the panel and that was the reason for it. This has been through a process; it did go to the Chairmen's Committee and it has been, I think, to P.P.C. (Privileges and Procedures Committee) and I do not think it is contentious but it is designed so that if any panel so desires they

can recruit somebody to their number to supplement a review and it is seen as a benefit. I do not think it is contentious and I hope the House will support it.

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

Yes, just a question, Sir. I wanted to know whether a sub-panel are able to operate without recourse to the main panel, i.e. are they allowed to lodge reports in their own name?

**3.1.3 Deputy G.P. Southern:**

Yes, as far as I am aware, I believe, in answer to that last question that sub-panels are not allowed to lodge in their own name at present, although there is an amendment being considered; it is going through the loop at the moment. But that is not particularly relevant to this particular issue. Oh, yes, it is, because if they cannot register in their own name then it does make life hard which is one of the reasons why I think it is being examined. Yes, it was relevant. Thank you, Deputy Hilton, for that extremely pertinent question. But, yes, I think this is largely pragmatics. We have come across this problem in operating in Scrutiny and the rules have been written in such a way that we believe we can operate more efficiently and more effectively and certainly in a more streamlined way if we change the rules to do so. I do not think there are any dangers at all in this move in a straightforwardly, pragmatic, sensible ... those people who are trying to operate Scrutiny find that occasionally there is a problem; let us solve it.

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

I just have a quick question, more a clarification, for the President of the Chairmen's Panel and I understand this subject has been discussed a few times before, and I believe rejected by this House in various ways, and that is the involvement of Ministers, or particularly Assistant Ministers, for Scrutiny. Now I have heard many Scrutiny members say to me that people on the Executive side - the States Members that is - often do not have enough understanding of Scrutiny because they have never been involved with it. Surely this is a great opportunity for Members of the Executive to become involved with Scrutiny along the lines of Commons Select Committees in the U.K. So if an Assistant Minister does become a Minister in the future he will have been exposed, or she will have been exposed, to this process. So I would like to know what the President of the Committee thinks of that idea, what progress, if any, she has made for bringing such propositions forward, because I really do believe that if Scrutiny is to function as well as it could I think a better understanding by all Members of it is essential, not least, the Executive side of the Government. This could be that opportunity with Assistant Ministers in particular sitting on sub-panels, and why not Ministers if there were particular expertise in an area as well. I would ask the Members to consider that one and I wonder if the chairman could respond to that particular subject matter.

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

Yes, Sir, the Deputy of St. John has beaten me to the button. I was going to speak very much similar to what he was saying, bearing in mind, again, I support what has been proposed, the only concern I have is why it is taking so long because this is an issue which the Chairmen's Committee have considered almost from the outset, but it would have been useful. But here we are, we have it coming now but better late than never. But, again, I would ask the same sort of question of the President. I think it would be an opportunity missed and possibly could we be told why we have not been able to include an Assistant Minister and, indeed, if it was possible, would it be in the President's mind to come back with an amendment possibly at some future date?

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

It was just a point of clarification I would be seeking from the proposer, Sir. As we know, Standing Orders say that a Member cannot be a Member of more than 2 Scrutiny Panels and as this would be a membership of a full panel, although limited to a particular review, could the President confirm that in fact anybody who was already on 2 Scrutiny Panels would not be able to participate as a result of this.

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

In answer to the Deputy for St. John, my recollection of the review of ministerial government was that the committee who carried out that review presented comments to the effect that it would not be appropriate for Ministers or Assistant Ministers to be involved in the way that he has just suggested with any Scrutiny Panel.

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

A point of clarification on that particular report, my understanding was that was for full panels; not sub-panels, and sub-panels are a question mark in that report.

#### **Deputy I.J. Gorst:**

I would say it is not exactly relevant to this proposition but it is to the speech just made, I believe that the reason that that particular review reached that conclusion was because the Council of Ministers and the Chairmen's Committee felt that it was inappropriate for Assistant Ministers to sit on Scrutiny Panels. Unfortunately, that leaves Assistant Ministers somewhere in the middle being told what to do by both sides, Sir. **[Members: Oh!]** I think it really does need to be addressed and I hope the President will look to address it because I think that is one of those issues that this House is completely remiss and it needs to be addressed.

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

If I may, I have not given way. The Deputy of St. John jumped up in the middle of me speaking and Deputy Gorst has just said in reference to the speech just made; I have not concluded my speech, Sir.

#### **The Bailiff:**

I am so sorry, Deputy.

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

I have totally lost my train of thought now. **[Laughter]** I would just like to say, Sir, that I do not see this as being a particular issue at all. The Chairmen's Committee have discussed this. As Deputy Breckon said there have been instances when it would have been most helpful to Scrutiny, and Scrutiny is becoming far more widely recognised by other Members in the House of the importance that it is providing to ministerial government and the fact that sometimes Scrutiny does concur with the view of the Executive. So we would have found it most helpful to have been able to co-opt another member on to a sub-panel who would have been able to give us assistance and provide us with advice that would have helped us that we perhaps would not have been able to get from another source. It is a straightforward proposition, Sir, and I can see absolutely no reason why Members will not support it.

#### **The Bailiff:**

I call upon Deputy Ferguson to reply.

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

Yes, in reply to Deputy Hilton, there is perhaps an issue in that sub-panels cannot lodge in their own name at the moment as I understand it, and perhaps one that the new House should address, and I thank Deputy Southern for his comments. There is this problem that with a relatively small number of Members available, we do need flexibility in the way we get people to sit on panels. I thank the Deputy of St. John for his comments in that it would be useful to have more people available and I happen to think, although unfortunately I am not in the majority, that the use of Assistant Ministers would be excellent, not in their own department, but if they happen to be in Scrutiny on another department because I happen to believe that if you want to get into how the States works, then you sit on Scrutiny. If you really want to sort of get under the skin of how the finance works then I recommend the Public Accounts Committee. Perhaps people who are

standing in these elections will keep this in mind. As I have said, I am in favour of Assistant Ministers participating. I seem to remember that the Council of Ministers felt that it would blur the difference between the Executive and the rest of us, which I happen to think would be quite a good thing. In reply to the Deputy of St. Mary, I think the answer that it is implied that you could be on another panel. I thank Deputy Mezbourian for her comments. I am sorry she was cut off in her prime but I am glad she recovered. I thank Deputy Gorst for his comments. As I have said, I really agree with his sentiments. I thank everybody who has contributed to the slight debate for their contributions and I make the proposition, Sir.

**The Deputy of St. Mary:**

I wonder if I could ask for a little clarification. I am sorry, I did not understand the Deputy then. My question was if you are already on 2 panels - full panels - because Standing Order 138(5)(c) says: "An elected Member co-opted on to a Scrutiny Panel shall for the duration of the co-option be a member of the panel." So technically, surely, Sir, they would be a member of 3 panels which is against Standing Orders.

**The Bailiff:**

I am sorry, which Standing Order was that?

**The Deputy of St. Mary:**

The Standing Order we are dealing with here, Sir, is paragraph 1 of the amendment in 5(c) says: "An elected Member co-opted on to a Scrutiny Panel ..."

**The Bailiff:**

I am sorry, Deputy, it is my fault, I am sure, but I could not hear which Standing Order you were referring to.

**The Deputy of St. Mary:**

In the amendment we have now, Sir, it is Standing Order 138, it will be amended by the addition of 5(c) which says: "An elected Member co-opted on to a Scrutiny Panel shall for the duration of the co-option be a member of the panel." It then goes on to say: "But only in relation to the particular review." My question, Sir, was if they were already members of 2 panels, which Standing Orders say they can only be a member of maximum 2 panels, then surely that means they could not be on a co-opted panel.

**Deputy S.C. Ferguson:**

It is my understanding that in fact this refers to, you can be a member of 2 panels but you can be co-opted on to a sub-panel.

**The Deputy of St. Mary:**

Yes, Sir, precisely, but this is not a sub-panel. This is a panel - a full panel - with a co-opted extra member.

**The Bailiff:**

I must say that I think the Deputy of St. Mary is absolutely right. Standing Order 135(3) says: "An elected member cannot be a member of more than 2 Scrutiny Panels and can only be the chairman of one." The Standing Order 138(5)(c) provides as the Deputy has said that the co-opted elected member shall be a member of the panel and therefore cannot be co-opted if he or she is a member of 2 other Scrutiny Panels.

**Deputy G.P. Southern:**

Can I seek a point of clarification from the proposer when she referred to being in favour of using Assistant Ministers and Ministers in Scrutiny, could she make it clear whether this was a personal opinion or her opinion as Chair. **[Members: Oh!]**

**Deputy S.C. Ferguson:**

I did say it was my personal opinion.

**The Bailiff:**

Very well. Do you wish an appel or standing vote? Standing vote. Well, I put the proposition. Those Members in favour of adopting it kindly show. Those against. The amendment to Standing Orders is adopted.

#### **4. Public Lotteries Board: appointment of Members (P.116/2008)**

**The Bailiff:**

I come now to P.116 Public Lotteries Board: appointment of Members and I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of the opinion in pursuance of Regulation 32 of the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975 to appoint the following as members of the Public Lotteries Board for a period of 5 years: namely Mr. Ian Timothy Barnes, Chairman; Mr. Peter Scott Cruickshank, Mr. Geoffrey James Roscouet, Mr. Derek Arthur Wallis, Mrs. Mary Ellen Horton and Mr. Jeremy Arnold.

#### **4.1 Deputy A.J.H. Maclean of St. Helier (Assistant Minister for Economic Development - rapporteur):**

The Public Lotteries Board is appointed by the States of Jersey on the recommendation of the Minister for Economic Development to advise and assist the Minister in all matters concerning and promoting the conduct in Jersey of the Channel Islands Lottery. It exercises the functions attributed to it by or under the Gambling (Channel Islands Lottery) (Jersey) Regulations 1975. I should mention that a vacancy currently exists on the board after a member retired and applications to appoint a new member will be advertised shortly. The States will be asked to appoint the successful applicant once that process has been completed. In the meantime, in accordance with Regulation 32, it is proposed to reappoint the existing Board. As mentioned, the Board members are: Mr. Ian Timothy Barnes to be reappointed as the chairman together with the other existing board members: Mr. Peter Scott Cruickshank, Mr. Geoffrey James Roscouet, Mr. Derek Arthur Wallis, Mrs. Mary Ellen Horton and Mr. Jeremy Arnold. I maintain the proposition.

**The Bailiff:**

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

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

Just to comment because we have had some discussions in debates about what should or should not come to this House. But just noticing this, this is a Board that perhaps does not attract a great deal of attention and the people know what they are doing and they should be congratulated and they do get on with the job. When you look at the length of service, Sir, in these times of political correctness, you will see that their total service comes to 108 years and we are proposing to appoint them for another 5 and we are now going to advertise the post. This has been nowhere near the Appointments Commission which apparently has some say in these matters, Sir. Without wishing to rubbish the efforts of those people - I think they are to be commended - they are getting on with it. Perhaps sometimes we should step back from these things and just let them take their natural course rather than insist that people retire after 2 terms or 3 terms or whatever it is, because there is a good example here of where, if you leave it alone and mind your own business, it works and

people do know what they are doing and they are getting on with it. So perhaps the Assistant Minister would like to comment on that.

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

May I just say very briefly in relation to Economic Development general appointments, we, of course, oversee a number of bodies and we have been through with the red tape review whether or not there can be some changes. I must admit that I personally have not looked at this one. This was one of the smaller bodies that we deal with. There is almost a tolerance of the Appointments Commission in terms of the more minor boards and their involvement. What I can say to the Deputy is that there are processes that must be gone through, proper processes. We dealt with the Rent Control Tribunal. There was a suggestion by Members when the original proposition was lodged that simply people were being appointed. There must be proper process in relation to these things and proper process is going forward and that is why Members are only being asked to approve 5 people instead of 6 today. So we will look at this one again and my Assistant Minister will make any other comments that he wishes.

#### **The Bailiff:**

I call upon the Assistant Minister to respond.

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

I would like to thank Deputy Breckon for the comments that he has raised. I think in this particular instance the question of the Appointments Commission in this regard, it is, as the Minister has mentioned, a relatively small body and as such we are going through the appropriate process in terms of reappointing the Board and, in fact, reappointing the member that is required to fulfil the obligations in terms of the numbers required to ensure the Board is compliant with the law. I would like to take this opportunity as well to thank publicly all the members of the Board who have clearly given a significant amount of their own time. It is a voluntary position and, as Deputy Breckon has mentioned, it is not the easiest in the world to attract people to carry out such important functions. It is an important function, the overseeing of the Channel Islands Lottery, the promotion therein and the probity of such function. They carry it out with great diligence and I would like to publicly state thanks to all members of the board for the work that they have done to date. I maintain the proposition, Sir.

#### **The Bailiff:**

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

### **5. Draft Police Force (Amendment No. 11) (Jersey) Law 200- (P.117/2008)**

#### **The Bailiff:**

We come next to projet 117, Draft Police Force (Amendment No. 11) (Jersey) Law, and I ask the Greffier to read the citation for the draft.

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

Draft Police Force (Amendment No. 11) (Jersey) Law 200-, a law to amend further the Police Force (Jersey) Law 1974 and for connected purposes the States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

#### **5.1 Connétable G.W. Fisher of St. Lawrence (Vice Chairman, Comité des Connétables):**

To serve in the Honorary Police, as you know, is to serve one's Parish. I stress that there is no radical change to that position being proposed by this draft law. This amendment is intended to achieve 2 basic changes to the law along with a number of resultant changes. Firstly, at present when the Honorary Police of one Parish require assistance from the Honorary Police of another Parish, the Connétable of the first Parish has to request assistance from the Connétable of a second

Parish, who then has to give assent, and no one else can make that request or give that assent. This works reasonably well for events which are known in advance, such as the Battle of Flowers and the International Air Display. However, when that assistance is required urgently, the process can be both time consuming and cumbersome. Take 2 examples of emergencies which have both happened in the last few months and both of which required urgent assistance. One was the Broadlands fire and the other in my own Parish where the danger of exploding cylinders required the urgent closure and policing of roads. At present in such circumstances the Centenier needs to contact his or her Connétable who then has to contact another or other Connétales who then need to give assent and notify the first Connétable and the assisting Parish's Honorary Police of that assent, bearing in mind the Connétable of the first Parish needs to be traced, thereafter the Connétable of the second Parish also needs to be traced and appropriate assent given. The amendment will in such circumstances allow the duty Centenier - there is always a duty Centenier - of one Parish to seek assistance direct from the duty Centenier of another Parish. Secondly, if an Honorary Police officer is passing through another Parish and comes upon an incident or some act about to be committed contrary to the law and it requires a police presence as outlined in the projet, at present he or she can only act as an ordinary member of the public. He or she has no policing powers. The amendment would allow the officer concerned in very limited circumstances to use policing powers where appropriate in accordance with a strict directive from the Attorney General. There are further consequential amendments included relating to civil liability and disciplinary matters. I propose the principles of the law.

#### **The Bailiff:**

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

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

Under the provisions rather quaintly called "sur le champ" does that mean if an Honorary Police officer in another Parish came upon somebody speeding in such a manner that they thought they would possibly provoke an accident, that they, therefore, have the power to intervene?

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

I wonder if in summing up the Vice-Chairman of the Comité des Connétales could explain precisely what is meant by the limited circumstances in which an Honorary Police officer may act in another Parish? Because I am slightly concerned the members of a Parish elect the police that they wish to police their own Parish, and I can foresee a situation where officers of another Parish decide that they would like to do more work than might be accepted by the parishioners of a different Parish, over which of course the parishioners would have no control. I am slightly concerned about that.

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

I would like to use this opportunity to pay tribute to the Honorary Police really for the excellent job they do in the Parishes. This is often in close collaboration with the rest of the emergency services, both fire, police, and ambulance to a certain extent as well. That job becomes very difficult when you do not have good communication. Emergencies rely on good communication to resolve that emergency to a certain extent. At the moment I think the Connétable described the situation very well, and it is one that I have come across in various police meetings in recent times. What it does is it clearly wastes quite often a very, very good resource, and what this change in the Regulations will do is maximise that resource so it has even more potential to be of even more benefit to Islanders. Like I say, I commend those officers that give up so much of their time, often in appalling weather, to do everything from conduct traffic to manage public events. When they are used at their best is when they collaborate between each force across each Parish. We saw that particularly recently with Jersey Live. So I thank members of the Honorary Force for that. This is also of great benefit to people like the Emergency Planning Officer as well because when something goes wrong communication is absolutely essential, and this will aid that communication

process greatly with the Emergency Planning Officer and, of course, the other emergency services, so I thank the Comité for bringing this forward.

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

I am minded to support this law but a couple of issues I would like to ask. It was touched on a little bit by Deputy Baudains, so I was just wondering if he looked and saw my notes here. It was just a question of whether in actual fact, as we know, honorary officers are elected to serve their Parish and if indeed they chose not to go out and assist another Parish, they were asked to go and they said: “No, as far as I am concerned I do not want to go out there”, would they be subject to any disciplinary action at all? The other one is, of course, I do note that the Connétable of St. Lawrence voted against my proposition the other day, so could I ask the Connétable, please, what Articles of the Human Rights Law are affected by this particular law and why does the Connétable consider this particular law to be no risk?

#### **5.1.5 Deputy J.J. Huet of St. Helier:**

When I read this I was ... I will not say what I thought, but what I was going to go back to was I would hate anybody to think that all the Centeniers did not used to pull together before this piece of paper was in front of us because I had fantastic working arrangements with Centeniers from other Parishes. If it was 2.00 a.m. in the morning down the police station, I used to ring them up and say: “Do you want me to charge them? Give me your court date and I will charge them for you and it will save you coming down to town.” I have to say I also had an arrangement with one of them; I will not mention which Parish. He regularly did my parking fines for me on a Wednesday as I was employed in a bank at the time. I dread to think now when I see this, were we breaking the law? Because if we were, the Magistrate could not have known about it either. But what I am trying to say is that we have always worked together and I know that we are putting it and saying now that this is correct and this is how it shall be done, but Centeniers I believe have always worked together and pulled together up until now. I thank them very much for all the work that they do.

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

Just briefly, the provisions in this amendment seem to make the functioning of the Honorary Police across the Parishes more effective. In fact, the provisions seem eminently sensible. Whether or not they have already been operating without having this amendment obviously I cannot comment on, but I will certainly be supporting the amendment.

#### **5.1.7 Senator W. Kinnard:**

I just wanted to make a brief comment to say that indeed the States of Jersey Police have been consulted on this amendment and also the following one, P.118, and that the matter was discussed at the Joint Police and Strategic Working Group that the Police Chief with members of the Honorary Police met on 28th April. This draft legislation, P.117, will, as we have said, provide for Honorary Police officers to be no longer restricted by their Parish boundaries and to allow them to police in other Parishes as appropriate when the notice is given. So this amendment, Sir, and also, indeed, the following one, P.118, are 2 pieces of draft legislation which are seen by the Joint Police and Strategic Working Group as moves with very much common sense which will benefit members of the public and, indeed, the States of Jersey Police colleagues. The legislation pieces we have before us today I believe, Sir, update and form part of a developmental programme in a modernisation process that helps to keep our honorary service relevant and appropriate to the modern day. Therefore, Sir, these changes I believe will assist how the States and the Honorary Police work closely together and, therefore, they are both a very welcome development.

#### **5.1.8 Connétable K.P. Vibert of St. Ouen:**

I am glad that Members have again voiced their support of the Honorary Police and the honorary system as a whole. I have to say that these amendments are merely to formalise things which have been going on for quite some time. Any member of the public can assist in a road accident which

they come upon and in exactly the same way an Honorary Police officer can, but this will formalise that situation. I have to reply to the question of the Deputy of St. Martin because I was the one who signed the human rights compliance to this particular proposition. I have to say that I did so having taken advice from the Law Officers.

**The Bailiff:**

I call upon the Connétable to reply.

**5.1.9 The Connétable of St. Lawrence:**

First of all, could I thank all those who have spoken and address the points raised particularly by Deputy Le Hérissier and Deputy Baudains. The sort of incidents that may occur are set out in a draft directive from the Attorney General on page 10 and they will give you a much better flavour of the sort of situations which might be those upon which an Honorary Police officer might feel that he has to act in another Parish. Speeding generally would not be covered and the other limited circumstances are set out on page 10. So rather than read it out, it is there for all to read. I would like to thank the Deputy of St. John for his comments about the Honorary Police. I think he is absolutely right and we owe an enormous debt of gratitude to our Honorary Police. Thank you to the Deputy of St. Martin for his support as well. The point that he raised has been answered by the Connétable of St. Ouen about human rights. Deputy Huet is quite right, Centeniers have assisted each other and continue to assist each other. To some extent they have probably not been strictly applying the law in doing so in some cases, and in those cases this will regularise that situation. But the Deputy is quite right in saying that Centeniers do assist each other and I personally have seen the benefits of it, which have been of great use to me when you are short of Centeniers and you can rely on other Centeniers to help you. So this will recognise the situation and regularise it. I would like to thank Deputy Scott Warren for her comments of support and Senator Kinnard for confirming that consultation with the States Police has taken place and that they are also supportive and Home Affairs are supportive of this projet and the next one as well. I would also like to thank my fellow Connétable for his comments. On those points, I would like to now formally propose that we go ahead with voting, Sir.

**The Deputy of St. Martin:**

Before we do, I am afraid the Connétable did not answer my question. I had 2. It was asked would it be a discipline matter if indeed an officer refused to attend to go to another Parish, and also, with respect, I did ask what Articles, if any, were affected by the Human Rights Law. While the Connétable of St. Ouen did say that he was acting on advice of the Attorney General, the question was quite reasonable: what Articles are affected and why are the human rights not at risk? The answer I do not think is satisfactory to say that he was acting on advice of the Attorney General.

**The Connétable of St. Lawrence:**

I apologise to the Deputy for not answering those points. As far as discipline is concerned, if someone does not act there is no obligation on a member of the Honorary Police to act. What happens in practice is when you need somebody to assist, as a Connétable you give the consent. Your officers volunteer to assist and they do almost without fail volunteer to assist. But there is no obligation because they may not be able to at the particular time, but they will do what they can. So far as the human rights issue is concerned, I have not looked through the particular whole law of human rights. I have relied on advice from the Law Officers as to whether or not the Human Rights Law is a problem and I am assured - and my fellow Connétable has been assured - that there is no problem with Human Rights Law.

**The Bailiff:**

Attorney General, do you want to assist on this matter?

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

With great respect to the Connétable, the question about disciplinary matters is I think slightly more difficult than perhaps was anticipated. Previously members of the Honorary Police would not have had legal jurisdiction to operate in another Parish unless they fell within the terms of Article 5 of the 1974 law which is sought to be amended here. Where they would not have jurisdiction, it clearly could not be a disciplinary offence if they were asked to do something they had no jurisdiction to do. With this change in the law, they do have jurisdiction to act in other Parishes and it follows, I think, that the other provisions of the law on complaints of discipline would apply. The schedule to the regulations in relation to the Honorary Police makes it plain that the Honorary Police is a discipline force and they are required to take directions from superior officers in the Honorary Police. So, although in practice one would expect the Honorary Police to be very sensitive towards any particular views of the subordinate ranks that they did not wish to operate in another Parish, if push came to shove it seems to me that it would be a disciplinary offence if someone refused to follow the orders given to him by his superior.

**The Connétable of St. Lawrence:**

There you are, Sir, you live and learn.

**The Bailiff:**

I put the principles of the Bill. Those Members in favour of adopting them kindly show? Those against? They are adopted. The Corporate Services Scrutiny Panel has the right to scrutinise this matter. Vice-Chairman, no? Connétable, how do you wish to proceed? Will you then move Articles ...?

**The Connétable of St. Lawrence:**

All Articles 1 to 5, Sir, thank you. I think they are pretty self-explanatory based on the debate we have had so far, Sir.

**The Bailiff:**

Very well. Those Articles are proposed *en bloc* 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? They are adopted. You move the Bill in third reading, Connétable?

**The Connétable of St. Lawrence:**

Yes, please, Sir.

**The Bailiff:**

Is that 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.

**6. Draft Criminal Procedure (Connétables and Centeniers) (Amendment) (Jersey) Law 200- (P.118/2008)**

**The Bailiff:**

We come now to projet 118, the Draft Criminal Procedure (Connétables and Centeniers) (Amendment) (Jersey) Law in the name of the Comité des Connétables, and I ask the Greffier to read the citation to the draft.

**The Greffier of the States:**

Draft Criminal Procedure (Connétables and Centeniers) (Amendment) (Jersey) Law 200-, a law to amend the Criminal Procedure (Connétables and Centeniers) (Jersey) Law 1996 and for connected

purposes the States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

### **6.1 The Connétable of St. Lawrence (Vice Chairman, Comité des Connétables):**

As I stated at the beginning of my speech on P.117, to serve in the Honorary Police is to serve one's Parish. I again stress that there is no radical change to that position being proposed by this further draft law. This amendment is again intended to achieve basic changes but this time to the 1996 law. Again there are a number of resultant changes. At present, a Centenier of another Parish can be authorised by the Connétable of a Parish in which an offence has been committed to grant bail or to charge a person and/or present an accused before the magistrate. However, only the Connétable of the Parish in which the alleged offence was committed may do so. Nobody other than that Connétable may do so. It sometimes happens that a person has committed several offences across several Parishes on one day or night, such as driving at excessive speed or driving a defective vehicle, et cetera. At present that person is technically required to attend a Parish Hall inquiry in every Parish in which the alleged offence has been committed. The amendment will allow a Centenier of a Parish in which an alleged offence has taken place to authorise a Centenier of another Parish to conduct both the Parish Hall inquiry and, if appropriate, the resultant presentation of the accused before the magistrate. This will allow both an inquiry and, if appropriate, presentation of the accused to be carried out by one Centenier instead of several Centeniers representing each Parish in which an offence is alleged to have been committed. These practical changes will give more clarity and flexibility to the Centeniers' role in both a Parish Hall inquiry and the Magistrates Court and, as Deputy Huet mentioned, will regularise assistance given by one Centenier to another. Sir, I propose the principles of the law.

#### **The Bailiff:**

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

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

Again, I will ask the same question that I asked last time. What Articles, if any, are affected by this piece of legislation, and also just remind the Connétables will they make it clear to all the honorary officers that the present law, the law we just passed, they will become party to a discipline offence if they fail to comply? I think it is very important because it was a question raised to me by one of the St. Martin officers and it is the point I am bringing up today.

#### **The Bailiff:**

Deputy, I am sorry, maybe the Vice-Chairman understood your first question; I did not. Which Articles of what are in question?

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

We have here a statement of compatibility that says that as far as the Chairman of the Connétables is concerned that it is compatible with human rights. All I was asking is what Articles, if any, were compatible and why does the Connétable believe this is compatible? It is just an explanation, really, Sir.

#### **Deputy R.G. Le Hérisier:**

Just on a point of clarification, what question was raised by the Deputy from an officer? Sorry, I am unclear.

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

I am sorry, Sir, it was just the question if they did not go to serve another Parish would it become a discipline offence, and it is the question I have asked today, so I have sought the clarification. That is all I was asking.

### **6.1.2 The Connétable of St. Ouen:**

The whole raison d'être for these amendments are to try and simplify the job. As I am sure Members are well aware, those people who volunteer for honorary service today are on the whole very busy people and obviously anything that we can do to make their workload easier must be done by this House. Going on to the human rights question, the question that was asked was not specifically directed at any particular Article of the law. The question that was asked was merely is the proposition human rights compliant? I will let my Vice-President answer the other one.

### **The Bailiff:**

I call upon the Vice-Chairman to reply to what is left.

### **6.1.3 The Connétable of St. Lawrence:**

I would like to thank those who have spoken, mainly the Deputy of St. Martin. I will ask the Attorney General to respond on those particular points about the Articles of the Human Rights Law and the other question on discipline, if he would care to do so.

### **The Attorney General:**

The Deputy asked 2 questions. The first was a disciplinary matter. The draft law contains some provisions which could give rise to a disciplinary offence and others which I think could not. I say that because Article 2 as amended is enabling the activities to take place in another Parish, which could be policing activities and, therefore, could give rise to a disciplinary offence in the way in which I have explained in relation to the previous piece of legislation. On the other hand, Article 5 deals with the conduct of a Parish Hall inquiry. The conduct of Parish Hall inquiries is a prosecution matter. This is something which has been the subject of correspondence between the Deputy and myself in another matter, and the approach which I have taken is that the Parish Hall inquiry, because it is a prosecution matter the discipline law does not apply to it and it is a matter for such internal disciplinary arrangements as might be necessary in relation to prosecutions. I therefore think that it is not the case that the formal disciplinary provisions of the 1999 law would apply to the conduct of Parish Hall inquiries. For similar reasons, because it is a prosecution matter, Article 6 of the Human Rights Convention which deals with fair trials is generally engaged but not in any way that this law is in breach of that convention right.

### **The Bailiff:**

I put the principles of the Bill. Those Members in favour of adopting them kindly show? Those against? They are adopted. Vice-Chairman of the Scrutiny Panel.

### **The Deputy of St. Peter (Vice-Chairman, Corporate Services Panel):**

Just a point of clarification, although I answered no on the last one I am not certain whether this comes under the corporate panel or one of my colleagues' panels. Home Affairs?

### **The Bailiff:**

I suppose it could in theory be applicable to either panel, Deputy, but your panel is not interested?

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

My panel is not, Sir.

### **The Bailiff:**

Perhaps for the avoidance of doubt I should ask the Education and Home Affairs Scrutiny Panel whether they wish to scrutinise?

### **Deputy D.W. Mezbourian (Chairman, Education and Home Affairs Scrutiny Panel):**

Thank you, Sir. We feel the same way. [Laughter]

**The Bailiff:**

Very well. Vice-Chairman, do you propose the Articles of the Bill *en bloc*?

**The Connétable of St. Lawrence:**

I do, Sir.

**The Bailiff:**

They are 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 Articles are adopted. Do you move the Bill in third reading, Connétable?

**The Connétable of St. Lawrence:**

Yes, please, Sir.

**The Bailiff:**

Is it 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.

**7. Draft Proceeds of Crime (Amendment of Schedule 2) (Jersey) Regulations 200-(P.119/2008)**

**The Bailiff:**

We come next to the Draft Proceeds of Crime (Amendment of Schedule 2) (Jersey) Regulations in the name of the Minister for Treasury and Resources. I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Draft Proceeds of Crime (Amendment of Schedule 2) (Jersey) Regulations 200-. The States, in pursuance of Article 36(2) of the Proceeds of Crime (Jersey) Law 1999, have made the following regulations.

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

These Regulations are also subject to an amendment lodged by myself. I propose to speak to the principles of the law as amended by my amendment, and I trust that is in order.

**The Bailiff:**

Does any Member have any objection to the Minister proceeding in that way? Very well, please proceed, Minister.

**Senator T.A. Sueur:**

This is the first of a number of propositions we will be debating today relating to the financial services industry, propositions which are aimed at strengthening the Island's position in the light of the forthcoming inspection by the I.M.F. (International Monetary Fund). The background to all of this, of course, I think is well known now, the need to be ever vigilant against the threats of terrorism and money laundering. The financial services industry is constantly evolving with some new products coming on stream and others going out of favour. One thing which does not change is the need to maintain the highest standards of regulation and supervision. It is perhaps slightly anomalous that in this legislation I am responsible for some aspects of it and the Economic Development Minister is responsible for other aspects. Projet 121, which we will come to shortly in the name of the Economic Development Minister, covers much the same ground from the supervisory aspect, but I shall confine my comments principally to projet 119. The proposition before us seeks to do 3 things: firstly, to give greater clarity in the definition of recognised funds, supervised funds, unclassified funds and unregulated funds. It also reflects changes in other

legislation for fund products which are now covered by the collective Investment Funds Law. Secondly, it will exclude certain activities which are now considered to present a lower risk of money laundering. Thirdly, it will apply standards appropriate for lawyers and estate agents in respect of transactions which are now covered where they exceed a certain funding level. Finally, it will also correct some anomalies and provide a simplified arrangement in respect of entities which are managed by a body where that body itself is subject to regulation by the Financial Services Commission, thus reducing the amount of bureaucracy needed. These regulations have been discussed with members of the finance industry itself and they now come to this House with their support. I ask Members to add their support, Sir, and I propose the principles of these regulations.

**The Bailiff:**

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

**7.1.1 Deputy R.G. Le Hérisier:**

Can the Minister give a categorical assurance that these regulations do not cover non-profit organisations? Second, Sir, can he define how they do cover estate agents? There is reference to share transfer property but, in fact, is the reference to all their purchase and selling activities?

**The Bailiff:**

I call upon the Minister to reply.

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

As to the first one about the not for profit organisations, it would be I think unwise of me to give a categorical assurance. Certainly in the normal course of events the answer would be no, but a not for profit organisation can cover so many different forms that I would not like to say that it could never occur. That is just the reason. I would not say never, but hardly ever. As far as estate agents and lawyers are concerned, there may be reference here to share transfer activities but, of course, it really relates to any activities where the sum of money is subject to come within the money laundering regulations. So I think we should not say it is just for share transfer; any property transaction whether by share transfer or anything else will also be covered. I maintain the principles.

**Deputy R.G. Le Hérisier:**

Just a point of clarification, was it intended to cover not for profit organisations?

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

Should a not for profit organisation run a recognised fund or an unregulated fund for some reason, then it would be covered. I cannot imagine at the moment many not for profit organisations wanting to run those funds, but should they do so they would fall under the ambit. Hence my inability to give a total confirmation.

**The Bailiff:**

I put the principles of the regulations. Those Members in favour of adopting them kindly show? Those against? They are adopted. Deputy of St. Peter, do you wish to scrutinise?

**The Deputy of St. Peter (Vice-Chairman, Corporate Affairs Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Do you wish to move the Regulations *en bloc*, Minister?

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

I move the Regulations as amended by my amendment. They are written in, I am afraid, not the easiest of language for the layman to understand, and I think rather than try to explain them, Sir, I would invite Members to ask any questions and I will endeavour to respond to them.

**The Bailiff:**

They are proposed and seconded? **[Seconded]** Does any Member wish to speak on any of the regulations as amended? I accordingly put the regulations as amended. Those Members in favour of adopting them kindly show? Those against? They are adopted in second reading. Do you move the regulations in third reading, Minister?

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

Yes, Sir.

**The Bailiff:**

Are they seconded? **[Seconded]** 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.

**LUNCHEON ADJOURNMENT PROPOSED**

**The Bailiff:**

If Members agree, we will adjourn until 2.15 p.m.

**LUNCHEON ADJOURNMENT**

**PUBLIC BUSINESS - resumption**

**8. Draft Financial Services Commission (Amendment No. 5) (Jersey) Law 200-(P.120/2008)**

**The Bailiff:**

Now we proceed with projet 120 and I ask the Greffier to read the citation to the draft.

**The Greffier of the States:**

Draft Financial Services Commission (Amendment No. 5) (Jersey) Law, a law to amend further the Financial Services Commission (Jersey) Law 1998. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

**8.1 The Connétable of St. Lawrence (Assistant Minister for Economic Development - rapporteur):**

Members will recall that on 7th October 2007 the States passed the Collective Investment Funds (Amendment No. 4) (Jersey) Law 2008 which was sanctioned by order of Her Majesty in Council on 12th March 2008. One of the main changes introduced by this amendment to the Collective Investment Funds Law was to move from a system of permits granted to fund functionaries to a system of certificates granted in relation to funds in addition to the requirement the fund functionaries be licensed under the Financial Services Law, although the system of permits remains in relation to recognised funds. This projet amends Article 8(4)(a) of the Financial Services Commission Law so that it applies both to permit holders and to certificate holders. The effect of this is to restore the scope of Article 8(2) to what it was before the 4th amendment. It expands the definition of “supervised entity” to include a certificate holder. This allows the Commission to exercise certain routine powers necessary to ensure effective supervision of the fund sector, being the power to require information, to require the supervised entity to answer questions, and to enter the premises of the supervised entity. 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 of the Bill? I put the principles. Those Members in favour of adopting them kindly show? Those against? The principles are adopted. Deputy Southern is not present. Vice-Chairman Deputy Breckon, do you wish to scrutinise?

**Deputy A. Breckon (Vice Chairman, Economic Affairs Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Do you propose Articles 1 and 2, rapporteur?

**The Connétable of St. Lawrence:**

I do, Sir.

**The Bailiff:**

They are proposed and seconded? **[Seconded]** Does any Member wish to speak on either Article 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. Do you move the Bill in third reading, Connétable?

**The Connétable of St. Lawrence:**

I do, Sir, thank you.

**The Bailiff:**

Is that 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. I notice in the public gallery, and it would be remiss if I were not to draw attention to his presence, the former Chief Minister for Guernsey, and I am sure that Members would wish to welcome him to the Chamber. **[Approbation]**

**9. Draft Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (Jersey) Regulations 200- (P.121/2008)**

**The Bailiff:**

Now we come to projet 121, the Draft Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (Jersey) Regulations, and I ask the Greffier to read the citation to the draft.

**The Greffier of the States:**

Draft Proceeds of Crime (Supervisory Bodies) (Amendment of Law) (Jersey) Regulations. The States in pursuance of Articles 1(2) and 11(4) of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 have made the following regulations.

**9.1 The Connétable of St. Lawrence (Assistant Minister for Economic Development - rapporteur):**

The Draft Proceeds of Crime (Supervisory Bodies) Law, Members will recall that on 2nd April 2008 the States passed the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008, which for the sake of brevity I shall refer to as the Supervisory Bodies Law. This law was sanctioned by order of Her Majesty in Council on 9th July 2008. It is not yet in force but Members will be aware that an Appointed Day Act bringing the law into force in a week's time appears in this meeting's Order Paper. The Supervisory Bodies Law makes provision for bodies to be appointed supervising persons within the scope of Schedule 2 of the Proceeds of Crime Law. These regulations are, therefore, closely linked with those which the States have just passed amending Schedule 2 of the Proceeds of Crime Law. This was the law brought by the Minister for Treasury and Resources just

before lunch. For the sake of brevity I shall refer to persons within the scope of the Schedule as Schedule 2 persons. In essence, Schedule 2 persons are those who are subject to the anti-money laundering and counteracting the financing of terrorism regime and, in particular, to the Money Laundering Order. Certain of these persons have always been supervised by the Jersey Financial Services Commission for anti-money laundering and counteracting the financing of terrorism. These are persons conducting banking business, funds business, financial services business and insurance business. All these persons are subject to the Commission's prudential supervision under the 4 regulatory laws: the Financial Services Law, the Collective Investments Funds Law, the Insurance Business Law and the Banking Business Law. This prudential supervision has always included supervision in relation to anti-money laundering and counteracting the financing of terrorism and this already covers the highest risk areas. However, international standards as well as our own desire to take all proper precautions against international crime require us now to go beyond this. As Members will recall, Schedule 2 also includes various other persons who have not hitherto been supervised in relation to their anti-money laundering and counteracting the financing of terrorism compliance, such as estate agents, high value goods dealers, lawyers and accountants. Although these persons are subject to the Money Laundering Order by virtue of their inclusion in Schedule 2, they are not at present supervised to ensure that they comply with the Order. The Supervisory Bodies Law empowers the Minister for Economic Development to appoint by Order one or more supervisory bodies to oversee compliance with anti-money laundering and counteracting the financing of terrorism legislation by those sectors which are not currently within the remit of the Commission. The Minister for Economic Development indicated at the time the Supervisory Bodies Law was being debated that it was his intention to appoint the Commission as the supervisory body in respect of all sectors with a sunset clause in relation to lawyers and accountants to provide for the possibility that these professions might be supervised by a suitable professional body. The Minister has now made this Order. In general, Schedule 2 persons are required under the Supervisory Bodies Law to register with the Commission as the appointed supervisory body. However, they are not required to register if they are regulated persons within the meaning of the law because these persons are already regulated by the Commission and will, therefore, have been subject to a vetting procedure which is carried out to a higher standard than applies under the Supervisory Bodies Law and the Commission will be aware that they are carrying out their regulated business. If a regulated person wishes to carry out Schedule 2 business beyond their regulated business, they must notify the Commission accordingly but need not register. Following further discussion between the Commission and industry in relation to the operation of the Supervisory Bodies Law, these Regulations have been brought forward to amend the circumstances in which persons are required to register or give notice so as to avoid a requirement to register applying to persons of those activities the Commission will already be aware. However, I should stress that persons who are not required to register will still be within the scope of the Supervisory Bodies Law generally and will still be subject to the Money Laundering Order. The Supervisory Bodies Law as it presently stands defines "regulated business" to mean: "Any Schedule 2 business for which a person is required to register under one of the 4 regulatory laws." As Members will recall, the Collective Investment Funds (Amendment No. 4) Law 2008 moved the supervision of funds from a system of permits issued to fund functionaries to a system of certificates issued to funds. A consequential amendment is needed to the definition of regulated business in the Supervisory Bodies Law. The definition of "regulated person" has also been expanded to include certain additional persons who are within the scope of the Commission's oversight without being required to register under any of the 4 regulatory laws. The Schedule of the Supervisory Bodies Law is also to be amended to match the amendments already made to Schedule 2 of the Proceeds of Crime Law by the regulations which the States have just passed. These amendments, while somewhat technical, are considered by the Commission to be essential to the effective operation of the Supervisory Bodies Law. The law will not work as intended until these regulations are passed. If these regulations are not passed today, the Appointed Day Act bringing the law into force will have to be withdrawn so as to allow time for these issues to be

resolved. The Supervisory Bodies Law is one of the key pieces of legislation relating to the I.M.F. visit next month. Unless it is in force by the time of their visit, the Island will inevitably be marked down in the assessment. I therefore recommend that the States pass the regulations as amended. Sir, 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 of the regulations? I put the principles. Those Members in favour of adopting them kindly show? Those against? They are adopted. Deputy Breckon, Vice-Chairman of the Economic Affairs Scrutiny Panel, do you wish to scrutinise?

**Deputy A. Breckon (Vice Chairman, Economic Affairs Scrutiny Panel):**

No, Sir.

**The Bailiff:**

Now, rapporteur, you would like to propose the regulations as amended by the Minister for Economic Development?

**The Connétable of St. Lawrence:**

Yes, I would, Sir.

**The Bailiff:**

Will you propose them *en bloc*?

**9.2 The Connétable of St. Lawrence:**

I propose them *en bloc*. If anybody has any particular questions obviously we can deal with those.

**The Bailiff:**

The Regulations are seconded? **[Seconded]**

**9.2.1 Deputy R.G. Le Hérisier:**

In consultations with the industry, how much complaining has there been about any additional red tape imposed by this and associated laws?

**The Bailiff:**

I call upon the rapporteur to reply.

**9.2.2 The Connétable of St. Lawrence:**

I believe the industry fully understands the need for this regulation and this new law and has generally been consulted on it, fully consulted on it, in fact, and there is no particular problem with it.

**The Bailiff:**

Very well. I put the Regulations as amended by the Minister. Those Members in favour of adopting them kindly show? Those against? They are adopted in second reading. Do you move the regulations in third reading, rapporteur?

**The Connétable of St. Lawrence:**

Yes, Sir.

**The Bailiff:**

Are they seconded? **[Seconded]** 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.

## **10. Draft Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (Appointed Day) Act 200- (P.134/2008)**

### **The Bailiff:**

If Members agree, we will then proceed to projet 134, the Draft Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (Appointed Day) Act. I ask the Greffier to read the citation.

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

Draft Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 (Appointed Day) Act. The States in pursuance of Article 46 of the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 have made the following Act.

### **10.1 The Connétable of St. Lawrence (Assistant Minister for Economic Development - rapporteur):**

It depends on whether the Minister wishes me to deal with this one. I will certainly be happy to do so if he wishes. This is a very straightforward Appointed Day Act in relation to the Proceeds of Crime (Supervisory Bodies) (Jersey) Law 2008 which I referred to in my last speech. As we have now approved P.121, we are now ready to adopt this law and go forward with the Appointed Day, Sir. So I have pleasure in proposing the adoption of the law and the principles thereof.

### **The Bailiff:**

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

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

In a more general sense I wonder if the rapporteur could tell us how much more business is going to come through in terms of the I.M.F. visit. It has been wonderful to see the speed with which the Assembly has dealt with it in contrast to the speed with which it deals with other areas, in great contrast. I wonder if the rapporteur could tell us how much more is coming through.

### **The Bailiff:**

That has absolutely nothing to do with the proposition under debate.

#### **10.1.2 The Connétable of St. Lawrence:**

Would you like me to respond, Sir? I think if you have a great big pin you could stick it in something and be just as wise as anybody else, but the important thing about it is that it is all part of the I.M.F. visit and the need to have the regulations in place for that visit. If we do not have them in place, then there is a danger that we will be marked down by the I.M.F. and accordingly good quality business that would otherwise come to the Island may not do so. But it is anybody's guess as to the exact quantity or quantum of any new business that might be generated. I suggest it is the general belief of those connected with the finance industry that if we do not have this in place it will be to our detriment rather than to our good.

### **The Bailiff:**

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

## **11. Draft Terrorism (Amendment No. 3) (Jersey) Law 200- (P.124/2008)**

### **The Bailiff:**

We come next to projet 124, the Draft Terrorism (Amendment No. 3) (Jersey) Law in the name of the Minister for Home Affairs, and I ask the Greffier to read the citation to the draft.

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

Draft Terrorism (Amendment No. 3) (Jersey) Law, a law to amend further the Terrorism (Jersey) Law 2002. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

Just in case Members have been asleep in recent months and weeks, I am sure Members will be aware that the Island's framework to counter money laundering and terrorist financing will, in fact, be reviewed next month, so we have not got all that long, I think, to get too many pieces of legislation in before the review by the I.M.F. Of course, a number of pieces of legislation have already been passed by the States and are already in force. The first wave of amendments to the Terrorism Law introduced standard obligations to report knowledge or suspicion of money laundering and terrorist financing. The further amendment today forms the second part of the changes to the Terrorism (Jersey) Law 2002 and though minor in nature are important in achieving consistency. The changes, briefly outlined are firstly that there is a slight amendment to the definition of a police officer, which is in response to a request from the I.M.F. in 2003 to require disclosures to be made to the Joint Financial Crimes Unit. The amendments in Articles 2 to 5 would mean that in the case of a disclosure by a financial institution the disclosure would have to be made to a designated officer who will be an officer in the Financial Crimes Unit. As the J.F.C.U. (Joint Financial Crimes Unit) membership cannot be stipulated by law because the J.F.C.U. has no separate statutory identity, the strategy we have established in the Money Laundering (Jersey) Order of using designated police and customs officers has also been used here in the amendment to specific J.F.C.U. staff. In the case of a disclosure by anyone else, the current position under the law would remain and a disclosure could continue to be made to any States of Jersey Police or Customs officer because the individual concerned may not be aware of the existence of the Financial Crimes Unit. The second change defines business relationship and achieves consistency across relevant legislation by amending Schedule 6 of the Terrorism Law to match the definition used in the Money Laundering (Jersey) Order 2008. A further change to the wording occurs in Article 7 which amends Schedule 7. The Schedule currently refers to accounts held at a financial institution and this will be changed to accounts held with a financial institution. Because the definition of a financial institution under the law relates to a person, it is considered that the references should be to accounts held with that person rather than at that person. I propose the principles of the Bill.

**The Bailiff:**

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

**11.1.1 Deputy D.W. Mezbourian:**

I wonder if the Minister would clarify the definition of a police officer. My understanding was that under the 1974 States of Jersey Police Force Law, the definition of a police officer, there is no distinction made between a States of Jersey Police officer and an Honorary Police officer, but I believe the Minister has just referred to specifically the States of Jersey Police. So clarification on that, please, Sir.

**11.1.2 Deputy R.G. Le Hérisier:**

I am very confused about point 3. Is the Minister saying that a financial institution is embodied in a person?

**The Bailiff:**

I call upon the Minister to reply.

**11.1.3 Senator W. Kinnard:**

In response to Deputy Mezbourian, she is correct in saying that under most laws that we deal with in this House the definition of a police officer does, in fact, include an Honorary Police officer. But in relation to the Terrorism Law 2002, it was already defined that in respect of that legislation it would refer to States of Jersey Police officers and not to the Honorary Police officers. Because also in this particular amendment we are dealing with the staff of the Jersey Financial Crimes Unit, that is the reason why we are referring to designated States of Jersey Police officers and designated Customs Officers. In relation to the question of Deputy Le Hérissier, it is just a matter of finessing the wording, really, Sir, so that the wording accords with the way in which it is conceived, that accounts are held with rather than held at, but if there is a more precise legal definition perhaps the Attorney General could assist on that point. But as far as I am aware, Sir, it is a matter of really finessing the wording so that it is in general appropriate accord.

**Deputy R.G. Le Hérissier:**

I may be confused further. So, we are not saying a financial institution is a person, it is a simply a person at a financial institution, is that correct?

**The Bailiff:**

Attorney General, can you assist on this?

**Senator W. Kinnard:**

I think it is to do with the fact that a person is designated as the person who is the corporate person responsible for the organisation.

**The Attorney General:**

The amendment is to paragraph 1(4) of Schedule 7 to the Terrorism Law and the full text of that is as follows: “The application for an account monitoring order may specify information relating to all accounts held by the person specified in the application for the order at the financial institution so specified”, so that would require the application to specify the person at the financial institution who is to receive the order.

**The Bailiff:**

I put the principles of the Bill. Those Members in favour of adopting them kindly show? Those against? The principles are adopted. Education and Home Affairs Scrutiny Panel, do you wish to scrutinise, Deputy?

**Deputy D.W. Mezbourian (Chairman, Education and Home Affairs Scrutiny Panel):**

No, thank you, Sir.

**The Bailiff:**

Do you wish to move Articles 1 to 8 together, Minister?

**Senator W. Kinnard:**

Yes, if I may move them *en bloc*, Sir.

**The Bailiff:**

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? They are adopted. Do you move the Bill in third reading, Minister?

**Senator W. Kinnard:**

I do so, Sir.

**The Bailiff:**

Is that 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.

## **12. Draft Drug Trafficking Offences (Amendment No. 2) (Jersey) Law 200- (P.125/2008)**

### **The Bailiff:**

We come next to projet 125, the Draft Drug Trafficking Offences (Amendment No. 2) (Jersey) Law in the name of the Minister for Treasury and Resources, and I ask the Greffier to read the citation of the draft.

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

Draft Drug Trafficking Offences (Amendment No. 2) (Jersey) Law, a law to amend further the Drug Trafficking Offences (Jersey) Law 1988. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

This projet and the next one, projet 126, are, in fact, a matching pair of propositions and, indeed, follow on the principles that we have just discussed in the last proposition. This proposition 125 amends the Drug Trafficking Offences Law, the second makes similar amendments to the Proceeds of Crimes Law, but I hope that my comments in this proposition can also be taken in respect of the next one so I do not have to repeat myself. The amendment relates to the need to disclose information in the event that anyone has suspicions about a transaction and how that disclosure should be made. It falls into 4 main areas. Firstly, you have to have someone to disclose to and that requires a definition of a designated officer. Broadly speaking, a designated officer in this law is a member of the States Police, a Customs Officer or an Honorary Police Officer. However, where disclosure has been made by a financial institution, which is the normal case I think in virtually every situation, the disclosure needs to be made to an officer who is a member of the Financial Crimes Unit. Where the disclosure is made by a layperson, not a member of a financial institution, they can disclose to any police or Customs Officer including an Honorary Police Officer who then has the obligation to convey that information to the Financial Crimes Unit. The second area is the need to make consequential amendments to codes of conduct for the supervisory bodies to determine whether in failing to disclose an offence may have been committed. Thirdly is the need to confirm that in considering by a person whether to make a disclosure that person concerned does not thereby commit the offence of tipping off, which could be counter productive to the willingness to disclose. Fourthly, the need to amend the definition of “business relationship” to mirror that contained in the Money Laundering Order 2008. This law also corrects a minor anomaly in the definition of a financial services business. These amendments, this one and the next one, are needed to ensure that we continue to meet international standards on anti-money laundering. I commend them to the Members and I propose the principles of this legislation.

### **The Bailiff:**

The principles are proposed and seconded? **[Seconded]** Does any Member wish to speak on the principles of the Bill? I put the principles. Those Members in favour of adopting them kindly show? Those against? They are adopted. Deputy of St. Peter, Vice-Chairman, Corporate Services Scrutiny Panel?

### **The Deputy of St. Peter (Vice-Chairman, Corporate Services Scrutiny Panel):**

No, Sir.

### **The Bailiff:**

Do you wish to propose the Articles of the Bill *en bloc*, Minister?

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

Yes, please, Sir, I do so.

**The Bailiff:**

They are proposed and seconded? **[Seconded]** Does any Member wish to speak on any of the Articles to the Bill? Deputy Le Hérisier.

**12.2.1 Deputy R.G. Le Hérisier:**

I wonder if the Minister could explain why this distinction was drawn between the role of Financial Crimes Unit Officers and the Honorary Officers. Secondly, Sir, could he tell us, although it is tangential, whether there is anything anywhere that compels a person to report suspicious activity if they believe such activity is taking place, and what are the penalties if for any reason a person does not do that?

**12.2.2 Deputy J.A. Hilton:**

Really just to agree with the previous speaker, on reading the report attached to this proposition I just have concerns as to why Honorary Police officers are going to be removed from this list. So it was really to agree with the previous speaker that I would like that question answered as well because I do see it a little bit as a watering down of Honorary Police powers.

**The Bailiff:**

I call upon the Minister to reply.

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

Dealing with the second point first from Deputy Hilton, in fact unlike the previous proposition in this law Honorary Police officers do fall within the definition of a designated person, so I think that is perhaps reassurance that under a different law Honorary Police still have a part to play. Of course, the main part to play will normally be that of the Financial Crimes Unit and that is why in the event of disclosure to someone other than a member of the Financial Crimes Unit the person to whom the alleged offence is disclosed does have a duty to report that to the Financial Crimes Unit, who obviously have the expertise in dealing with this particular matter. Deputy Le Hérisier asks is there any compulsion to disclose. That is a question which I think is probably best addressed to the Attorney General as to the requirement and the penalty. To the best of my knowledge there is an obligation on anyone who is aware of suspicious transactions to make that disclosure. I cannot offhand confirm what the penalties are. That would be a matter for the courts to decide in the circumstances of the event. I hope that satisfies the Deputy and on that basis I maintain the Articles.

**The Bailiff:**

Attorney General, can you assist on the penalties point?

**The Attorney General:**

Given a moment I could, Sir. I do not carry that in my head. Perhaps in the light of the questions which Members have put, can I say in relation to disclosures to the Joint Financial Crimes Unit and others that there is likely to be an issue for discussion with the I.M.F. visitors when they come as to whether or not there should be a separate unit established as a financial investigation unit which is outside the remit of the police force completely. The solution which is being adopted by this and other changes to the legislation is to recognise that there are many synergies in keeping the unit within the police force but at the same time to recognise that it simply will not do for a suspicious activity report to be delivered to an Honorary Police officer at his home in the country or to a policeman who is walking on the beat in Queen Street and that it is a much more focused, targeted suspicious activity report process that is required. That is really the fundamental reason for these changes.

**Deputy S.C. Ferguson:**

Can we have the appel, Sir, please?

**The Bailiff:**

Yes. I ask any Members in the precinct who wish to vote on the Articles of the Draft Drug Trafficking Offences (Amendment No. 2) (Jersey) Law to return to their seats. I 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 the Articles have been carried 33 votes in favour, no votes against.

<b>POUR: 33</b>	<b>CONTRE: 0</b>	<b>ABSTAIN: 0</b>
Senator W. Kinnard		
Senator T.A. Le Sueur		
Senator P.F.C. Ozouf		
Senator T.J. Le Main		
Connétable of St. Clement		
Connétable of Trinity		
Connétable of St. Lawrence		
Connétable of St. Brelade		
Connétable of St. Martin		
Connétable of St. Saviour		
Deputy R.C. Duhamel (S)		
Deputy A. Breckon (S)		
Deputy J.J. Huet (H)		
Deputy of St. Martin		
Deputy G.C.L. Baudains (C)		
Deputy P.N. Troy (B)		
Deputy C.J. Scott Warren (S)		
Deputy R.G. Le Hérisier (S)		
Deputy J.A. Martin (H)		
Deputy S.C. Ferguson (B)		
Deputy of St. Ouen		
Deputy of Grouville		
Deputy of St. Peter		
Deputy J.A. Hilton (H)		
Deputy P.V.F. Le Claire (H)		
Deputy J.A.N. Le Fondré (L)		
Deputy D.W. Mezbourian (L)		
Deputy S.S.P.A. Power (B)		
Deputy S. Pitman (H)		
Deputy K.C. Lewis (S)		
Deputy of St. John		
Deputy I.J. Gorst (C)		
Deputy of St. Mary		

**The Bailiff:**

Do you move the Bill in third reading, Minister?

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

Yes, please, Sir.

**The Bailiff:**

Is that seconded, Assistant Minister? **[Seconded]** Does any Member wish to speak on the Bill in third reading? I put the Bill accordingly. Those Members in favour of adopting it kindly show? Those against? The Bill is adopted in third reading.

### **13. Draft Proceeds of Crime (Amendment No. 2) (Jersey) Law 200- (P.126/2008)**

#### **The Bailiff:**

We come to the twin of that projet, projet 126, and I ask the Greffier to read the citation of the draft.

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

Draft Proceeds of Crime (Amendment No. 2) (Jersey) Law 200-, a law to amend further the Proceeds of Crime (Jersey) Law 1999. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

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

I do not believe Members will thank me for repeating myself so I will merely say that this law does mirror the principles of the previous law but in relation to the proceeds of crime. 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? I put the principles. Those Members in favour of adopting them kindly show? Those against? The principles are adopted. Scrutiny?

#### **The Deputy of St. Peter (Vice-Chairman, Corporate Services Scrutiny Panel):**

I apologise for not rising from my seat last time, Sir, but the answer is still no.

#### **The Bailiff:**

Very well. Minister, you propose the Articles *en bloc*?

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

I propose the Articles *en bloc*, yes, please, Sir.

#### **The Bailiff:**

Articles 1 to 8 of the Bill are proposed and seconded? **[Seconded]** Does any Member wish to speak on any of the Articles? Deputy Le Hérissier.

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

Just to clear up our confusion, I am quite surprised to see what we would term a colloquial term, “tipping off”, in the law. What is the actual definition of “tipping off”? Thank you.

#### **The Bailiff:**

It is an offence under the Criminal Law to tip off. The Attorney General I am sure will help us very shortly. **[Laughter]**

#### **The Attorney General:**

Under Article 35 of the Proceeds of Crime Law the offence of “tipping off” is defined where a person knows or suspects that the Attorney General or any police officer is acting or proposing to act in connection with an investigation that is being or is about to be conducted into money laundering, other than drug money laundering as defined in the Drug Trafficking Offences Law, and the person discloses to any other person information or any other matter that is likely to prejudice that investigation or proposed investigation. So that is the conduct which amounts to tipping off. The Deputy probably has not committed that offence in asking me that question. **[Laughter]**

**The Bailiff:**

I call upon the Minister to reply.

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

I do not think there is any further comment required, Sir, and I maintain the Articles.

**The Bailiff:**

Very well. I put the Articles. Those Members in favour of adopting them kindly show? Those against? The Bill is adopted in second reading. Do you move the Bill in third reading, Minister?

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

Yes.

**The Bailiff:**

Is that 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.

**14. Draft Financial Regulation (Miscellaneous Provisions) (Jersey) Law 200- (P.123/2008)**

**The Bailiff:**

We come next to projet 123, the Draft Financial Regulation (Miscellaneous Provisions) (Jersey) Law, and I ask the Greffier to read the citation of the draft.

**The Greffier of the States:**

Draft Financial Regulation (Miscellaneous Provisions) (Jersey) Law 200-, a law to amend further the Collective Investment Funds (Jersey) Law 1998, the Banking Business (Jersey) Law 1991, the Insurance Business (Jersey) Law 1996 and the Financial Services (Jersey) Law 1998. The States, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following law.

**14.1 The Connétable of St. Lawrence (Assistant Minister for Economic Development - rapporteur):**

Members will recall that in November this Assembly passed a number of laws intending to bring Jersey into line with international standards in the regulation of financial services business prior to the visit of the International Monetary Fund, or I.M.F., to the Island next month. Reasons of time meant that not all relevant changes could be included in that phase of the legislation. This projet represents the second phase of the same legislative programme. If this law is passed by the States today it will leave Jersey able to look forward to the I.M.F.'s assessment in the confidence that we substantially comply with the relevant international standards. Before describing in more detail what the law will achieve, I thought it would be useful to remind Members that the I.M.F. is an international organisation established to promote international monetary co-operation, exchange stability and orderly exchange arrangements, to foster economic growth and high levels of employment and to provide temporary financial assistance to countries to help ease balance of payments adjustment. The offshore visiting programme was initiated in June 2000 in order to consider the potential vulnerabilities stemming from weaknesses in the financial systems of 44 identified offshore centres and assess the risks that offshore centres could pose to the international financial system. The I.M.F. assessment will examine the strength of Jersey's financial services supervision regime and overall capability including combating financial crime. The assessors will consider how the jurisdiction compares with international standards in the areas of regulatory legislation, anti-money laundering/countering the financing of terrorism, effective supervision and resourcing capabilities of all relevant agencies. This will be the second assessment of Jersey following one in 2003. During the visit, which will last around 4 weeks, the assessors will not only examine the rules and regulations but also the operational effectiveness of the police, customs and other law enforcement activities in enforcing the laws. Jersey will be assessed by the same team of

assessors who will review the Isle of Man and Guernsey. The report will be published and will be the single most important objective evaluation of Jersey for many years. It is an important test of our international credibility and the opportunity to benchmark our standards and capabilities against other relevant jurisdictions. This will have serious repercussions because of the actions of jurisdictions who will examine the report in order to determine what steps to take in the future concerning Jersey. For example, the E.U. (European Union) has recently accepted that member states may consider Jersey to be equivalent for A.M.L. - that is anti-money laundering - counteracting the financing of terrorism purposes but left it to individual member states to decide. If we receive a favourable assessment, it is possible, although by no means certain, that the E.U. will shift to accepting that Jersey is equivalent. It will certainly assist the individual member states in making the right decision. Many businesses would benefit from the application of the concessionary regime for equivalent jurisdictions. However, while the I.M.F. visit has acted as a catalyst for these reforms, I would like to stress that they are also desirable in themselves. They will ensure that Jersey is a well-regulated jurisdiction with a high level of customer protection and which takes proper precautions against illicit financial activity. This will help to maintain Jersey's reputation as a leading financial centre and attract high quality business to the Island. I think that answers Deputy Le Hérissier's question last time round. Consultation: in order to assess the necessary changes, a working group was set up. This was chaired by the Chief Executive of the States and included representatives from the Law Officers' Department, the Chief Minister's Department, the Joint Financial Crimes Unit and the Jersey Financial Services Commission. A position paper was published concerning the regulatory changes in June 2007 which set out the designated changes. A series of seminars was then held for the finance industry presented by the Financial Services Commission at which the proposals were described and discussion and comment was invited. I can say that comments were generally supportive and neither the position paper nor the discussions elicited any adverse comment on the proposals. The Financial Services Commission recommends that this legislation is passed. Jersey Finance has been given the opportunity to comment on the proposals and has given no adverse comments. The Data Protection Commissioner has also been consulted in relation to the provisions dealing with the disclosure of information. The current proposals are that the first phase amendments included separate amending laws for each of the 4 regulatory laws. These 4 regulatory laws are the Financial Services Law, the Banking Business Law, the Collective Investments Funds Law and the Insurance Business Law. The current projet, by contrast, incorporates amendments to all 4 of those laws in a single amending law. This is considered simplest because many of the amendments run in parallel across the 4 regulatory laws. The amendments will update the limited range of so-called gateways. These are exceptions to the usual rules against disclosing restricted information which is information concerning the business or other affairs of any person obtained under or for the purposes of the regulatory laws. They allow this information to be disclosed to another party without the prior approval of the person to whom the information relates in certain limited circumstances. At the same time, the amendments will ensure that such exceptions are consistent across the 4 regulatory laws. The amendments will also improve consistency across the 4 regulatory laws by adding to the Banking Business and Insurance Business Laws provisions available in the other laws for the Commission to apply to the court for injunctions and other orders, provide that the Commission may appoint an inspector under the Insurance Business Law, under the other laws, instead of having to apply to the court as at present; permit an officer or agent of the Commission to enter premises at reasonable times to obtain information or documents required in connection with the Insurance Business Law, as with the other laws; require that an applicant for registration or a permit under the Banking Business/Insurance Business Law must notify the Commission if, while the application is being considered, material changes are made to the information provided with the application, as already applies to the other laws; modify the circumstances when the Commission may issue a public statement concerning unauthorised business so as to be consistent across all 4 laws, including allowing the Commission to take account of the interest of existing or potential investors in deciding whether or not to reduce the notice period before a public statement is issued.

In other words, the idea is bring the 4 laws into line: Make other minor changes of a housekeeping nature, including changes to the definitions of terms relating to money laundering so that they align with the Money Laundering (Jersey) Order 2008 which had not been made when those terms were introduced to the regulatory laws: making explicit the fact that it is an offence to allow a person to act contrary to a direction that restricts that person's ability to be employed in the finance industry. Presently, the offence arises under the more general provision of aiding and abetting; rectify inadvertent omissions from the Collective Investment Funds law, which should have been included with changes in regulation that involve the introduction of granting certificates to unclassified funds; rectify the omission for a statutory delay of 4 weeks, and longer if an appeal is lodged, in a direction taking effect which restricts a person's ability to be employed in the finance industry, or requires a business to be wound up. This is necessary to ensure compliance with the European Convention on Human Rights. I am sure the Deputy of St. Martin will be pleased to hear that: "and in the existing power for the States to make regulations for establishing compensation schemes, examples of the matters that such regulations may cover, providing that orders as well as regulations may include transitional, consequential, incidental or supplementary provisions." 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 of the Bill?

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

Yes, I think the Connétable almost invited me to, but I was anyway; there is a note here. It is a very complicated piece of law, and also what I did find was the closeness between whistle-blowing and when disclosing, and maybe the Assistant Minister could give us a little more in depth as to what is the closeness to it. If someone for instance wishes to whistle-blow about an activity within there, would that person then become contrary to the law, or are we looking at something completely different, and really what we are talking about is just purely disclosures about information pertaining to this particular law? The other question I have here; is this law compatible with other jurisdictions - in other words, who have the similar law - and of course the third one was it is supposed to be human rights compliant. Maybe the Assistant Minister could tell us why he thinks it is human rights compliant.

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

In his opening remarks, the Assistant Minister said that this law would enable Jersey to substantially comply with the regulations in order for us to be seen to be a responsible jurisdiction that would not be marked down, and approved by the E.U. in the future, in months to come when the I.M.F. visit takes place. Could he just quantify exactly - or qualify - what he meant by "substantially compliant"?

**14.1.3 Deputy I.J. Gorst:**

This is not necessarily relevant. I know I should not start like that, but I would just like to take this opportunity to thank all those people at the J.F.S.C. (Jersey Financial Services Commission), civil servants and the Attorney General's office who have worked tirelessly throughout the last year and half to prepare these particular amendments and legislation, Sir, to improve our legislation for the I.M.F. visit. I would just like to put it on record, Sir, that we as an Assembly thank them for all their hard work, and we hope that it will indeed bear fruit and a positive result.

**The Bailiff:**

I call upon the Assistant Minister to reply.

**14.1.4 The Connétable of St. Lawrence:**

As far as the questions raised by the Deputy of St. Martin are concerned, I think I will refer both of those to the Attorney General, if he would not mind; 2 of them were what is the difference between whistle-blowing and/or disclosure, and is the law compatible with jurisdictions? I believe it is so, that it is compatible with jurisdictions of the same standard that will have the same sort of marking by the I.M.F. but I cannot answer that directly. I would like the Attorney General to comment on that.

**The Attorney General:**

On the second of those questions, we have not conducted a detailed review of every other jurisdiction. What we have done is drafted this legislation, or drafted the brief construction, the law draftsman for this legislation having regard to the Financial Action Task Force recommendations, and what we think is going to be necessary as a result. Hopefully, that will achieve a substantially or largely compliant result. I use the same expression as the Connétable: “substantially or largely compliant” because the I.M.F. visit will be looking at the different Financial Action Task Force recommendations, and they have 4 classifications: compliant; largely compliant; partially compliant and not compliant. Nearly every jurisdiction fails in some respects. I do not think there are any jurisdictions which have a result which is all compliant. There are always some “largely compliant” or “partially compliant” boxes, as it were, in relation to the assessment as a whole, and then the final result will again be either “compliant”, “largely compliant”, “partially compliant” or “not compliant.” Insofar as whistle-blowing is concerned, I think it is very desirable that we have a whistle-blowing statute, and I know the Chief Minister’s department has that under consideration for the future. In the context of this particular legislation, there will not be any difficulty about a whistle-blower coming to either the Commission or the law enforcement agencies to make disclosures where it is known or suspected that an offence has taken place, and indeed, the requirements of the different financial services laws are such that persons in regulated industries must do that.

**The Bailiff:**

Well, I put the principles of the Bill. Those Members in favour of adopting them kindly show; and those against. The principles are adopted. The Chairman, Deputy Southern, is not present. Deputy Breckon, do you wish to scrutinise? Rapporteur, do you wish to deal with the articles of the Bill *en bloc* or by parts?

**14.2 The Connétable of St. Lawrence:**

Well, they are somewhat complicated, Sir, and I suggest that if anybody has any particular questions on individual articles, we address those, otherwise we go for it *en bloc*.

**The Bailiff:**

Very well. Well, you propose the articles of the Bill *en bloc*. They are seconded, Minister. **[Seconded]** Does any Member wish to speak on any of the articles of the Bill? Deputy Le Hérisier.

**14.2.1 Deputy R.G. Le Hérisier:**

I wonder if the rapporteur could speak to Article 48 amended and Article 43 amended? They refer to 2 different sides of the financial industry, I think banking and insurance, but the important thing about them, Sir, is there is the power to issue a public statement, and if I am not correct, we have just had a instance of that fairly recently, as Members may recall, with a certain category of company. Of course, the impact of that, particularly in a small society, could be quite sort of terminal for an organisation. I wonder, Sir, if the rapporteur could say what that public statement is about; in other words would it, for example, advise people to keep away from a certain company, and if that were the case - and given, Sir, that it would essentially lead to the end of that company’s business - could the rapporteur talk about what rights of appeal would exist in such potentially quite devastating circumstances? In relation to that, it may or may not be related if we look at Article 34

amended. In the last line of 34 amended it talks about the court being approached to do various things with a company, and then it says: "And also make such ancillary orders as the court thinks desirable." What ancillary orders did the framers of this legislation have in mind?

**The Bailiff:**

Deputy, I am sure the Assistant Minister is entirely up to flying speed with this, but I am not following your points. Are you referring to the articles of the Bill itself or the article of the laws under amendment? You referred just now to Article 34.

**Deputy R.G. Le Hérisier:**

Yes, Sir. Well, it is always difficult when one is dealing with a document which is trying to amend a law which we do not have in front of us. I am talking about Article 34 amended on page 25, the last sentence.

**The Bailiff:**

Article 17 of the Bill. I wonder if you might perhaps just draw the rapporteur's attention to the articles of the Bill to which you referred, because I have been trying to follow them in a different way. It is Article 17 of the Bill which amends Article 34 of the law in question, but what are the other articles of the Bill?

**Deputy R.G. Le Hérisier:**

The other article, Sir, is Article 33, which is Article 48 amended, and Article 53, which is Article 43 amended.

**The Bailiff:**

Thank you very much.

**The Connétable of St. Lawrence:**

Could we go back? I am sorry to trouble the Deputy, but I think I now have it, that we were talking about Article 17 and Article 34 amended. Could I have the Deputy's question again on Article 17, which is Article 34 amended, please?

**Deputy R.G. Le Hérisier:**

The question is it gives, as I see, the Commission the power to issue a statement, and that would obviously be about presumably dereliction in the way the company or that part of the business is performing its duty. What rights does a person have if such a statement is to be made? Given it could have devastating consequences for a business, what rights of appeal or what rights of consultation are there prior to the issuing of such a statement?

**The Connétable of St. Lawrence:**

I think if we get into that level of questioning, I will have to ask the Attorney General to comment, Sir.

**The Attorney General:**

There is a right of appeal to the court against the making of a public statement and there are procedures which are laid down as to the process through which the Commission will go before it makes a public statement, but the balancing exercise which the Commission is going to adopt in every case is to work out the damage which might be done if it has reasonable cause: for example, for suspecting that a particular institution is raising money from members of the public who do not fully understand there are things about the entity raising the money which they ought to know, and if they had known, they would be giving their money into it. It is that sort of balancing exercise which the Commission has to take into account, recognising that there will be circumstances when

the making of a public statement will have an impact on the business of the registered person. That is the nature of the power which the Commission has.

**Deputy R.G. Le Hérisier:**

Carrying on the line of questioning, I wonder if the Attorney General could say; I can well see there will be circumstances when speed is essential, because a company cannot be taking in money under false pretences, but where speed is essential, Sir, is there still an opportunity given to the company? In other words, is it appraised of the fact that a statement is going to be issued, it is shown what the nature of the statement will be, it is invited to make any comments on that before the statement is made?

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

May I assist the Deputy? The fact is I have just checked. The Commission gives notice to the company, with normally - it can be limited - 4 weeks' notice of that prior to any public statement being made, and there is a full right of appeal to that. In certain circumstances, that could be a limited period, but still the full right of appeal. I think the Deputy will know that there are very strict rules about it to ensure that administrative decisions by the Commission are made and full rights of appeal are already made with that, and I have just checked that with officials from the Commission.

**The Bailiff:**

I call upon the rapporteur to say anything he wishes to in reply to the debate on the articles.

**14.2.2 The Connétable of St. Lawrence:**

I would like to thank the Attorney General and the Minister for their comments, Sir. Thank you.

**The Bailiff:**

Very well. I put the articles of the Bill. Those Members in favour of adopting them, kindly show; those against. The articles are adopted. Do you move the Bill in third reading, rapporteur?

**The Connétable of St. Lawrence:**

Yes, Sir.

**The Bailiff:**

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

**15. Composting Site, La Collette, St. Helier: cessation of operation (P.133/2008)**

**The Bailiff:**

I come to projet 133, Composting Site: cessation of operation in the name of Deputy Baudains, and I ask the Greffier to read the proposition.

**The Greffier of the States:**

The States are asked to decide whether they are of the opinion to request the Minister for Transport and Technical Services to cease open air composting at La Collette at St. Helier within 2 weeks.

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

I brought this proposition out of frustration, because the Minister clearly has not reacted to the discomfort and the health issues faced by residents of the harbour area and beyond. The temporary measure of open windrow composting at La Collette has now been going on for a number of years, and I believe in answers and comments made by the Minister recently, he is suggesting it could go for at least another 2 years before the new alleged odourless in-vessel plant is introduced. In fact,

one could be forgiven for thinking that the open air composting operation is never going to cease. The entire situation is unacceptable, which is why I have asked for swift cessation of the nuisance that the Minister is creating, and it is a nuisance. I know from personal experience. The smell of compost emanating from the site is absolutely disgusting, it really does make one feel sick, but I am fortunate because I am driving past, and I know that I will be away from the stench in a few minutes. But what about the people who live in the area, anywhere between Mount Bingham and Green Island? It does penetrate slightly further east as well, and it goes inland as far as the central market. They have to put up with it for days at a time. If it is not too bad, these people keep their windows closed, even on the hottest day. When it is particularly unpleasant, sometimes they leave and stay with relatives. Some have even sold their homes because of this nuisance and moved elsewhere. This is a serious situation, but it does appear that the Minister does not treat it as such. He has suggested the only complaint he has received this year is from me. Well, perhaps the residents who have complained did so by email because the Minister is notoriously difficult to contact via that medium, or perhaps he has chosen his words carefully, and omits to mention those who have contacted his department, because a number of residents have told me they complain on a regular basis. This nuisance also affects businesses in the area. One firm contacted me to say their customers complain regularly, and they in turn keep complaining to the department. Of course, I also realise some will have given up complaining, simply because it achieves nothing. The Minister is apparently unmoved by their plight. In fact, I have a copy of the Minister's response to an aggrieved resident, and I have to describe it as inaccurate. In fact, I think I am extremely kind, using that description, because in it he accused myself and my fellow deputy of being in cahoots with the Environment Scrutiny Panel and being the cause of a very significant delay, without which the enclosed plant apparently would now be operational, although he does give no guarantee it would be odourless; he is only hopeful it will be. The reality, Sir, is that I and others have been pressing for an in-vessel plant for years, but the Minister has failed to deliver. Two years ago - it will be 2 years next month - I brought a similar proposition to this Assembly and the Minister gave me an assurance he would seek to minimise the odour problem and act with all possible expediency towards the in-vessel composting. Sadly, he has failed to deliver on both assurances. The smell has become worse, contrary to the Minister's assertions, and I can see nothing has been done, nothing with regard to the in-vessel plant for 2 years, and now apparently he wants at least another 2 years before the plant will be in place. That is 4 years since my previous proposition, and according to my reckoning, about 8 years since the temporary relocation of composting to La Collette. I do not believe that the delay can be due to lack of money. From another proposition, I believe it will be obvious that if the Minister can spend £100 million on an incinerator which could have been bought for £60 million - and I do have the quote - clearly money is no object. Why has he and his department not gone on with it? I believe that blaming others for the delay demonstrates a disinterest in the plight of nearby residents. That this composting operation constitutes a nuisance must surely be beyond question; after all, the Minister has admitted it himself, that it is in fact a nuisance.

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

That is not true, Sir. I have not admitted it is a nuisance in law.

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

The Minister has in fact admitted it is a nuisance, and I am somewhat surprised, because we have a law called a Statutory Nuisance Law, and anyone creating such a nuisance can usually be compelled to cease, and quite why the Health and Social Services, who administer the law, have failed to act is somewhat of a mystery to me. They allege that the odour abatement notice served on the Transport and Technical Services Minister has been put in abeyance, and I quote: "Because the site is operated in accordance with good practice." So I presume that despite the fact that it is a nuisance to everybody, the fact it is good practice makes it all right. I wonder how it can be good practice when the consultants had warned that open windrow clearly has potential for odour, of

bioaerosol releases and they further state that this site is much closer to highly populated urban areas than would be normal for this type of operation, and we would expect that odours would be a persistent issue, given the type of process utilised and the proximity to housing. That does not sound very much like good practice to me. I wonder if perhaps Health and Social Services were demonstrating that collective responsibility, because for sure, if anybody else was making that nuisance, myself or anybody else, it would be closed down immediately. The Transport and Technical Services Minister also refutes that his composting operation constitutes a health hazard, because in the same correspondence to my constituents, he alleges that the relevant experts in other departments advise that open windrow composting does not pose a health threat. Well, I am not familiar which experts he was referring to but it is a known fact that aspergillus fungus spores, which are present in compost, can cause respiratory problems, even death. If that is not a health hazard, I am not quite sure what is. I think that perhaps the Minister has confused himself with radioactive substances when he has previously quoted: "Any health issue to be limited to [if I recall correctly, but no doubt he will correct me if I am wrong] about 250 metres" I think it was. Well, I find that somewhat curious as well because fungus spores do not suddenly become extinct at some specific distance. They are not an artillery shell with a range and detonator. I said that the smell was getting worse, and it is. Referring to the Minister's correspondence again, he states with regard to the odour: "The only significant change has been the increasing expertise acquired by the site staff in the handling of the compost, primarily in order to minimise the odour annoyance." So he does admit that the odour is annoying, which is in fact is a nuisance. As for the gaining of expertise, perhaps the staff should revert to the previous unenlightened way, because in previous years, the smell was intermittent, usually only noticeable when there was a slight onshore breeze, and perhaps those turning the material had been caught out by a change in wind direction. Now, however, the smell is noticeable more frequently and it is more intense and it occurs even if the winds are strong. The smell has been reported to me by fellow sailors; there is a disgusting smell some miles offshore when the wind is in the north. Clearly, rather than mitigating the odour nuisance, as the Minister promised 2 years ago, it is simply further out of control. Another issue which has been brought to my attention by the residents of the affected area is the abnormally high number of mosquitoes. I am not aware certainly in my area of the Island, there seems to be no more than the usual summer influx, but apparently this area is inundated with them. Before the Minister gets excited about quotes from the comments of our States Entomologist, I have to say I disagree with him, because he suggests that mosquitoes could be coming from marshland, ornamental ponds or children's buckets. I do not disagree with that, except that there is not much marshland left in Jersey. Most of it, for example, has been built on. What is the difference weather-wise between the last few years and decades ago? Mosquitoes require stagnant, persistent pools of water, the type composting sometimes creates, not a pool of water lasting perhaps 24 hours or so after rain in a kiddie's bucket. The bites from them are particularly nasty, some take weeks to heal. Some mothers in the area affected have told me they have to put mosquito nets over their children at night, because their young ones are covered in bites. So what are we to do about this nuisance? The Minister's claim is that a balance needs to be struck between the small number of complaints and the hundreds of Islanders who use the facility, but the truth is hundreds of people live in the zone affected by the composting operation. There may very well be more people inconvenienced than make use of the facility. Furthermore, the operation runs at a substantial loss. I believe only about 10 per cent of the cost is recovered. It seems to me the logical remedy is therefore to cease composting. It is now 3 years or more since the States agreed to move to in-vessel composting, and 2 years since assurances given in this Assembly have not been kept. It seems clear to me that the Minister is not somebody who moves fast, so I saw little point in bringing a proposition that did other than cease the present operation with almost immediate effect, because to ask that the in-vessel composting be brought into operation with all possible haste is clearly a waste of time. We have already been told it is at least 2 more years away. We were told 2 years ago it would be happen soon. We owe it to the residents of the area to act now, not to let it drag on for another 2 or more years. My proposition would not, I think, as has been suggested,

prevent the Minister from receiving material at the site, if he finds that convenient. It would merely prevent him from composting it. I do not believe there is any question that the Constables would have to find somewhere in their own Parishes to look after compost, although I must admit I do miss the piles of “bannelais” that used to exist in the past, but that is not what is required here. The material could still be received at that site. Presumably the answer would be to dry it and then burn it. After all, the Minister has previously made much play about energy from waste. Well, I believe here is his opportunity during the period of exceptionally high oil prices to generate a little more electricity, instead of struggling to get rid of compost that costs a fortune to create. I believe that 2 weeks, not forgetting the warning he has had during the lodging period, is more than sufficient for him to stop what he is doing and to dispose of it using alternative and existing facilities. It might even give the Minister the impetus he clearly needs to get his in-vessel plant up and running sooner rather than later. I make the proposition. I will answer any questions to the best of my ability.

**The Bailiff:**

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

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

I was hoping I could start off early, because I really want to draw attention to or hope that we will get the Minister for Health and Social Services to give an explanation to what I am going to ask him now, and I am pleased he is back in the Chamber. I think it was in 1999 I acted as rapporteur and brought through the Statutory Nuisance Law through the States, so I am clearly still remembering much of what I brought through, how the law stood. We always knew there would be certain exemptions made where the best practice, good practice was shown; that there was every possibility that an order might not be put on. However, all possible steps had to be taken to remove or at least remedy the problem. The question that I want to ask, and address it really to the Minister for Health and Social Services, is because on the bottom of page 3, if I could draw Members’ attention to it, it says: “On February 28, the Department of Health and Social Services agreed to put in abeyance the odour order abatement issued to the Minister for Transport and Technical Services, as no useful purpose could be achieved through the department demonstrating in court what the Department of Health and Social Services had already acknowledged, that the site is operated in accordance with good practice.” Well, I am rather intrigued as to how a notice can be put on something if indeed the department says it is operating good practice. So maybe the Minister could help inform us why. Also, over the page it says: “The department understands the Minister for Health and Social Services plans to bring to the States a proposition and report to amend the law on statutory nuisance in the autumn session to overcome this discrepancy” and again, the question will be for the Minister for Health as to what steps were taken, and indeed, why has the amendment not been brought to the States? In fact, if it was brought to the States, what would it be doing, or what would the effect of that amendment coming to the States be, what effect it would have on the particular problem there is down at La Collette, because clearly those are the answers we do not have. So I would grateful if the Minister for Health, when he does speak on the matter, could address those 2 issues.

**15.1.2 Deputy J.J. Huet:**

I do not support this proposition, as it is short-sighted and it does not consider the Island’s overall needs. How can anybody say that we should just stop providing an essential service to a very large section of the community without suggesting an alternative? So do we just close the site and tell everyone to fend for themselves? I can tell you what would happen within a few days. Firstly, whether it be a little pile of green waste appearing over the hedge, in the corner of fields, on common land and just about anywhere that can be found around the Island, how long would it take before this started rotting and smelling? Then there would be complaints to every Parish Connétable and the various States departments on whose land the waste had been dumped. The second thing would be for members of the public to put their green waste out with their weekly domestic waste for the Parishes to collect. It would then be mixed and would have to go to

Bellozanne. Only a few weeks ago we heard how Bellozanne was unable to deal with our existing waste, and how on earth can the Deputy bring a proposition to this House which effectively places more waste on Bellozanne at a time when we should all be trying to remove it from our weekly collection service? Many years ago before the green waste was taken out of the domestic waste for composting, it did go to Bellozanne, and if it could not go through the incinerator straight away, it had to be stockpiled. Now, these stockpiles regularly caught fire, as the green waste started to ferment and heat up the other waste, and the smoke and pollution from those fires affected all of Bellozanne's residents. Now, if we were to see this happen again, it would not only be the Bellozanne residents who would suffer, but also the Havre des Pas residents, as the stockpiles of waste stored at La Collette would catch fire, I can assure you, and the smoke would drift over them. Is this really what the Deputy is trying to achieve? I do not think so. We need to think very carefully about the consequences before suggesting something as radical as closing the green waste composting site. We need to get on with building a new plant. We know that. We agreed to it in 2005, and then spent nearly 2 years looking for a suitable site, following the report issued by Deputy Le Claire and the Environment Scrutiny Panel. Then we had to go through a lengthy and expensive legal fight with the Connétable of St. Helier, who placed pressure on the Health Department to serve an abatement notice on the Transport and Technical Services Department for the occasional odours that came from the compost. Now is not the time to just close the site. We need to get on with the new one, and I urge Members not to support this proposition. It is badly thought out and it does not consider the consequences, and would place the Island in a far worse position than it is now.

#### **15.1.3 Deputy K.C. Lewis:**

I too have had complaints from residents in the area. I and several other States Members have had meetings with T.T.S. staff at La Collette and I fully accept that the T.T.S. staff at La Collette do all in their power to reduce the nuisance of smells, but as we have a prevailing south-westerly wind, this is very, very difficult indeed, and the bad odour spreads over parts of St. Helier, St. Saviour and St. Clements. There is also the airborne fungus, *aspergillus fumigatus*, that is a naturally occurring fungus, but I believe it is exacerbated by the compost site. I personally would not recommend anyone with asthma or any respiratory problems to live in the area, and I will be supporting the proposition.

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

I am not going to speak at length, because I must say that I do not have much confidence that the House is going to support the proposition this afternoon. Nevertheless, I thank Deputy Baudains for bringing it forward. I will certainly be supporting it. I think it is a sad state of affairs we are in where an activity of this type has moved into a Parish without the Parish authorities, in this case St. Helier, being forewarned or consulted. Members need to reflect on that, that if this activity had been moved into, for example, Trinity or St. Ouen what an outcry there might have been, but because it is St. Helier, it is acceptable. I think it is a sad state of affairs, particularly in a week when we are talking a lot in Architecture Week about the importance, strategic importance of St. Helier in terms of the Island's future, particularly its economy, but also other aspects that St. Helier brings to the table. We are in the last days of this particular administration. We will have, I am sure, a new Council of Ministers and I look forward to dealing with them in the New Year and discussing how this matter can be speedily resolved, if the States - as I expect - do not back Deputy Baudains' proposition. But I will certainly be supporting it, and as I say, I thank him for bringing it back to the States.

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

This is certainly an ongoing and totally unsatisfactory situation for those living in this part of the Island. Last year, a friend who was visiting Jersey to attend a conference here commented to me on the awful smell she had noticed in the Havre des Pas area. I do believe it is time for urgent action by the Minister for Transport and Technical Services and I will therefore support this proposition in

order to send him and the department a strong message that the current situation is unacceptable. Thank you.

**15.1.6 Senator B.E. Shenton:**

I was not going to speak, but Deputy Hill did ask a couple of questions concerning the 1999 Statutory Nuisance Law. An Order was brought by the Constable of St. Helier to the House to make sure that the plant was operating satisfactorily. The Health Department is well aware of the concern that residents of Havre des Pas and other areas have with regard to the smell. The House felt that the site was operating at best practice and we served notice on Transport and Technical Services to prove that they were operating under best practice. Transport and Technical Services appealed this notice, which led us to the rather ridiculous position of 2 States departments employing very expensive lawyers just to prove best practice. It would not have given us the power to close the site down, it would have just given us the power to insist on best practice taking place at the site. So it would not have closed down the site. We were fairly certain that best practice was already being operated at the site, albeit it was not ideal, because an in-vessel composting plant would be the best answer. So under the law as it stood, it would be up to the Royal Court to prove that the site was operating under best practice. Obviously we employed experts in this field and we felt that we were better placed to determine what is and what is not best practice than the Royal Court, and also we had to bear in mind that you could have been looking hundreds of thousands of pounds of taxpayers' money just to basically have an argument over what was and what was not best practice. Now we are bringing an amendment to the law so that it does not have to go to the Royal Court, but our officers ourselves can determine what is best practice and give our department more power to use commonsense, and the change in law also affects a number of other areas where we have had complaints where, quite frankly, commonsense has not been allowed to prevail. Having said all that, I have been criticised over the last few days for talking in the G.S.T. debate when I am a director and not declaring an interest - well, declaring an interest and people saying there is a conflict of interest - but I do use the green waste site very frequently, because I have nowhere to dispose of my green waste, and as the Connétable of Grouville just said: "Throw it over the sea wall" but I am not sure that is a good idea.

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

Will he be serving an abatement notice on himself?

**Senator B.E. Shenton:**

So yes, at the end of the day we are all in this Chamber to try and get solutions to problems. We are not here just to moan about things; we are charged with coming forward with the solutions, and if we wanted to just moan about things, we perhaps should leave the States and just write letters to the *Evening Post* and phone up B.B.C. phone-in all the time. I put a written question in to the Chairman of the Constables Committee to ask what provision the Constables had made with regard to the disposal of green waste should this proposition succeed, and I think a number of Constables are quite concerned about the operation of the site, as I am, at La Collette. Basically, the answer was they have not done anything with regard to green waste disposal and it is not their problem, which quite frankly I do not think is a particularly responsible attitude when a lot of the Parishes are certainly responsible for refuse collection, but not necessarily green waste collection. I think we would all like to find the perfect place for green waste, but I think one thing we do have to accept is we do have to put it somewhere, and ultimately, we do have to put it within an in-vessel composting site to reduce smells and so on and so forth. So while I have every sympathy for the residents of Havre des Pas, and I have one particular resident that is on the phone to me all the time, and it is very difficult to put the phone down on your father - especially my father - I do have every sympathy, but I think and I hope that T.T.S. will push forward with the in-vessel process. I am sorry that we cannot close it down and I am sorry that the House do not have the powers to close it down, but I am sure politicians will come up with many other instances - and the Constable of St. Ouen is aware of one at the moment that we are looking at - where perhaps it is best that a bit of

commonsense prevails on these nuisance orders and we do not end up with facilities being closed with no alternatives available to the public of the Island. Because at the end of the day, we do need a green waste disposal facility, because otherwise, as the Constable of Grouville joked, I could end up chucking mine over the sea wall. Thank you.

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

We really have to bear in mind that a large part of the use of this free facility is by commercial garden operators at no cost and I think that really should be taken into account. I do not think it has at the moment, and I think it is largely unfair under a no charging structure for the Island or for the residents within a particular area to bear the brunt of some of the odour problems and the other problems that are caused by commercial indiscretion. It does worry me in the comments appended to P.133 by the department, in particular on page 4, that there seems to be an element of weasel wording. I know it is easy for people to kind of read between the lines and perhaps read things that are not there, but I think it is worthwhile just to go over the one paragraph just before the end of page 4, where it says: "The implications of the proposed development of the La Collette 2 reclamation site, part of the wider East of Albert regeneration, have direct impact on the enclosed composting facility at La Collette and are therefore subject to ongoing review. The emerging position with regard to the possible need to remove the fuel farm and the Jersey gas facility, if the land use is to be optimised, also has a direct bearing on the type of compost facility that will be proposed." Now, this House on a number of occasions - and in particular in 2005 - under the Solid Waste Strategy P.72, agreed that there would be an in-vessel composting unit or units of some description to be built at La Collette, and indeed, this House voted the monies that were estimated at that time, some £4.2 million that has been sitting in the department's budget ever since. It strikes me as odd that on page 4, just towards the end of the document, that after that time we appeared to be having words that are being written that could well be interpreted or suggest that perhaps there is a new emerging position, whereby we will not be looking at in-vessel composting units, and perhaps looking at a way that if the fuel farm and the Jersey gas facility is moved, then perhaps a cheaper option, windrowing, could continue to take place on the La Collette site. Now, if that indeed is the case that the department are thinking themselves into, then I think it is entirely wrong, because this House will have been misled not on one occasion, but on several, and I think at the end of the day it is fundamentally wrong for residents of the area, as I said earlier, to be subject to smell and odour problems, and perhaps health problems, that are directly attributable to open windrowing on an open site. Now, I have noticed over the last year or 2 that the smells are more extant than they used to be, and in fact, it is not just the centre of town that gets affected, it is the whole of Colomberie, and in fact it is all the way up Mont Millais on some occasions. I know it is said by the department that they do undertake best practice, but I think there is a big difference between best practice for open windrowing, in which case we probably would not be doing it, certainly under the weather conditions and when the wind is blowing inland in the predominantly south-westerly direction, and between that as best practice and the officers doing their best in order to turn the heaps when perhaps the weather is not at its best or the job just has to be done, and I think this really is centre to the argument. The monies have been granted. The department has undertaken, with the help of Deputy Le Claire and the Scrutiny Panel, to look at alternative sites. It is very, very clear that there is more than enough money to undertake a number of in-vessel composting units, not necessarily to be located at La Collette, but perhaps to be located in other centres around the Island and we all have to agree that in the use of in-vessel composting units, the odour problem will be minimised, if not eliminated. I cannot really see for the life of me why it has taken the department so long to deliver, unless indeed there is some hidden motive not to come forward with the proposed solution that this House has agreed on many other occasions. If that is the case then I think it is not just the case of closing the operation down, it is clearly a matter of confidence not only in the department, but in the Minister's ability to lead it and to go along with decisions that have been taken collectively in this House. I think that is broadly the points I wanted to make. There is one other thing: the figures - and people would expect me to mention figures, up to a point

- they do change every time we get a technical document from the department and we are told that there is some 15,000 tonnes now of wood waste, but if you read the other documents, it varies, and on some occasions, it is as little as 10,000 tonnes. On other occasions, it is 12,000, and today I think we are at 15,000. It is not because there has been a particular growth over the period of a couple of weeks, I think the figures just go up and down, depending on how much rainwater is involved. I think Deputy Baudains is right to be bringing this proposition. I do not think it would unduly hurt the department to go ahead and implement the agreed policies of this House within a short space of time, and I do feel that if indeed this House were to agree to the 2 week notice period, then that would certainly engage the department's abilities to the effect that I know that they could deliver in terms of carrying forward the work that they have not only suggested should be done in this respect, but have said on many occasions that they will do. I will be supporting this. I think it is the right thing to do mainly for the health of those persons who are affected.

**15.1.8 Deputy P.N. Troy of St. Brelade:**

The problem is that this issue has been before us now for a number of years, and you do have to ask, are Transport and Technical Services committed to dealing with this effectively, or are they just going to continue on in the same old manner? What are they doing? Now, the Minister should be standing up and telling us what he is doing about this issue, and we have before us --

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

If the Deputy would give way, I will stand up and tell him.

**Deputy P.N. Troy:**

I would like to carry on because the Minister can come back afterwards. I would like to say that in Deputy Baudains' proposition we had before us in black and white on page 3 an assurance from the Minister in 2006 that he would be dealing with this issue. It is now 2008, heading into 2009 and I must ask, what has he done? I am sure that he will respond in a moment to tell us what he has done, but it does not look at the moment as if it is a great deal. Maybe this is a radical step from Deputy Baudains to draw attention to this, but I think it is a good thing that he is doing that, because the many residents of Havre des Pas, the many residents who are inconvenienced, are all asking the same question: what are Transport and Technical Services doing?

**15.1.9 Senator F.H. Walker:**

I think everyone in the House will agree that the current position, including the Minister for Transport and Technical Services will agree - indeed, he has agreed - that this situation is not satisfactory, but this particular proposition, it has to be said, is totally and completely irresponsible, because what it calls on T.T.S. to do, and if passed, T.T.S. will have to do it, is close the plant within 2 weeks; a timescale in which it is absolutely impossible to come up with viable alternatives. That is where this proposition falls flat on its face. It takes no account of the alternatives, no account of the consequences on the environment, potentially on the rest of the Island, and on expenditure. Deputy Scott Warren mentioned that it sends out a strong message to Transport and Technical Services; Deputy Troy talked about a radical step. It is far, far more than that. It is closure within 2 weeks. It is quite clear that T.T.S. would have to obey the will of the States with no thought to the consequences at all. Sir, can I contrast the approach of Deputy Baudains with that taken a number of months ago with Deputy Fox, who represents the residents of St. Helier No. 3 and 4, the people who live around Bellozanne, where the smell nuisance is infinitely greater than that caused by the composting site? Now, did Deputy Fox come forward and say that Bellozanne should be closed? No, of course he did not. What he came forward with was a proposition which was accepted, which Transport and Technical Services would have to bring forward the roofing over of the sewage facility at Bellozanne to minimise - and ultimately, hopefully - and get rid of the smells. If Deputy Baudains had done something similar, he had come forward with a proposition which basically required force, if you like, Transport and Technical Services to provide the roofed-in new facility by 2010 at the latest, then I, for one, would be supporting it, and I suggest every

other Member probably of the House would have supported it as well. But to bring forward a proposition which calls for closure within 2 weeks is impossible to deliver, not in the Island's best interest and thoroughly irresponsible.

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

I am grateful to Members who have spoken already. It has given me an opportunity to understand their complaints. I am particularly intrigued to listen to Deputy Duhamel's speech, where he managed to read between the lines of the comments document and determine that I was in fact undertaking some form of conspiracy that will ultimately demand a vote of no confidence in me. That is most intriguing, but not very constructive. I am interested in practical solutions to problems, and the problem is this - and I am not going to dispute whether it is 10,000, 12,000 or 15,000 tonnes - the fact is that the composting site at La Collette deals with an enormous amount of the Island's green waste in a very efficient way that produces a clean product that is put on, agricultural fields and also a more finely shredded version is sold in garden centres and much appreciated. No, it is not a profit-making exercise, I regret, although I seem to have to repeat myself so many times, recycling operations very, very rarely make profits. But we have this waste to deal with, and my Assistant Minister was quite right to flag it up at an early stage, and it is a shame that we have merely been presented with a shut down operation and no helpful suggestions and constructive suggestions as to what an alternative approach might be. But there is no question that if the department is obliged to shut down the green waste composting in 2 weeks' time, fly-tipping will break out almost immediately. I respond to a point made by Deputy Duhamel, why is it that Transport and Technical Services do not charge commercial landscape gardeners for using the La Collette disposal site? Well, the fact is T.T.S. does not charge anybody to use the site, because if we did, they probably would not use it. They would use somebody else's field, possibly States property, leaving an obligation on either T.T.S. or another department to have the mess cleared up and we would be in one heck of a state. In fact, I ask Members to think back and wonder why it is that Transport and Technical Services is operating a green waste composting problem in the first place; because there was an awful mess all around the Island with composting going on everywhere in every shape and size and every description, mingling tomatoes and potatoes and so on and so forth. That is why we are where we are today. It is a good way of dealing with things. It offers a public service, and it is conducted at best practice. But let us look at the alternatives, and I hope Members have read the comments paper, because that will save me a little time. But if the current process is ended, we will then be faced with the deposit of green waste being mixed with other waste in pits, which in fact would cause an even bigger odour impact than is currently the case, and that is acknowledged by the Public Health Department. In addition, when you start mingling green waste with other forms of waste, you create a fire hazard that does not exist in the open windrow system, plus you do not only create a fire hazard, you are also generating methane, which is an explosive gas. Now, that is a hazard that we do not currently face and the Assistant Minister is quite right to remind Members of the regular fires that broke out in the storage sites at Bellozanne, and we will be faced with fires breaking out in pits at La Collette if we are obliged to adopt a different approach. Of course, the other alternative is for the department simply not to bother to deal with green waste. There is no legal responsibility, as far as I am aware, for the department to handle green waste. We do it because we consider it is a public service, but if we were obliged to cease operations, it would be the position that the department simply have to turn people away at the gate and then we are faced either fly-tipping, or at very short order, Parishes having to come up with alternative solutions and I do not think that is a sensible or acceptable approach. Now, Deputy Baudains and others claim that matters have become worse. I find that very hard to understand. Certainly in my experience, the management skills of the very hard-working and dedicated team on the open windrow site is that their experience of how to handle things has improved. Now, it may be - and I do not have the meteorological record - simply an issue that there are more prevailing south-westerly winds this year than there were last year, in which case I accept that it may appear that things in terms of the smell have become worse, but I

have to say to Members that I am confident that in terms of the management skills of the team in charge of the site, our procedures are now, thanks to experience gleaned over the years, better than they ever have been. Now, I think I have apologised in the past to the Constable of St. Helier for not being consulted, so I am not going to bother to repeat myself. The fact of the matter is I was not the Minister when the composting was transferred from Crabbé down to La Collette; I have merely inherited the situation and I daresay there may have been some very good political reason why the President of the Committee of the time decided he did not feel like consulting with the Constable of St. Helier, but quite frankly, that is a matter for the Constable of St. Helier to take up with the now retired ex-President and not myself. I hope that is now an end to that particular matter. I do though want to deal with a number of issues that have been brought up in speeches that are misinformation and could alarm, quite unnecessarily, members of the public. Let us be quite clear about this: there is no health issue, and I say that again, there is no health issue. Yes, there is a smell, but an airborne fungus or bacterium is different to a smell, and I wish to point out that distances do matter. Why? Because what is generally described under the headings of bioaerosols, but in fact an airborne fungus or bacterium has mass or weight. Smell barely has mass or weight, therefore, when you are smelling something it is different to inhaling a fungus or a bacterium. The reason that a 250 metre zone has been decided upon by experts in that particular area is because airborne funguses and bacterium fall to the ground over that sort of distance or if there is a strong wind the dispersal factor is such that these naturally occurring items are dispersed to the natural background levels. While we are on the subject of distance, may I also note to Members that the La Collette site is a massive site and the department has looked around the Island to find areas in Jersey where you can distance an operation like open windrow composting from the nearest residential dwelling. La Collette is one of probably 2 such sites where you can get a distance of 700 metres or more. In fact, I think the concern was that a consultant had commented that the operation was closer to highly populated areas than would be normal. I have to say to Members, of course, this is Jersey, everything is going to be sited nearer urban population, in fact, population of any sort, than would be normal in a much bigger place. However, La Collette, as I say, is one of the few locations in Jersey that is hundreds of metres away from the nearest residential dwelling. While on La Collette, could I just nail this mosquito story as an absolute and fundamental red herring of the worst order. It is open for Deputy Baudains to not believe the States Entomologist, should he wish, but if I wanted an expert view on mosquitoes I personally would go to the States entomologist, with respect, and not to Deputy Baudains. The States Entomologist made it quite clear in an item published in the local media only a matter of a weeks or so ago, that there was no linkage between the green waste composting and La Collette and the apparent plague of mosquitoes that is hounding, it seems, in particular, residents of Havre des Pas. I do want to nail, and finally, because this is possibly one of the most irritating areas for both myself and the department, the suggestion that somehow the department has been dragging its feet in this matter. Nothing could be further from the truth, although perhaps I should admit to Members that I have made a mistake in allowing things to drag on. If I have made a mistake it is because I deferred out of courtesy to other States Members wishing to carry out reviews and I deferred out of courtesy to Scrutiny which wanted a review of composting and then asked the department to carry out a full review of alternative locations. If Members think that I have done something wrong I accept that criticism and I certainly will consider very carefully in the future whether I should delay decisions in order to listen to Scrutiny because that has been the cause of the delay. I hope I do not need to remind Members that there was a Havre des Pas Residents' Association that was supported by the local politicians, as was entirely fair and right and proper, and they then wished a review of composting to be carried out. I have no issue with that. A review was carried out. Members will recall that review took quite a long time to compile and in the course of the review those people working with the Havre des Pas residents combined their abilities with the Environment Scrutiny Panel at my request and that review was finally produced and presented to Members. If Members recall, it asked if the department would look at alternative sites. The department considered some 70 alternative sites, after advertising for interest in the local media, and those sites were whittled down

and assessed. This, I have to remind Members, is not something you do in a week, this is what has caused the delay and, finally, after all that time and effort we came back to square one and determined that in fact La Collette was the most appropriate site for green waste composting. I very much wanted to continue the fine work of Senator Ozouf when he had the 2005 Solid Waste Strategy approved and very substantially supported by Members of the House at the time. Within that strategy it asked to press on with constructing an enclosed waste composting plant at La Collette. What has happened in the intervening time is that we were diverted because other States Members and Scrutiny wanted us to look again at the whole issue. That has been done and I can advise Members that work is in hand and has been in hand for some time now to press ahead with the commissioning and construction of an enclosed facility at La Collette. But, needless to say, things have changed and we now know that the long-term planning for La Collette may be not as we all expected. Harbours have expressed the view that we may, at some time in the future, perhaps relocate some of the harbour facilities, and I am sure as Members will be very familiar, this is all coming out of some of the blue sky thinking of the EDAW Project, and so I need now to be very careful that I do not go and build a permanent waste facility where the Harbours Department want to build a new passenger reception terminal. Those are the very final issues that are being ironed out which means that I am confident, as it says in the very last paragraph, that we can get on with construction in 2009 and have an operational facility in 2010. I do regret that the residents living nearby and sometimes further away suffer from this smell problem. I know what it is like, I have stood in it myself to ensure that I am exposed to just as much unpleasantness as anyone else who has to endure it. I do know that on occasions it is a very unpleasant smell, on other occasions it is not as bad and in actual fact most of the time it is fortunately blowing out to sea whereas we have heard yachtsmen complain about the smell. Let us put this in context, this year the only complaint I had to the date of Deputy Baudains complaining was Deputy Baudains' complaint. Subsequent to the publicity accorded to Deputy Baudains for bringing this matter to the House, I received 3 emails which included 2 invitations to visit people's homes to test the smell for myself, which I have, frankly, not taken up because I already have tested the smell for myself. The comments paper shows the department's position here; the number of incidents of creating odour is small, the impact is occasional and not long-lasting and during 2008 thus far, 4 strong odour episodes and 5 odour complaints have been recorded. In 2 of these no compost management activities were taking place. It is easy for members of the public to sometimes confuse and make an attribution of a smell to the composting plant when in actual fact it is seaweed or it may even be one of the sewerage pumping stations. So I am very sympathetic to the issues of odour. I would have, hopefully, found a way out if it by now on a practical basis if it was not for the fact I think it is proper to show courtesy to fellow Members who wish to exercise their own rights of political involvement. The reason that we have had reviews has been the delay behind the project and I can assure Members that events are proceeding and will at some stage come to a conclusion. I only make one final comment and that is to say that I do hope that in the course of all this we do not forget that the real odour problem in this Island is affecting my constituents in Bellozanne. The sewerage issue is by many, many times a much more unpleasant odour issue than anything that is being suffered down in the Havre des Pas area. But Deputy Baudains' solution of shutting things down tomorrow is not the right solution. It will curtail a very heavily used public service and there will be hundreds and hundreds of complaints if we have shut down by the end of this month. So I urge Members not to follow this course of action. I do say to Members that we have been trying to build an enclosed composting plant and I very much hope that despite the setbacks, an enclosed composting plant will be in operation by 2010.

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

Could I ask for some clarification on this speech because we have heard a phrase from the Minister saying: "I very much hope ..." and also another phrase: "... at some stage come to a conclusion." I just really want to ask if he can give this House an assurance that there will be a priority to having an enclosed composting facility.

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

I was perhaps naïve enough to give an assurance last time I spoke. It is written into Deputy Baudains' proposition and it is quite clear that despite the best intentions, even if I genuinely believe that I could give an assurance and was going to stick by that assurance, I simply do not know what is going to come round the corner, in terms of either political derailment or other pertaining circumstances. For example, who would have known how things were going to change down at Buncefield, given the Buncefield explosion in another country. I say with the best will, I have learned my lesson now, I cannot give an assurance but I can offer my best intention.

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

Unfortunately I have become a bit of a swot on this and I will try not to bore Members with the details. I would like to, if I could, just take us through what I think is probably an interesting review and assessment, and perhaps a series of suggestions that might bring some hope to us all having an end to this in everybody's benefit. Yesterday I spoke to the Minister and I did tell him that having been passed some information about the diffusion of odious odours in the United Kingdom with the application of a new Danish developed product called Biosa, something new that might be on the horizon. I thought he might have mentioned that today but he did not and he has left the Chamber now so I cannot tell whether or not he even investigated it. I believe he may be going off to ask the department. But there was an interesting trial in London because when the operator in London first opened its doors in 2004 it was one of the largest in the area and it had the experiences for its residents as we have been experiencing, in relation to odour control. They got together with some consultants and this Biosa product and they worked very hard at integrating the technology and the systems that they brought into place to manage the sites. They were able to achieve great success in ameliorating the odours. They also achieved a 25 per cent reduction in the time that it took to treat the compost. So I have passed that information to the Minister and I am hoping that if the department has not considered it already it might review that product. It is an organic mix of herbs and plants with living micro-organisms that are sprayed on to newly shredded compost that help achieve what all would wish to see us achieve. Such a pity that composting is such a boring subject to so many States Members. It is costing the States of Jersey in excess of £600,000 a year to do this practice that is a blight upon many people's lives, the Transport and Technical Services Department and the workers at the plant themselves. The workers at the site and the managers of the site have been facing an enormous struggle in trying to cope with the challenge that the green waste that is produced in Jersey presents to them. In fact, if we go back in history to the days when there was arsenic put in through the pallet boards, it was put into children's playgrounds and it has been a serious consideration for the States of Jersey for a considerable number of years. But, unfortunately, States Members do not think that it is serious enough to take an issue with unless it is in their Parish. We have had the Constable of St. Mary on his feet time after time after time complaining about the little roads falling apart in St. Mary's and I used to leap to my feet after him in defence of that. I am sorry, this is an important part of waste management and it is an important part of how we deal with recycling, and it is a very large proportion of what the States' recycling targets are. The 15,000 tonnes of material that have been spoken of were reportedly 7,910 tonnes which was 80 per cent of it in 2006, in October. In a letter to me the technical person at the department explained in his letter, and I can let Members see it if they wish, that the weights varied considerably, as Deputy Duhamel says, dependent upon the weather conditions. Now, I do not know if Members have been in Jersey for the last 3 or 4 months, I certainly did not manage to get away to any sunnier climate but it pretty much rained the entire year in Jersey. I did not have any summer to speak of and I do not know if Members were aware, but I do not think much of Jersey did either. So if the material has weighed more it is certainly because of the conditions that we have seen in the weather. Now in 2006 the compost sites cost £594,000 to run and when the area of land that was used was taken into effect, in consideration, in the figures from March 2006 then the potential rental value of that lost land which we were using to compost green waste, was £140,000 per year. We are already approaching £700,000 per year and

the amount that we made from it in sales was £52,255. So £700,000 a year, give or take, not to mention the £325,000 on a new shredder when it broke down or the cost of the £1.5 million for the slab and the operations and everything else, and the pensions, you are kicking in around about £800,000 or £900,000 a year for this. The States are wondering where we can tax less and I am wondering where we can spend less. I am sorry, I do not find it very helpful when we get into these debates, it is Friday afternoon, it is getting late, people want you to be quick, they want to go out, they want to go home, they do not want to be here, do not stand for election if you do not want to be here, simple. If you do not want to be in the debates, if you do not want to be here on Friday afternoons then I respectfully suggest that Members do not stand for election. Now Deputy de Faye is quite right to speak in support of his workers and one of the interesting things from that piece of paper that I picked up and spoke of, made me think a little bit more about my application to how we are going to tackle this and how we are going to apply ourselves because this is going to continue for the next 2 or 3 years, and whether or not we are States Members we are going to be spending £800,000 to £900,000 of our money, taxpayers' money, on sorting this out. Not to mention the £4 million it will cost to implement - to provide a composting facility. One of the things that they recognised in this report was that the practices required by the people to keep a clean site, to wash down trucks, to make sure things were being done correctly, required that the staff felt valued and required that the staff felt that they were responded to positively. If the staff did feel valued, in turn the care of the site improved and the quality of hygiene procedures and the necessity for the staff to go that extra mile to ensure successful and odourless sites was prevalent. So if we just bang on about that terrible site down there then we are doing the staff a disservice and I for one have been as guilty as any, in the past, of not standing up and saying as much, as I should have been saying, in support of the staff who are trying their level best. However, if we go back to what Deputy de Faye said about mosquitoes, and I do agree with the Entomologist because I do tend to agree with most States experts. If we go back to the notion that we should be paying attention to States experts and then we would not have delays, then maybe we can reflect upon the Council of Ministers papers that were circulated in March on 2006 when after a thorough and exhaustive study of all of the available sites they identified Warwick Farm as the place for the in-vessel composting facility, not La Collette, and when it went to the Council of Ministers because it was a hung vote the Chief Minister used his casting vote. Unlike today where you have all got one vote, in the Council of Ministers the Chief Minister has the 2 and 2 Assistant Ministers, but the Chief Minister has 2 votes in the Council of Ministers. Where was that in Standing orders? Did anybody see that? I did not see that. The vote was taken and the Chief Minister cast the casting vote, even though he had cast one before, and a decision was taken to put it down at La Collette. Now, very interestingly, when we speak about location at La Collette, we have seen a ministerial order coming through recently that the green waste reception site, due to Buncefield, cannot be there any more. Surprise, surprise, if the Minister has listened to his own experts - he probably did because I think he might have supported this - but if the rest of the Ministers had listened to their own experts then the compost facility would not have been set up and running there for the last 2 or 3 years, it would have been implemented at Warwick Farm. There was a full appraisal, they looked at all the different places: they looked at the Bellozanne Valley north compounds; Field 1489, to the north-east of Bellozanne Valley; Howard Davis Farm Trials Field; La Collette II proposed mound area; La Collette II proposed industrial zone; the La Crete Quarry; Warren Farm, Noirmont; the previous shredding site near the Airport, Rue de la Commune, St. Brelade; the former Mont Mado Quarry; Les Landes, emergency sludge storage fields, and what did they come with - Warwick Farm. What the Minister is telling us today, we are not certain that we should be building it where we said we were going to build it, which is in contradiction to our experts because we have an emerging issue about the development of La Collette II. No one is telling us that the emerging issues of La Collette II will also probably include extensions to our sewerage plants, another 5, 8, £10 million, pick a number, to debt and the new road and the subsequent moving of the fuel farm, how much is that going to cost? It is all down to poor planning, I am afraid to say, on behalf of the Council of Ministers. You cannot blame the staff at La Collette and you cannot blame the Minister and his Assistant Minister

or the chief officers at Transport and Technical Services for doing their level best when Deputy Fox brought the proposition asking for us to support them for including new green waste reception areas and including new recycling facilities. How does the Council of Ministers react? They issued a report from the Chief Minister's office saying this is how we are going to "Keep Jersey Special." Well, we are not going to support any of that. So, I am sorry, but if people are looking for the reason why it has been delayed then the blame falls squarely at the feet of the Council of Ministers for ignoring their own experts in their own report in February 2006. Not good enough. They had another report; they ignored that one as well, they said the same thing. When I looked into the issue from lots of residents about the smells at La Collette emanating from the compost site which were affecting them, I took it upon myself, because it did not seem like anybody else was doing anything, to try to work with my group of residents down at Havre des Pas, to try to help come up with an answer that the Government might be able to use in solving the problems. I was helped by many States Members at that time and I am very grateful for them for being part of that working party, and very many residents of the area. But let us just get back on to another piece of evidence that suggests that maybe the Scrutiny Panel is to blame or we were to blame for the delay. On 8th March the Greffier of the States said: "I have received notice from the Chairman of the Environment Scrutiny Panel that he will propose next Tuesday that the proposition of Deputy Le Claire on composting facilities [because in March 2006 I brought a very similar proposition to the one that Deputy Baudains brings today] be deferred from next Tuesday until a later date. This is because the issue of composting will be part of a Scrutiny review being undertaken by that panel. I note that this will be on the order paper going out tomorrow. Deputy Le Claire has indicated that he will not object to this although he has asked that it be made clear that this suggestion that the item be deferred has come entirely from the Environment Panel themselves and not from him." We have also got Minutes from the Council of Ministers when the Council of Ministers asked if they should look into doing something about this; that the Minister would go off and consult with the agricultural community to see whether or not those people had something to say about the matter. So we went off, Deputy Duhamel and I, into the countryside with our wellies on and Deputy Duhamel took me to places and to people I had never seen before -- **[Laughter]** I think I should stop there really. He is a little eccentric - he has never explained it to me but anyway, we ended up in all kinds of weird and wonderful places speaking to all kinds of weird and wonderful people that wanted to get involved in harmony with the States to form co-operatives managed sites that could deal with the composting facilities. So enthusiastic were we in the group and so enthusiastic were the businesses, and some significant businesses, about getting involved with this once they saw what we had identified from our research. But I think it posed a bit of a threat so the Transport and Technical Services Minister undertook to put everything on hold that the Scrutiny Panel was doing and he would conduct an assessment of the sites. Off he would go into the wild blue yonder with his team and assessed the sites and we were then told some months later what a ridiculously expensive piece of research that was, how much money it had cost us -- do not forget they had done it already in February of that year, twice, but now they are blaming us. They called Deputy Duhamel and I in, in some weird part of the year, I think it was summer recess a year ago, into the Transport and Technical Services offices and asked us over the course of about an hour and a half in a meeting with all of the officers how we felt about what they were doing in respect of the sites they were looking at. We were very, very, very hopeful that the work that they were doing - the new person in that department is very bright and a great asset to the States, he has just joined the department - and we looked at it and thought: "Goodness, they are taking on board all of our considerations." They even mentioned food waste - I will not bring that up, but they did, and the possibility of that could be included - and then told us that they would just look at the last 3 or 4 sites and get back to us. Then 6 months later we see something in the reports by Deputy de Faye: "Forget all that, we have made a decision it is going down at La Collette." So everything was on track, everything was rolling forwards and then, oh, we are getting impatient, throw it back down again at La Collette. The trouble with that was is that they applied criteria to the machines and the processes, that we were speaking about, dealing with the solution for this in-vessel composting

facilities of ranges 750 metres -- 750 metres. I mean, who has got that kind of property - 750 metres away from somebody else? I do not know anybody that has got that much land away from somebody else's property. Because they included these distances and 250 metres, which was the relevant distance that they applied to it, they straightaway outlawed all of the applications on in-vessel composting facilities and sites in Jersey that we had identified. The fact that in-vessel composting facilities are enclosed boxes and can be sited next to hospitals, schools and councils, as they are in the United Kingdom, within inches, millimetres, not metres, meant nothing. That was them, they have ticked the boxes, nothing fits. Even the site of St. Helier, which was a graveyard, was crossed off the board straightaway. They did an environmental assessment of that and it is too close to the graveyard. Now residences; obviously people might object if they go climbing over the top of the next field and see in-vessel composting facilities boxes -- boxes, not piles of smouldering odour producing things that we see down at La Collette, but boxes. We hear from the Chief Minister and we hear from Deputy de Faye that Deputy Baudains' proposition is too last minute, we cannot do this. If they had come up with something else - and I looked at the date of my composting report which I presented to the States after a month of looking into it, which was some 8 months after they had been told by their own department to put it at Warwick Farm, and the date of my report to all States Members - I know it was like 300 pages, or whatever, and not many people read it, 10th October 2006. So there we are, 2 years ago, practically to the day and what did we say: "Implement public and private initiatives with several in-vessel A.B.P.R. (animal by-product regulations) animal by-product compliant composting sites within the countryside." No risk to anybody, expensive but not as expensive as the operation that is going on at the moment and not something that smells. "Implement public and private initiatives for green waste reception, areas if required, to support (1) close La Collette green waste facility for new material and remove existing material at the earliest opportunity [they have already accepted that because of Buncefield they could not put green waste reception facilities there] and consult with the Parishes involved through the offices of the relevant Connétable." This is in 2006 and we asked them can you go away, if you are going to really seriously scrutinise our proposition then get past the first page of our recommendations. Item 4: "Go and talk to the Constables." We were told at the start of this session they have not been. "Conduct health impact assessments, environmental assessments and traffic impact assessments in order to facilitate the above and request that the Minister for Transport and Technical Services agrees to implement and achieve the above recommendation before the end of quarter one 2008." We are hearing today it may be 2010, just another 2 years away. The long-term planning for La Collette has changed, the "blue sky" thinking has arrived, EDAW appeared out of the blue, stepped out like Aphrodite and the Island of Cyprus and marched up to La Collette and said: "No, I want something else." **[Laughter]** I get complaints on a daily basis. I got a text today that was it stinking at Le Squez Flats all along the coast road and back up to Cleveland Road. I prefer Members of the public to complain on a weekly basis about smells and that is not unusual. Just as the complaints went to the Constable of St. Mary or the relevant Deputy of the district or the relevant Constable of the Parish, you are going to be approached more than other Members and you are going to try to do your level best to get it sorted out. The reality is, as identified by most surveys, 20 per cent more people would do some complaining about these issues with composting if they were asked, even if you just conducted a survey, but the States does not want to conduct a survey, do not want to conduct a health impact assessment, do not want to do any research into this area because they are scared of what they will find. In fact, the Health Protection Department said: "Well, even if we could determine if it was the fungus or the spores, then we would be worried about all the other smells and leakages and poisons and fumes and noxious stuff coming out of La Collette, we would not be able to determine which one it was." Just in conclusion, it is rather sad, but there we are, Deputy de Faye and his department have determined that an open windrow composting facility is of no health concern if there are no residences within 250 metres. No, that is the standardised distance around the world. I have got all the documents, I emailed them to Members yesterday, all States Members got some rather lengthy documents, I am sure we are not going to have time to read, but bioaerosol risks: one conducted in August in 2007 by a United

States environmental group, I will not mention their names, and the other one by the Irish in 2004. If Members do want to go and look there, and I have copied them to the Medical Officer of Health and I have copied them to the Health Protection team, it is unequivocal, it is definite, it is 250 metres from residences and occupied working spaces, businesses, and what do we have down at La Collette? We have numerous occupied working spaces within that 250 metres. But because that would prove inconvenient we will just cross off that bit there at the back. Anyone got a rubber, we will just cross out businesses at the end there because they do not count. They do not breathe the same as us, those people down there. They do not get irritated the same as us. They do not get ill the same as us. The main risk that has been identified for these types of exposures are to do with the people that work with the plant themselves. There are some strict and specific recommendations for people that operate these facilities in respect of their health. Generally they will be healthier than ordinary workers who sit in an office all day long because they are out and about moving up and down. There are risks in terms of traffic because there is an excessive amount, 80,000 vehicles or something traffic movements, backwards and forwards from La Collette. There is significant risk from dust particles, what is coming out of the back of the vehicles, airborne particles from the trucks, et cetera, and there are risks in relation to handling the equipment. So there are all sorts of things there. I look to the Assistant Minister for the Health and Social Security Departments and remind him again politely: "Health and Safety at Work Regulations." There are workers down there - they are paying taxes - in offices that are telling me when I go to visit them: "Oh, do not say anything but we have to keep the windows shut all summer long" or: "So-and-so has not been back to work for 6 weeks." So Health and Safety, it is the same old argument, split it up among the departments and nobody takes responsibility, and that is why when I said at the beginning of this debate 2 days ago in terms of environmental regulation and protection that there are issues about the environmental protection and regulation. The Health Minister told me yesterday the site is not licensed; it is going to be coming through under a different regime. It is not licensed at the moment, it was set up without a proper impact health assessment recommendation in ... I have got the date, not the exact date but when it was set up without the health impact assessment, all disregarded. Disregard the businesses, disregard the recommendations from the Chief Officer Group in respect of the health impact assessments, disregard this, and disregard that. I asked the Assistant Minister for Social Security and the Minister who is now back in the Chamber, I know it is a boring subject but there are Health and Safety regulations and there are Health and Safety concerns about the residences and there is Health and Safety concerns about the businesses too. It is a small business community down at La Collette and a lot of those business communities are within 250 metres. We could, if we had the determination of the department and the Minister to refer back - go back in time to 2006, February of that year, and look at the financial implications of what it would do to put that site at Warwick Farm. With all of the other things that were included, including offsetting some of the disturbances to the neighbours, which were, at that time, calculated to be in the region of about 500 to about 1.5 million, although they were not certain about the million, all of those things could be done and you could implement an in-vessel composting facility with this type of material which was demonstrated at our working party with these types of containers in a matter of months. It could all be done within 6 months. So when Members pull their teeth when I stand up to speak for longer than 20 minutes and tell me off afterwards in the coffee room that I have gone on too long, well, I am sorry, the Council of Ministers should have got this sorted out in March 2006 and we are now being told the Minister is going to take until 2010. It has gone on long enough, you have spent enough money, you have dithered and you have dallied and it is time now to get this sorted out. Perhaps Deputy Baudains will not win today but what is for certain is that Warwick Farm needs real consideration again. The fuel farm needs to be moved, the sewerage facilities need to be changed. We have got an Energy from Waste plant that is going down there. We cannot do the green waste reception site. We cannot have those people in businesses because I have told the Assistant Minister for Social Security and the Minister now, to go down and get it sorted out. Sure, they are going to react immediately and make sure everything is done because they are responsible

States Members. They are going to ask their counterparts in the United Kingdom if that is correct and I am sure they are going to advise us in no time at all that, yes, everywhere else in the world it includes businesses. So let us get down to business and let us get it sorted out because it is bothering a lot of people and it is taking a long time but it has got nothing to do with scrutiny, it has got nothing to do with the residents, it is all to do with the Council of Ministers and the money that they have set aside, or not set aside, to solve this situation. It can be up and running within 6 months. It is costing £800,000 a year and we are making £52,000.

**15.1.12 Senator L. Norman:**

There are 3 things about this issue I take as a given. The smell is appalling when it occurs and I do have to pay tribute to the management and staff at the plant because it has been occurring a lot less than in the past. The plant is in the wrong place. We are dealing with countryside waste and, therefore, it seems to me that it should be disposed of and dealt with in the countryside. The third is that the nature of the plant is totally wrong. Now the other things which are up for debate in my mind, it may be that the medical authorities are correct and that the odour and the alleged or perhaps spores are not health threatening. It may be the Entomologist is quite right and the mosquitoes and midges have nothing to do with the compost plant, although no one can recall these occurring in such numbers before the plant came into existence, that could well be correct. But the problem is not whether the medical authorities are right, the problem is that the people or many of the people who are affected believe that the odour is harmful, believe that the spores are harmful, believe that the mosquitoes and midges are harmful to their health. They believe it will cause illness. It will cause them stress because they are worried about illness. It may be psychosomatic but, nevertheless, it is very real and, therefore, it is absolutely clear that the plant is causing stress, illness and worry to quite a number of people. There are quite a few who it does not bother at all, I will accept that; it is not everybody who worries about it. I mean, I was even with someone down there the other day who said: "Well, we live in an Island which is basically countryside and we expect this sort of thing", they are not worried. But there are others who are genuinely ill with respiratory illnesses which, as I say, may be psychosomatic but, nevertheless, are very real. Then knowing that I want the plant closed, knowing that I want the plant moved, what is the solution? I really will have difficulty in supporting this proposition because I recognise there will be a lot of other difficulties if we try and close it down in such a short time scale. If I was cynical I could almost believe that Deputy Baudains put in such a short time scale realising that he would get defeated. If he put in 6 months I will be 'pour' automatically. But 2 weeks, it gives me -- I am not sure if I would consider myself responsible to support such a short timescale. I would like Deputy Baudains to convince me in his summing up that I should support such a short timescale but he is going to have a heck of a job to do it.

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

I will be very brief. Politics and problem solving requires a constructive approach. I have to say that Deputy Le Claire's contribution for 25 minutes berating the Council of Ministers, I do not think is constructive. I say that because it was over 3 years ago that the Environment and Public Services Committee worked with residents and I have huge sympathy for residents. I do not accept some of the health issues but I fully accept the inconvenience, to find a solution for a covered facility. That covered facility did not happen because the Minister decided that he should engage with scrutiny at a later stage and residents of the area. That is the reason why a delay has happened. I am sorry that that delay has happened. The solution was there, it was there 3 and a half years ago, we got the funding and we got a constructive approach and I wish that would have been done. We cannot support shutting down a facility in 2 weeks' time, we need to get on with the covered facility as was agreed and funded.

**The Bailiff:**

I call upon Deputy Baudains to reply.

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

I thank those Members who have stayed in the Assembly and contributed to the debate. If I may just address a couple of the speakers, I will not address them all. I was accused by Deputy Huet of being shortsighted and stopping an essential service to a large part of the community. Well, I am not suggesting stopping the service if what she refers to as the “service” is relieving people of their unwanted green material. What I am suggesting is stopping turning it into compost. My proposition certainly is not shortsighted. Considering the amount time that this resolution of the problem has been dragging on, I cannot think it can be short of anything. More waste to Bellozanne when Bellozanne cannot cope. Well, that is not my problem and how has that occurred? I am not going to go into that in great detail but again I blame the department - well not so much the department as the Minister - because they have been arguing for years about what type of plant should replace the current plant. If they had perhaps been more open to alternative strategies the new one would be up and running by now. I thank the Constable of St. Helier for his comments. Of course, he is quite aware of the problem and has been trying his best to deal with it for some time himself. I was interested in the comments of the Minister for Health and Social Services. His department is well aware of the Havre des Pas residents’ concerns. Well, I am sure they are but I got the impression, if I heard him correctly, that he would have closed down the plant if he could have done so. But in fact what happened, there was an argument going on between the 2 ministries which would have ended up in the Royal Court which, of course, is an entirely unsatisfactory situation, spending taxpayers’ money. One can only assume from that that the Transport and Technical Services do not want the plant to go down and Health and Social Services do. I find it quite disappointing when we have a ministry and department which is charged with ensuring public health that finds itself unable to act and will have to bring amendments to the law in order to do so. I thank Deputy Duhamel for his comments and he referred to the fact that commercial gardeners are, in fact, possibly the main suppliers of the material down there and I would have thought the commercial should, in fact, have been finding alternative methods of dealing with their compost. Given the cost to the Island of dealing with it why are they being offered a free service? He agrees with me that the smell is getting worse and travels further than I thought it did. We are advised by him that the nuisance is as far as Cinq Chenes, money has been granted it is a question of getting on with it, of course. This is the whole point that I have been trying to make all the way through; that the problem has been there for a long time, several years, and yet nothing is happening. Nothing is happening at all. What is one supposed to do? Deputy Troy, who I think is making a second speech at the moment, pointed out that the issue has been with us for a number of years. He asked if Transport and Technical Services was going to deal with this or just let it go on endlessly. What has the Minister done? Not a great deal. To quote from him again: “The many residents are all asking the same question, what are Transport and Technical Services doing?” I cannot answer that question - in my view, nothing. The Chief Minister; I found some of his comments quite extraordinary. The situation is unsatisfactory but the proposition is irresponsible. Really? What am I supposed to do - sit back and let my residents suffer year after year after year after year and do nothing? Well, 2 years ago I brought the same proposition. Tell me, Chief Minister, what has happened since then? The word is: “Nothing. It is impossible to come up with alternatives”, he says. Well, if that is the case then presumably my residents are going to live with this problem for the next 50 or 100 years, absolutely ridiculous. No thought to the consequences at all. Perhaps if he read the report accompanying my proposition, I have given an alternative. He referred to Bellozanne but, of course, there was a difference with Bellozanne. Many of the residents who are in that area were not there when Bellozanne was first constructed whereas the composting site has been launched upon residents around the south of town there. It is a wide area, I was going to say Havre des Pas but, of course, it goes much further than that, it goes almost as far as St. Clement’s Parish Hall, Mount Bingham, goes inland. These people are suffering from something that came after they bought or moved into their properties and, of course, the point is it is more difficult to cure the smell at Bellozanne, it is quite easy to cure the smell of the composting but it is simply not being done. If I could look at the comments from the

Minister for Transport and Technical Services; again, he says there is no helpful suggestion of alternatives. Well, as I say, I did give an alternative in my opening speech. The weight of material apparently varies between 10,000 and 15,000 tonnes. I presume that is as it arrives. Once it has dried, not composted, it will be obviously two-thirds of that, not an enormous amount of material that they could burn if necessary if the Bellozanne plant cannot cope with it well that is another problem that Transport and Technical Services have failed on. But if I just turn to and then come back to him again, the comments of Deputy Le Claire; as he pointed out, Warwick Farm could have been used. An in-vessel composting plant can be built in a matter of months and the department has the money to do it. So if the Minister had the will this plant could be up and running by Easter. In other words, while I am saying that composting would have to stop within a couple of weeks, if necessary, they would only have to stockpile for a matter of weeks until they can use the new plant. It is not as if the material will be building up months and months after -- well it might do at the speed the Ministry works, but it is not impossible to solve the situation. The Minister for Transport and Technical Services suggested that mingling green waste with other waste would cause more smell, it would be a fire hazard, it could create methane, I do not disagree with him, but who is suggesting we should? I am not suggesting we should mix the waste. I suggest that was rather more than a little scaremongering to excuse his lack of action. No one has ever asked to mix the waste. He finds it hard to understand the smell has got worse. Well, I am afraid I cannot help it if he finds the facts uncomfortable. As other members have said, it is a fact. He suggested there was no health issue. He repeated that several times. Bioaerosols have mass. Yes, well we know that that. I am glad he is so confident. I mean, it is a fact that these spores can kill. I am glad he is so confident that there is no health issue and I just hope that nobody suffers as a result. The same situation regarding the mosquito; apparently the mosquito story is a red herring. I find that a difficult analogy to understand but maybe mosquitoes can swim, if I have time to go fishing again I will see if I catch any. But seriously, he prefers the State Entomologist's advice to mine and so he should but, of course, how does he explain the plague of mosquitoes? He does not; he does not try. It is an invention, apparently, this does not happen. Perhaps he should go and ask the people who have suffered from them. Clearly there is something which is causing the breeding of mosquitoes and I suggest it is his site. He suggested that he was not dragging his heels. Well, he probably is not because he is not even moving them; you have got to move them to drag. I have to say excuses and excuses. Members can see, I think, now why my proposition is worded as it is because there is no guarantee that anything will happen anytime soon. We know from the comments that he supplied that we are looking at the possibility that it will be done in 2 years. But there are all sorts of problems: there is the fuel farm problem, there are other problems; he does not know what might happen in the meantime. In other words, when we look into it more closely we might find that in 10 years' time it still has not been done. I think the parishioners of the area between Mount Bingham and Green Island, several thousand people in the Parish of St. Helier, St. Saviour and St. Clement deserve more respect than the Minister affords them. I must admit the Minister agrees that they endure a nuisance but that nuisance is an impediment to the enjoyment to their lives and properties and it has gone on not long enough but too long. This composting site was only ever supposed to be a temporary solution. It has gone on for years. I think it is 6 years it has gone on now and the Minister advises that it will go on for at least 2 more. If we do not adopt this proposition, I think it will go one longer than that. In his answer to my written question earlier this week, I think it was Monday, it seems a long time ago, he admits his department is yet: "To progress consideration in an appropriate enclosed composting facility." He will then make a planning application and construction could start next year to be completed in 2010. All ifs and buts, no solid guarantees there at all. Today we have not had an assurance, I note, as we had 2 years ago that the inconvenience caused by this operation will be reduced to an absolute minimum. Presumably things will carry on as normal. His staff are doing the best they can. As Deputy Le Claire said: "The staff working at the site are working hard, they are doing the best they can" and he supports them - so do I. My proposition, I hasten to add, in no way criticises the people working there. They are doing the best they can but, of course, they are carrying out the policy of the

Minister. Let us not forget, again, as Deputy Le Claire pointed out, this composting costs approximately £750,000 a year to run. Is it the best way of dealing with the problem? As I said in my opening speech, for several years the Minister has failed to deliver and that is why, in answer to Senator Norman, there is no point again in seeking a mitigation of the problem or time to find the future; that we would hope it would be the in-vessel composting plant would be constructed by. If I had said 6 months then we would find I would be bringing the same proposition back in 6 months' time or a year's time when still nothing had happened. We are told it will be done in 2 years' time. Are my parishioners and those of St. Helier and St. Saviour really expected to put up with this for 2 more years? I warn Members it would not be 2 years, I can see this is an indefinite situation. What I am suggesting is that the material could continue to be received at La Collette but that it is not composted, it would be dried, which, of course, would reduce its mass and its volume, and then it is up to the Minister to deal with it as best he can. He can take it to Bellozanne and if Bellozanne cannot cope with it he will have to stockpile it until the in-vessel composting plant is constructed which, if he puts his mind to it, could be in less than 6 months. So it really is down to the Minister to get himself out of the problem, it is not for us and my parishioners to put up with the problem that he has created. This nuisance has gone on for years and really if this Assembly does care about the quality of people's lives we must act now and not wait for a Minister for whom leaving this nuisance appears to be at the bottom of his agenda. I make the proposition and ask the appel.

### **The Bailiff:**

I ask the Greffier to open the voting which is for or against the proposition of Deputy Baudains. All Members who wish to vote have done so. I shall ask the Greffier to close the poll and I can announce the proposition has been lost, 12 votes were cast in favour, 33 votes against.

<b>POUR: 12</b>		<b>CONTRE: 33</b>		<b>ABSTAIN: 0</b>
Senator L. Norman		Senator F.H. Walker		
Connétable of St. Helier		Senator W. Kinnard		
Deputy R.C. Duhamel (S)		Senator T.A. Le Sueur		
Deputy of St. Martin		Senator P.F. Routier		
Deputy G.C.L. Baudains (C)		Senator M.E. Vibert		
Deputy C.J. Scott Warren (S)		Senator P.F.C. Ozouf		
Deputy R.G. Le Hérisier (S)		Senator T.J. Le Main		
Deputy J.A. Martin (H)		Senator B.E. Shenton		
Deputy G.P. Southern (H)		Connétable of St. Mary		
Deputy P.V.F. Le Claire (H)		Connétable of St. Peter		
Deputy S. Pitman (H)		Connétable of St. Clement		
Deputy K.C. Lewis (S)		Connétable of Trinity		
		Connétable of St. Lawrence		
		Connétable of Grouville		
		Connétable of St. Brelade		
		Connétable of St. Martin		
		Connétable of St. Saviour		
		Deputy A. Breckon (S)		
		Deputy J.J. Huet (H)		
		Deputy P.N. Troy (B)		
		Deputy S.C. Ferguson (B)		
		Deputy of St. Ouen		
		Deputy of St. Peter		
		Deputy J.A. Hilton (H)		
		Deputy G.W.J. de Faye (H)		
		Deputy J.A.N. Le Fondré (L)		
		Deputy D.W. Mezbourian (L)		
		Deputy of Trinity		
		Deputy S.S.P.A. Power (B)		

		Deputy A.J.D. Maclean (H)		
		Deputy of St. John		
		Deputy I.J. Gorst (C)		
		Deputy of St. Mary		

**The Bailiff:**

Now the next item on the order paper - I do not know whether the Connétable of St. Clement wishes to deal with it - is the outstanding proposition on the States of Jersey Law (Amendment No. 5)?

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

I think it is up to Members whether they wish to continue now. It could be a lengthy debate and it could go on after 5.30 p.m. I am quite willing to carry on but it is up to Members to decide.

**Senator F.H. Walker:**

Personally, I do not think we should carry on. I think we have been here for 5 days; this will be, I think, a fairly lengthy debate and I would propose that we move P.122/2008 until the 21st October. It is not that urgent and the agenda on the 21st October is not that heavy, I propose that.

**ARRANGEMENT OF PUBLIC BUSINESS FOR FUTURE MEETINGS**

**The Bailiff:**

Connétable may I ask you move the arrangement of Public Business.

**16. The Connétable of St. Clement (Chairman, Privileges and Procedures Committee):**

The Arrangements of Public Business to 16th September is listed quite comprehensively in the Order Paper for 16th September that was issued to all Members this morning. That is the list I am proposing. I would just like to point out there was a mistake in that at the end of the Order Paper in accordance with the meeting, et cetera, dates 17th, 18th and 19th September were continuation days but Friday, 19th September is not an official continuation day but I would urge Members over this weekend to consider whether we should be meeting on Friday 19th as well, as the agenda is quite lengthy and there are restrictions on meeting after next week.

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

I wonder if I could ask the indulgence of Members and the Chairman of Privileges and Procedures Committee if we could move item P.126/2008, the request from the Connétable of St. Helier for a public inquiry into the Energy for Waste Facility to the first item to be taken immediately after the Annual Business Plan. I say that because this relates to an expensive project, we have developers and contractors tied into letters of intent and I have a deadline coming up after which contractors will be able to vary charges to the adverse advantage of States and the Island. It is absolutely important we deal with the matter of having a public inquiry or not as soon as possible. So I would ask that to be taken immediately after the annual business plan.

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

I am quite happy to help the Minister in that way if the Members agree.

**The Bailiff:**

Very well, are Members content to take the arrangements for Public Business with that modification of the arrangements of 16th September and the addition of P.122/2008 to 21st October? Very well, the Assembly will adjourn until 16th September and the meeting is closed.

**ADJOURNMENT**